

# Resource Management (Energy and Climate Change) Amendment Act 2004

Public Act 2004 No 2  
Date of assent 1 March 2004

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Resource Management (Energy and Climate Change) Amendment Act 2004.
- (2) In this Act, the Resource Management Act 1991 is called “the principal Act”.

**Part 1  
Preliminary provisions**

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Purpose**

The purpose of this Act is to amend the principal Act—

- (a) to make explicit provision for all persons exercising functions and powers under the principal Act to have particular regard to—
  - (i) the efficiency of the end use of energy; and
  - (ii) the effects of climate change; and
  - (iii) the benefits to be derived from the use and development of renewable energy; and
- (b) to require local authorities—
  - (i) to plan for the effects of climate change; but
  - (ii) not to consider the effects on climate change of discharges into air of greenhouse gases.

#### 4 Interpretation

Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**climate change** means a change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods

“**greenhouse gas** has the meaning given to it in section 4(1) of the Climate Change Response Act 2002

“**renewable energy** means energy produced from solar, wind, hydro, geothermal, biomass, tidal, wave, and ocean current sources”.

### Part 2 Amendments to principal Act and transitional provisions

#### 5 Other matters

(1) Section 7 of the principal Act is amended by inserting, after paragraph (b), the following paragraph:

“(ba) the efficiency of the end use of energy:”.

(2) Section 7 of the principal Act is amended by adding the following paragraphs:

“(i) the effects of climate change:

“(j) the benefits to be derived from the use and development of renewable energy.”

#### 6 New heading and new sections 70A and 70B inserted

The principal Act is amended by inserting, after section 70, the following heading and sections:

“*Rules relating to discharge of greenhouse gases*

##### “70A Application to climate change of rules relating to discharge of greenhouse gases

Despite section 68(3), when making a rule to control the discharge into air of greenhouse gases under its functions under section 30(1)(d)(iv) or (f), a regional council must not have regard to the effects of such a discharge on climate change, except to the extent that the use and development of renewable

energy enables a reduction in the discharge into air of greenhouse gases, either—

“(a) in absolute terms; or

“(b) relative to the use and development of non-renewable energy.

**“70B Implementation of regulations made under section 43**

If regulations are made under section 43 to control the effects on climate change of the discharge into air of greenhouse gases, a regional council may make rules that are necessary to implement the regulations, provided the rules are no more or less restrictive than the regulations.”

**7 New heading and new sections 104E and 104F inserted**

The principal Act is amended by inserting, after section 104D, the following heading and sections:

*“Decisions on applications relating to discharge  
of greenhouse gases*

**“104E Applications relating to discharge of greenhouse gases**

When considering an application for a discharge permit or coastal permit to do something that would otherwise contravene section 15 or section 15B relating to the discharge into air of greenhouse gases, a consent authority must not have regard to the effects of such a discharge on climate change, except to the extent that the use and development of renewable energy enables a reduction in the discharge into air of greenhouse gases, either—

“(a) in absolute terms; or

“(b) relative to the use and development of non-renewable energy.

**“104F Implementation of regulations made under section 43**

If regulations are made under section 43 to control the effects on climate change of the discharge into air of greenhouse gases, a consent authority, when considering an application for a discharge permit or coastal permit to do something that would otherwise contravene section 15 or section 15B,—

“(a) may grant the application, with or without conditions, or decline it, as necessary to implement the regulations; but

“(b) in making its determination, must be no more or less restrictive than is necessary to implement the regulations.”

### **8 Transitional provision relating to applications made before commencement of Act**

- (1) The matters referred to in subsection (2) must be continued and completed in all respects in accordance with the principal Act as if this Act had not been enacted.
- (2) Subsection (1) applies to the following matters, if made or given before the commencement of this Act:
  - (a) an application for a resource consent:
  - (b) a notice of requirement for a designation.
- (3) For the purposes of subsection (1), an application is made, or a notice is given, on the day on which the local authority receives the application, or the notice is given, in accordance with the requirements of the principal Act.

### **9 Transitional provision relating to rules made before commencement of Act**

On the commencement of this Act, an existing rule or part of a rule in a regional plan that controls the discharge into air of greenhouse gases solely for its effects on climate change is revoked.

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#### **Legislative history**

29 July 2003	Introduction (Bill 48-1)
5 August 2003	First reading and referral to Local Government and Environment Committee
8 December 2003	Reported from Local Government and Environment Committee (Bill 48-2)
17 February 2004	Second reading
25 February 2004	Committee of the whole House
26 February 2004	Third reading

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