

ENERGY LEGISLATION AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

PART I

CROWN MINERALS ACT 1991

Clause 2 provides for Part I to be read together with and deemed part of the Crown Minerals Act 1991.

Clause 3 amends section 2 of the Crown Minerals Act 1991, which defines various terms used in that Act.

Subclause (1) inserts a new definition of “enforcement officer”.

Subclause (2) (a), (d), and (f) substitute the word “Act” for the word “Part” in 3 definitions. The word “Part” was used when the Crown Minerals Act 1991 was originally part of the Resource Management Bill.

Subclause (2) (b) corrects a spelling error.

Subclause (2) (c) omits the reference to iron sand from the definition of the term “metallic minerals”. The reference is superfluous as iron sand is a compound of iron and the word iron appears in the definition.

Subclause (2) (e) amends the definition of the term “owner” so that it includes, except for the purposes of sections 8 and 49 to 52 of the Act, the person or persons (other than the Crown) who owns or own the minerals in the land.

Clause 4 amends section 7 of the Crown Minerals Act 1991 relating to the appointment of enforcement officers.

The amendments empower enforcement officers to exercise and carry out the functions and powers of an enforcement officer in relation to compliance with the Act as well as in relation to compliance with permits.

In addition, an incorrect reference to section 334 of the Resource Management Act 1991 is omitted, and references in section 332 of that Act to that Act are deemed to include references to the Crown Minerals Act 1991.

Clause 5 amends section 30 of the Crown Minerals Act 1991 to give the holder of a prospecting permit the right to prospect for the mineral stated in the permit, whether the mineral is owned by the Crown or privately owned.

Clause 6 amends section 32 of the Crown Minerals Act 1991, relating to the right of a permit holder to subsequent permits.

The amendment rewrites subsection (5) relating to the inclusion of conditions in a mining permit if the initial permit so provided.

The new subsection—

- (a) Extends the provision to include existing privileges to which section 111 of the Act applies:
- (b) Provides that the Minister and the grantee may agree not to include the condition in the mining permit.

Clause 7 amends section 35(2) of the Crown Minerals Act 1991 which empowers the Minister to defer or amend the commencement of a permit where there have been delays in obtaining consents to enable commencement of activities under the permit.

The reference in section 35(2) to consents under “this Act” is changed to consents under “any Act”. This change should have been made when the Act was separated from the Resource Management Bill.

Clause 8 inserts a new section 42A in the Crown Minerals Act 1991.

The new section provides that the Minister may, subject to such conditions as the Minister thinks fit to impose, grant written authorisation to a permit holder to carry out geophysical surveys on land adjacent to the land to which the permit relates if another permit is not in force in relation to that adjacent land.

Clause 9 amends section 46 of the Crown Minerals Act 1991, relating to unit developments, to extend the ambit of the section to all types of minerals not just petroleum.

Clause 10 amends section 54 of the Crown Minerals Act 1991, relating to access to land for minerals other than petroleum.

The new paragraph (a) makes it clear that the agreement must be between the permit holder and each owner and occupier of the land.

The new paragraph (b) makes it clear that an access arrangement may be determined by an arbitrator, in accordance with section 55(1), only by agreement between the permit holder and each owner and occupier of the land or in accordance with an Order in Council made under section 66.

Clause 11 amends section 55 of the Crown Minerals Act 1991 to substitute, in 2 places, the expression “each owner and occupier of the land” for the expression “landowner”. This brings the wording into line with sections 53 and 54.

Clause 12 amends section 65(1)(b) of the Crown Minerals Act 1991 by omitting words made superfluous by the removal of provision for a panel of arbitrators during the passage of the Crown Minerals Bill.

Clause 13 repeals subsections (7) and (8) of section 90 of the Crown Minerals Act 1991, and substitutes new subsections (7), (8), and (8A).

The current subsections (7) and (8) relate to the release and use of information supplied to the Secretary of Commerce by permit holders.

