

27 April 2023

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Energy Resources Levy Amendment Bill

1. We have considered whether the Energy Resources Levy Amendment Bill (the Bill) is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act).
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 25232/6.0). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. The Bill amends the Energy Resources Levy Act 1976 (the principal Act) and aims to clarify levy payment obligations on fossil gas produced from pre-1986 petroleum licences.
4. There are inconsistent approaches to achieving a fair return on the Crown's fossil gas resources through petroleum royalty rates, depending on when licenses or permits were granted for gas discoveries. The principal Act imposes a levy on certain energy resources, but this levy does not apply to gas produced from discoveries made after 1 January 1986, as they are already subject to higher royalty rates.
5. The Bill proposes amending the Act to clarify that the levy applies to all gas produced under a licence granted prior to 1 January 1986. This would avoid any risk of confusion as to whether new gas production from deposits within pre-1986 licence areas is a new "discovery" for the purposes of the Act and therefore is exempt from the levy. The word "discovery" is not defined in the Act.
6. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.



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