

## **Resource Management Amendment Bill**

(Divided from the Judicature Modernisation Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Judicature Modernisation Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- Senior Courts Bill comprising clauses 1 and 2, Part 1, and Schedules 1A to 4
- District Court Bill comprising Part 2 and Schedules 5 to 7
- Judicial Review Procedure Bill comprising Part 3 and Schedule 8
- Interest on Money Claims Bill comprising Part 4 and Schedules 9AAA, 9AA, and 9
- Electronic Courts and Tribunals Bill comprising Part 5
- Arbitration Amendment Bill comprising subpart 1 of Part 6
- Bills of Exchange Amendment Bill comprising subpart 2 of Part 6
- Building Societies Amendment Bill comprising subpart 3 of Part 6
- Children, Young Persons, and Their Families Amendment Bill comprising subpart 4 of Part 6
- Companies Amendment Bill (No 2) comprising subpart 5 of Part 6 and Schedule 10
- Contractual Remedies Amendment Bill comprising subpart 6 of Part 6
- Copyright Amendment Bill (No 2) comprising subpart 7 of Part 6
- Courts (Remote Participation) Amendment Bill comprising subpart 8 of Part 6
- Criminal Procedure Amendment Bill comprising subpart 9 of Part 6
- Employment Relations Amendment Bill (No 4) comprising subpart 10 of Part 6
- Family Courts Amendment Bill comprising subpart 11 of Part 6

- Insolvency Amendment Bill comprising subpart 12 of Part 6
- Local Government (Rating) Amendment Bill comprising subpart 13 of Part 6
- Property Law Amendment Bill comprising subpart 14 of Part 6
- Remuneration Authority Amendment Bill (No 2) comprising subpart 14A of Part 6
- this Bill comprising subpart 15 of Part 6
- Te Ture Whenua Maori Amendment Bill comprising subpart 16 of Part 6
- Trans-Tasman Proceedings Amendment Bill comprising subpart 17 of Part 6

**Key to symbols used in reprinted bill**

**As reported from the committee of the whole House**

text inserted

~~text deleted~~



*Hon Amy Adams*

## **Resource Management Amendment Bill**

Government Bill

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

**1 Title**

This Act is the Resource Management Amendment Act **2016**.

**2 Commencement**

This Act comes into force on **1 March 2017**.

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**559 Principal Act**

This **Act** amends the Resource Management Act 1991 (the **principal Act**).

**560 Section 2 amended (Interpretation)**

In section 2(1), insert in its appropriate alphabetical order:

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**lawyer** has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

**561 Section 250 amended (Appointment of Environment Judges and alternate Environment Judges)**

After section 250(4), insert:

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(5) The Attorney-General must publish information explaining his or her process for—

(a) seeking expressions of interest for the appointment of Environment Judges and alternate Environment Judges; and

(b) nominating ~~persons~~ a person for appointment as an Environment Judge or an alternate Environment Judge.

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(6) Environment Judges and alternate Environment Judges must not practise as lawyers.

**562 New sections 250A and 250B inserted**

After section 250, insert:

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**250A Judge not to undertake other employment or hold other office**

(1) Environment Judges and alternate Environment Judges must not undertake any other paid employment or hold any other office (whether paid or not) without the approval of the Principal Environment Judge.

(2) An approval under **subsection (1)** may be given only if the Principal Environment Judge is satisfied that undertaking the employment or holding the office is consistent with the Judge's judicial office.

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(3) However, **subsection (1)** does not apply to another office if an enactment permits or requires the office to be held by a Judge.

**250B Protocol relating to activities of Judges**

- (1) The Chief Justice must develop and publish a protocol containing guidance on—
- (a) the employment, or types of employment, that he or she considers may be undertaken consistent with being an Environment Judge or alternate Environment Judge; and 5
  - (b) the offices, or types of offices, that he or she considers may be held consistent with being an Environment Judge or alternate Environment Judge. 10
- (2) The Chief Justice may ~~only~~ develop and publish a protocol under **subsection (1)** only after consultation with the Principal Environment Judge. 10

**564 Section 282 replaced (Power to commit for contempt)**

Replace section 282 with:

**282 Contempt of court**

- (1) This section applies if any person— 15
- (a) wilfully insults an Environment Judge, an alternate Environment Judge, an Environment Commissioner, a Registrar of the court, any other officer of the court, any special adviser to the court, or any witness, during his or her sitting or attendance in court, or in going to or returning from the court; or 20
  - (b) wilfully interrupts the proceedings of the court or otherwise misbehaves in court; or
  - (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of any proceedings. 25
- (2) If this section applies,— 25
- (a) any constable or officer of the court, with or without the assistance of any other person, may, by order of ~~a~~ an Environment Judge, take the person into custody and detain him or her until the rising of the court; and
  - (b) the Environment Judge may, if he or she thinks fit, sentence the person to— 30
    - (i) imprisonment for a period not exceeding 3 months; or
    - (ii) a fine not exceeding \$1,000 for each offence.
- (3) Nothing in this section limits or affects any power or authority of the court to punish any person for contempt of court in any case to which this section does not apply. 35

Compare: 2011 No 81 s 365

**565 New sections 288A to 288G inserted**

After section 288, insert:

**288A Information regarding reserved judgments**

- (1) ~~The Principal Environment Judge must, in consultation with the Chief Justice, publish information about—~~
- (a) ~~the process by which parties to proceedings before the court may obtain information about the status of any reserved judgment in those proceedings; and~~ 5
  - (b) ~~the number of judgments of the court that he or she considers to be outstanding beyond a reasonable time for delivery; and~~
  - (c) ~~any other information about reserved judgments that he or she wishes to publish.~~ 10
- (2) ~~The information referred to in **subsection (1)(b)** must be published periodically or regularly.~~
- The Principal Environment Judge must, in consultation with the Chief Justice,—
- (a) publish information about the process by which parties to proceedings before the court may obtain information about the status of any reserved judgment in those proceedings; and 15
  - (b) periodically publish information about the number of judgments of the court that he or she considers are outstanding beyond a reasonable time for delivery; and 20
  - (c) publish information about reserved judgments that he or she considers is useful.