The new subsections provide for—

- (a) All information supplied by a permit holder (other than information supplied in respect of a non-exclusive prospecting permit) to be made available to any person who requests it—
 - (i) After the expiry of 5 years after the date on which the information was obtained by the permit holder; or
 - (ii) After the permit in respect of which the information was obtained and every subsequent permit in respect of that permit ceases to be in force—
 - whichever first occurs:
- (b) All information supplied by a permit holder in respect of a non-exclusive prospecting permit to be made available to any person who requests it

after the expiry of 5 years after the date on which the information was obtained by the permit holder:

- (c) All information obtained under section 90 to be subject to the Official Information Act 1982 until it is required to be made publicly available.

Clause 14 adds a new subsection (3) to section 107 of the Crown Minerals Act 1991.

The new subsection provides that sections 63 and 64 of the Petroleum Act 1937 are not to apply in respect of any pipeline to which an authorisation granted under Part II of that Act relates.

(Sections 63 and 64 of the Petroleum Act 1937 provided for permission to be granted for a person, other than the holder of the pipeline authorisation, to use a pipeline to which the authorisation related.)

Clause 15 amends section 109 of the Crown Minerals Act 1991, relating to bonds and monetary deposits in respect of existing privileges.

The amendment empowers a regional council to increase the amount of any deposit or bond lodged in respect of a coal mining right, at intervals of not less than 3 years, if it is satisfied that the amount of the deposit or bond is insufficient to meet the amount that is or may become payable under section 71 (3) of the Coal Mines Act 1979 (as continued in force by section 107 of the Crown Minerals Act 1991).

Clause 16 amends section 110 of the Crown Minerals Act 1991, relating to the fees payable by holders of existing privileges.

The amendment provides that, on and after 1 July 1993, holders of petroleum prospecting and petroleum mining licences are not liable to pay any fees provided for in the Petroleum Act 1937 or in any regulations made under that Act, but are to pay such fees as they would be liable to pay if the licences were the equivalent kind of minerals permit.

Clause 17 inserts new sections 110A and 110B in the Crown Minerals Act 1991.

The new section 110A provides that, on and after 1 July 1993, holders of petroleum prospecting licences and petroleum mining licences are not required to comply with the requirements for the lodging of data and reports specified in the Petroleum Act 1937 or in any regulations made under that Act, but are to comply with such requirements as to the lodging of data and reports as would apply if the licences were the equivalent kind of minerals permit.

The new section 110B empowers the Minister to extend the term of petroleum prospecting licences granted under the Petroleum Act 1937 using the powers conferred by sections 37 and 38 of the Crown Minerals Act 1991.

Clause 18 has the effect of consequentially repealing the Petroleum Amendment Act 1988.

PART II

MINISTRY OF ENERGY (ABOLITION) ACT 1989

Clause 19 provides for Part II to be read together with and deemed part of the Ministry of Energy (Abolition) Act 1989.

Clause 20 repeals section 25A of the Ministry of Energy (Abolition) Act 1989, which empowers the Secretary of Commerce to charge a fee for the performance of services required to be performed in relation to a mine by an officer of the Department where a levy is not payable in respect of the mine, and substitutes a new section.

The new section extends the ambit of the provision to include petroleum mining operations and tunnels.

3. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “dwellinghouse”, the following definition:

“ ‘Enforcement officer’ means any person authorised under section 7:”.

5

(2) Section 2 (1) of the principal Act is hereby amended—

(a) By omitting from the definition of the term “exploration permit” the word “Part”, and substituting the word “Act”:

(b) By omitting from the definition of the term “industrial rocks and building stones” the word “purlite”, and substituting the word “perlite”:

10

(c) By omitting from the definition of the term “metallic minerals” the words “iron sand,”:

(d) By omitting from the definition of the term “mining permit” the word “Part”, and substituting the word “Act”:

15

(e) By adding to paragraph (b) of the definition of the term “owner” the words “; and includes, except for the purposes of sections 8 and 49 to 52, the person or persons (other than the Crown) who owns or own the minerals in the land”:

20

(f) By omitting from the definition of the term “prospecting permit” the word “Part”, and substituting the word “Act”.

25

4. Appointment of enforcement officers—(1) Section 7 (1) of the principal Act is hereby amended—

(a) By inserting, after the words “compliance with a permit”, the words “or this Act”:

(b) By omitting the expression “sections 332 and 334”, and substituting the expression “section 332”.

