

MINING AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Mining Act 1971.

The main changes made by the Bill are—

- (a) The elimination of the automatic right of the holder of a prospecting licence to obtain a mining licence;
- (b) Greater opportunity is to be given for local and public participation in the assessment of the physical and social effects of mining;
- (c) The Planning Tribunal to be the final arbiter in respect of any objections to the grant of mining privileges or any proposed or varied conditions.

Clause 1: Subclause (1) relates to the Short Title.

Subclause (2) provides that the date of commencement is to be 1 October 1981.

Subclause (3) provides that *clause 8*, which eliminates the automatic right of a holder of a prospecting licence to obtain a mining licence under section 57 of the principal Act, is to apply to all prospecting licences, whenever issued, and any application for a mining licence under that section which has not been granted at the date of commencement of the Bill is to be dealt with under the principal Act as amended by the Bill.

However, where a mining licence has been applied for under section 57 of the principal Act before 16 July 1981, the provisions of the Bill are not to apply in respect of the grant of that mining licence.

Subclause (4) provides that, subject to *subclause (3)*, where an application for a mining privilege has been lodged before the date of commencement of the Bill,—

- (a) *Clauses 4, 15, 19, and 20* of the Bill are not to apply to that application; and
- (b) All objections validly made under sections 126 and 127 of the principal Act (as in force before the date of commencement of the Bill) and not determined before that date shall be deemed to have been validly made under section 126 of the principal Act (as substituted by *clause 25* of the Bill) and the objections shall be referred to the Registrar of the Planning Tribunal and the said section 126 of the principal Act is to apply accordingly.

Clause 2 inserts definitions of the terms “explore”, “prospect”, “territorial authority” and “working day” in the principal Act.

All periods of less than 3 months in the Bill are expressed in working days.

Clause 3 amends section 26 of the principal Act regarding certain Crown land open for mining with the consent of the appropriate Minister by including wildlife management reserves within the meaning of the Wildlife Act 1953 in the ambit of the section.

Clause 4 provides that—

- (a) An environmental assessment is to accompany an application for a prospecting licence; and
- (b) The consent of the owner or occupier, if required, shall also accompany the application, and not be forwarded later.

Clause 5 adds to the conditions that are to be attached to all prospecting licences an additional condition that all necessary steps are to be taken to prevent damage to areas of scientific, wildlife, fishing, or historic interest or special visual appeal.

Clause 6 provides that, in relation to prospecting licences for areas of 40 hectares or less, where there is any discrepancy between the plan of an area and the area established by pegs, in the absence of any other evidence the latter shall prevail.

Clause 7 provides for the rights of holders of prospecting licences to erect, maintain, and use buildings, plant and machinery, and to construct, maintain, and use tracks and engage in other works, in connection with and for the purpose of the prospecting operations.

Clause 8 removes the automatic right for a holder of a prospecting licence to obtain a mining licence. Instead the holder is to have priority over every other applicant for a mining licence in respect of the same land and, if his application is refused, he may, on request, have that priority extended for up to 3 years.

Clause 9 provides that no exploration licence may be issued in respect of any land that is subject to another exploration licence. At present it can be if the holder of the other exploration licence consents.

Clause 10 provides that the Minister will not normally issue an exploration licence in respect of any area where he considers that—

- (a) The mineral resources of that area are adequately known; or
- (b) There is substantial mining interest in that area.

Clause 11 provides that rent is no longer to be payable in respect of exploration licences.

Clause 12: Section 67 of the principal Act provides at present that the holder of an exploration licence is not to interfere with any mining operations or prospecting being carried out under a mining privilege, other than prospectors' rights. This amendment removes the exclusion of prospectors' rights, thus allowing these to proceed in conjunction with exploration.

Clause 13: Section 68 of the principal Act gives the holder of an exploration licence priority over any other person in obtaining a prospecting or mining licence in respect of the land covered by the licence, and not subject to any other mining privilege, other than prospectors' rights.

The amendment provides that if an application for a prospecting licence or a mining licence is made in respect of any land not exceeding 3 hectares in area and covered by an exploration licence held by any other person, the application may be granted if the holder of the exploration licence on being notified of the position does not apply for a prospecting or mining licence in respect of that land within 20 working days or such extended period as the Minister may allow.

Clause 14 provides that, before granting a mining licence, the Minister is to have regard to—

- (a) The nature and extent of the mineral resource on or under the land and its relationship to other resources and industries in the area; and
- (b) The best and most efficient utilisation of that resource; and
- (c) Any environmental or social factors involved in the development of that resource; and
- (d) The general development and conservation of New Zealand's mineral resources.

Clause 15 provides that—

- (a) An environmental assessment is to accompany an application for a mining licence; and
- (b) Any required consent by the owner or occupier of any land shall accompany the application for the licence and not, as at present, be forwarded later.

Clauses 16 and 18 in effect transfer from section 71 to section 74 of the principal Act the requirement that the Chief Surveyor is, in certain cases, to certify a plan as being satisfactory for the purpose of identifying the land concerned.

Clause 17 repeals section 72 of the principal Act which deals with the maintenance of application priorities where applications for mining licences are made within the area of a prospecting licence.

Clause 19 inserts a group of sections, 103A to 103E, in the principal Act dealing with the protection of land.

Section 103A, conditions relating to the prevention or reduction of injury to land, in effect repeats and replaces section 82 of the principal Act, which relates to mining licences only, and extends it to include all mining privileges, other than exploration licences and prospectors' rights.

Section 103B, protection of the surface of land, in effect repeats and replaces section 83 of the principal Act, which relates to mining licences only and extends it to include all mining privileges, other than exploration licences and prospectors' rights.