**288B Final written judgments to be published on Internet**

- (1) ~~Every final written judgment of the court must be published on the Internet as soon as practicable unless there is good reason not to publish the complete judgment.~~ 25
- (2) ~~A final written judgment may be published on the Internet in part if there are good reasons for not publishing the other parts of the judgment.~~
- (3) ~~Good reason not to publish a judgment or part of it includes the following:~~
- (a) ~~non-publication is necessary because of a suppression order or statutory requirement that affects publication or continued publication;~~ 30
  - (b) ~~the judgment falls into a category of judgments that are of limited public value;~~
  - (c) ~~taking into account the presumption in **subsection (1)** in favour of publication, a Judge nevertheless determines that the judgment or any part of it should not be published because publication or the effect of publication would be contrary to the interests of justice.~~ 35

- (4) In this section, **final written judgment** means a written decision that determines or substantially determines the outcome of any proceedings and that is either—
- (a) a written reserved judgment; or
  - (b) an oral judgment transcribed by an official transcription service.

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### 288C Recusal guidelines

The Principal Environment Judge must, in consultation with the Chief Justice, develop and publish guidelines to assist Judges to decide if they should recuse themselves from a proceeding.

### 288D Judge may make order restricting commencement or continuation of proceeding

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- (1) A Judge may make an order (a **section 288D order**) restricting a person from commencing or continuing civil proceedings in the Environment Court.
- (2) The order may have—
  - (a) a limited effect (a **limited order**); or
  - (b) an extended effect (an **extended order**).
- (3) A limited order restrains a party from continuing or commencing civil proceedings on a particular matter in the Environment Court.
- (4) An extended order restrains a party from continuing or commencing civil proceedings on a particular or related matter in the Environment Court.
- (5) Nothing in this section limits the court's inherent power to control its own proceedings.

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### 288E Grounds for making section 288D order

- (1) A Judge may make a limited order under **section 288D** if, in ~~at least 2~~ proceedings about the same matter in the court, the Judge considers that at least 2 or more of the proceedings are or were totally without merit.
- (2) A Judge may make an extended order under **section 288D** if, in at least 2 proceedings about any matter considered by the court, the Judge considers that the proceedings are or were totally without merit.
- (3) In determining whether the proceedings are or were totally without merit, the Judge may take into account the nature of any other interlocutory application, appeals, or criminal prosecutions involving the party to be restrained, but is not limited to those considerations.
- (4) The proceedings concerned must be proceedings ~~instituted or conducted~~ commenced or continued by the party to be restrained, whether against the same person or different persons.

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(5) For the purpose of this section and **sections 288F and 288G**, an appeal in a civil proceeding must be treated as part of that proceeding and not as a distinct proceeding.

**288F Terms of section 288D order**

- (1) ~~A~~ An order made under **section 288D** order may restrain a party from ~~insti-~~ tuting commencing or continuing any civil proceeding (whether generally or against any particular person or persons) of any type specified in the order without first obtaining the leave of the court. 5
- (2) ~~A~~ An order made under **section 288D** order, whether limited or extended, has effect for a period of up to 3 years as specified by the Judge, but the Judge making it may specify a longer period (which must not exceed 5 years) if he or she is satisfied that there are exceptional circumstances justifying the longer period. 10

**288G Procedure and appeals relating to section 288D orders**

- (1) A party to any proceeding may apply for a limited order or an extended order. 15
- (1A) A Judge may make an order under **section 288D** (a **section 288D order**) either on an application under **subsection (1)** or on his or her own initiative.
- (2) An application for leave to continue or ~~issue~~ commence a civil proceeding by a party subject to a **section 288D** order may be made without notice, but the court may direct that the application for leave be served on any specified person. 20
- (2A) An application for leave must be determined on the papers, unless the Judge considers that an oral hearing should be conducted because there are exceptional circumstances and it is appropriate to do so in the interests of justice. ~~The Judge's determination of the application for leave is final.~~ 25
- (2B) A Judge's determination of an application for leave is final.
- (3) A **section 288D** order does not prevent or affect the commencement of a private criminal prosecution in any case.
- (4) The party against whom a **section 288D** order is made may appeal against the order to the High Court. 30
- (5) The appellant in an appeal under **subsection (4)** or the applicant for the **section 288D** order concerned may, with the leave of the High Court, appeal against the determination of that appeal to the Court of Appeal.
- (6) A court determining an appeal under this section has the same powers as the court appealed from has to determine an application or appeal, as the case may be. 35

## Resource Management Amendment Bill

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### Legislative history

14 September 2016

Divided from Judicature Modernisation Bill (Bill 178–2) as  
Bill 178–3U