30

(2) Section 7 (1) (b) of the principal Act is hereby amended by adding the word “; and”.

(3) Section 7 (1) of the principal Act is hereby amended by adding the following paragraph:

35

“(c) Every reference to the Resource Management Act 1991 included a reference to this Act.”

5. Rights to prospect—Section 30 (1) of the principal Act is hereby amended by adding the words “, whether the mineral is owned by the Crown or privately owned”.

40

6. Right of permit holder to subsequent permits—Section 32 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

5 “(5) If a mining permit is to be granted in accordance with subsection (3) and—

“(a) The initial permit or any subsequent permit; or

“(b) In any case to which section 111 applies, the existing privilege—

10 specified any condition to be included in such mining permit or in any subsequent privilege, right, or licence conferring a right to mine, as the case may be, that condition, unless the Minister and the grantee otherwise agree, shall be included in the mining permit; and no other or additional condition which
15 modifies or conflicts with any condition so included shall be included in the mining permit without the consent of the holder of the mining permit.”

7. Duration of permit—Section 35 (2) of the principal Act is hereby amended by omitting the words “this Act”, and substituting the words “any Act”.

20 **8. Authorisation of geophysical surveys on adjacent land—**The principal Act is hereby amended by inserting, after section 42, the following section:

“42A. (1) The Minister may, subject to such conditions as the Minister thinks fit to impose, grant written authorisation to a
25 permit holder to carry out geophysical surveys on land adjacent to the land to which the permit relates if another permit is not in force in relation to that adjacent land.

“ (2) Any authorisation granted under this section shall be subject to the provisions of this Act as if the authorisation were
30 a permit.”

9. Unit development—(1) Section 46 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

35 “(1) If the Minister is satisfied that—

“ (a) The land to which any 2 or more permits relate or any part thereof forms part of a single deposit of a mineral (in this section referred to as a mineral deposit); and

40 “ (b) In order to prevent waste, avoid unnecessary competitive extraction, and secure the maximum ultimate recovery of the mineral, the mineral deposit should be worked as a unit in co-operation

by all relevant permit holders whose permits
comprise any part thereof—
the Minister may, on the request of one or more of the permit
holders or of his or her own accord, by notice in writing require
all the permit holders to co-operate in the preparation of a
scheme (in this section referred to as a development scheme)
for the working and development of the mineral deposit as a
unit by the permit holders in co-operation and to submit the
scheme jointly for the approval of the Minister.”

(2) Section 46 (5) of the principal Act is hereby repealed.

10. Access to land for minerals other than petroleum—
Section 54 (2) of the principal Act is hereby amended by
repealing paragraphs (a) and (b), and substituting the following
paragraphs:

- “(a) Agreed in writing between the permit holder and each
owner and occupier of the land; or
“(b) Determined by an arbitrator in accordance with this
Act.”

**11. Restrictions on determination of access
arrangements by arbitrators—**Section 55 of the principal
Act is hereby amended—

- (a) By omitting from subsection (1) the word “landowner”,
and substituting the words “each owner and occupier
of the land”:
(b) By omitting from subsection (2) the word “landowner”,
and substituting the words “each owner and occupier
of the land”.

12. Fixing time and place for conducting hearing—
Section 65 (1) (b) of the principal Act is hereby amended by
omitting the words “or their”.

13. Reports to Secretary of Commerce—Section 90 of the
principal Act is hereby amended by repealing subsections (7)
and (8), and substituting the following subsections:

“(7) All information supplied by a permit holder under
subsections (1) and (4) (other than information supplied in
respect of a non-exclusive prospecting permit) shall be made
available to any person who requests it—

- “(a) After the expiry of 5 years after the date on which the
information was obtained by the permit holder; or

“(b) After the permit in respect of which the information was obtained and every subsequent permit in respect of that permit ceases to be in force—

whichever first occurs.

5 “(8) All information supplied by a permit holder under subsections (1) and (4) in respect of a non-exclusive prospecting permit shall be made available to any person who requests it after the expiry of 5 years after the date on which the information was obtained by the permit holder.

10 “(8A) Until information supplied under this section is required to be made available to any person who so requests under subsection (7) or subsection (8), the Minister may use any such information for the purpose of exercising any power or performing any function conferred on the Minister under this
15 Act, but (subject to the Official Information Act 1982) shall not use it for any other purpose without the prior consent of the person who provided the information.”

14. Existing privileges to continue—Section 107 of the principal Act is hereby amended by adding the following
20 subsection:

“(3) Notwithstanding subsection (1) of this section, sections 63 and 64 of the Petroleum Act 1937 shall not apply in respect of any pipeline to which an authorisation granted under Part II of that Act relates.”

15. Bonds and monetary deposits—Section 109 of the principal Act is hereby amended by adding the following
25 subsection:

30 “(2) Where the regional council for the region within which any land subject to a coal mining right is wholly or predominantly situated is satisfied, after consultation with the appropriate territorial authority, that the amount of the deposit or bond lodged in respect of that right pursuant to section 71 (1) of the Coal Mines Act 1979 is insufficient to meet the amount that is or may become payable under section 71 (3) of
35 that Act (as continued in force by section 107 of this Act), the regional council may, at intervals of not less than 3 years, require the holder of the coal mining right to increase the amount of the deposit or bond accordingly; and the holder of the coal mining right shall comply with any such requirement.”

16. Fees payable by holders of existing privileges—
40 (1) Section 110 (g) of the principal Act is hereby amended by adding the word “; and”.

(2) Section 110 of the principal Act is hereby amended by adding the following paragraph:

“(h) On and after the **1st day of July 1993**, every holder of a prospecting licence or mining licence granted under the Petroleum Act 1937 shall not be liable to pay any fees provided for in that Act or in any regulations made under that Act, but shall pay to the Secretary such fees in respect of the licence as the holder would be liable to pay if the licence was the equivalent kind of minerals permit.”

17. New sections inserted—The principal Act is hereby amended by inserting, after section 110, the following sections:

“**110A. Data lodgement requirements in respect of petroleum licences**—Notwithstanding section 107, on and after the **1st day of July 1993**, every holder of a prospecting licence or mining licence granted under the Petroleum Act 1937 shall not be required to comply with the requirements for the lodging of data and reports specified in the Petroleum Act 1937 or in any regulations made under that Act, but shall comply with the requirements for the lodging of data and reports in respect of the licence that would apply if the licence was the equivalent kind of minerals permit.

“**110B. Extension of term of petroleum prospecting licences**—Notwithstanding section 107, the Minister’s power to extend the duration of an exploration permit under section 37 (2) shall apply to prospecting licences granted under the Petroleum Act 1937; and for that purpose sections 37 (2) and (3) and 38 shall be read as if—

“(a) Every reference to an exploration permit or a permit included a reference to a prospecting licence granted under the Petroleum Act 1937; and

“(b) Every reference to the permit holder included a reference to the holder of the relevant prospecting licence granted under the Petroleum Act 1937.”

18. First Schedule amended—The First Schedule to the principal Act is hereby amended by adding the following item:

“1988, No. 78—The Petroleum Amendment Act 1988.”

PART II

MINISTRY OF ENERGY (ABOLITION) ACT 1989

19. This Part to be read with Ministry of Energy (Abolition) Act 1989—This Part of this Act shall be read

together with and deemed part of the Ministry of Energy (Abolition) Act 1989* (in this Part of this Act referred to as the principal Act).

5 **20. Administration charge**—(1) The principal Act is hereby amended by repealing section 25A (as inserted by section 362 of the Resource Management Act 1991), and substituting the following section:

10 “25A. Where an officer of the Department responsible for the administration of this Part of this Act is required to perform services in relation to any mine (as defined in the Mining Act 1971), mining operations (as defined in the Petroleum Act 1937), or tunnel (as defined in the Quarries and Tunnels Act 1982), and the owner of the mine, mining operations, or tunnel (as the case may be) is not liable to pay a levy in respect of the

15 mine, mining operations, or tunnel under this Act, the Secretary may charge such owner a fee for the performance of those services at the rate of \$75 per hour; and the person so charged shall be liable to pay to the Secretary the fee charged.”

20 (2) The Resource Management Act 1991 is hereby consequentially amended by repealing so much of the Eighth Schedule as relates to section 25A of the principal Act.

*1989, No. 140