Section 103C is new and provides for the territorial authority to give its views on applications for mining privileges, other than exploration licences and prospectors' rights.

It provides that, before granting a mining privilege, the Minister is to forward a copy of the application to the appropriate territorial authority, and that authority is to advertise receipt of the application, and to give its opinion, having regard to the economic, social, and environmental effects of the proposal on its district, as to—

- (a) Whether the application for the mining privilege should be granted; and
- (b) If the mining privilege is granted, the conditions that should be attached to the appropriate licence.

The Minister is to consider the reply, and after giving the applicant an opportunity to comment on the reply, shall have regard to those recommendations in dealing with the application.

Section 103D is new and provides the procedure for varying conditions attached to a mining privilege, other than those specified in subsection (1) of the section.

It provides that, at the request of the holder of the mining privilege, the person who or body which proposed the conditions attached to the mining privilege, or of his own accord, the Minister may cancel, amend, or add any condition to that mining privilege.

The Secretary is to give notice of the proposed variation to the holder of the mining privilege and to the appropriate territorial authority and, if required, the appropriate catchment body and shall cause public notice of the proposed variation to be published in a newspaper circulating in the district in which the land concerned is situated. A public notice is also to be exhibited in the office of that territorial authority and the office of the Inspector of Mines nearest to the land concerned.

The Minister may however correct errors and omissions in any conditions without going through the above procedure.

Section 103E provides for objections to variations of conditions made under the new section 103D. Objections are made to the Planning Tribunal in the same manner as objections to the granting of mining privileges (see *clause 25*).

Clause 20 amends the procedure for dealing with applications for mining privileges. At present the applicant gives public notice of his application within 7 days of lodging the application. Under this procedure the public notice is not to be given until the proposed conditions to be attached to the mining privilege are established and the notice is to include reference to the conditions.

Clause 21 empowers the Minister at any time to decline any application for a mining privilege, whereupon any objections to the grant of those applications shall lapse.

Clause 22 amends section 107 of the principal Act, priority of applications, to make it clear that this section is subject to any specific provision elsewhere in the principal Act applying to certain applications.

Clause 23 brings together the provisions scattered throughout the principal Act regarding deposits or bonds to be lodged as security for compliance with the conditions of a mining privilege and provides for the amount of the deposit or bond to be reviewed from time to time at intervals of not less than 3 years.

Clause 24 amends section 112 of the principal Act, entry on land.

Subclause (1) provides that 3 working days' notice, instead of 24 hours, is to be given of a proposed application to a District Court to obtain an order for entry on private or Maori land.

Subclause (2) adds a provision that no person shall, for the purpose of the section, enter on any wildlife refuge, wildlife management reserve, or wildlife sanctuary within the meaning of the Wildlife Act 1953 without the written consent of the Secretary of Internal Affairs, who shall not arbitrarily withhold his consent.

Subclause (3) provides that no person shall enter on any occupied Crown land for the purposes of the section unless he gives the occupier at least 3 working days' notice in writing of his intention to do so and also identifies himself if requested by the occupier of the land.

It also provides that in certain cases a person has priority in respect of his application from the date of that notice.

Clause 25 provides for the Planning Tribunal to be the forum for hearing objections against the grant of a mining privilege or any proposed conditions to be attached thereto and, pursuant to the new section 103E (see *clause 19*) variations to such conditions. At present objections are considered by the Minister or the District Court.

Subsection (1) of the new section provides for objections to be lodged within 20 working days (at present 21 days) of the date of the public notice of the application.

Subsection (2) provides that objections may be lodged by—

- (a) Any person or body affected by the grant of the mining privilege:
- (b) The territorial authority for any district adjacent to the district in which the land to which the application relates is situated:
- (c) Any local authority (as defined in section 2 (1) of the Local Government Act 1974) in whose area or district the land to which the application relates is situated:
- (d) Any affected catchment authority:
- (e) Any body or person representing some relevant aspect of the public interest:
- (f) In relation to any proposed conditions attached to the application, the applicant.

Subsection (6) provides that for the purpose of the inquiry the Planning Tribunal is to have most of the powers, duties, functions, and discretions conferred on it under Part VIII of the Town and Country Planning Act 1977.

Subsection (7) provides that, apart from the persons and bodies referred to in subsection (2), the Minister of Energy may be represented at the inquiry by counsel or otherwise and may call evidence.

Subsection (8) enables the Planning Tribunal to call the Commissioner for the Environment to give evidence in respect of any audit he has made of an environmental impact report.

Subsection (9) provides that without limiting the scope of the inquiry, the Planning Tribunal shall have regard to—

- (a) Whether the land should be used for mining operations:
- (b) Whether the site of any proposed ancillary works is suitable:
- (c) The economic, social, and environmental effects of the grant of the mining privilege:
- (d) The matters of national importance specified in section 3 (1) of the Town and Country Planning Act 1977:
- (e) In relation to mining licences, the matters specified in section 69 (1A) of the principal Act (see *clause 14*).

Subsection (10) provides that on completion of the inquiry, the Planning Tribunal shall prepare a written report on the objection and on whether or not the application for the mining privilege should be granted, and, if so, the changes, if any, that should be made to the conditions attached thereto, and forward it to the Minister.

Subsections (12) and (13) provide that, apart from points of law, no appeal is to lie from any decision of the Planning Tribunal.

Subsection (15) provides that the Minister is to act in accordance with the decisions of the Planning Tribunal subject to his power under section 104A to decline any application (see *clause 21*).

Clause 26 rewrites section 130 to keep it in line with the new section 126. It provides that no mining privilege is to be granted until the time for objection has expired or, if an objection is made, until the Planning Tribunal has reported thereon.

Clause 27 adds any notice or memorandum authorised under the principal Act, affecting a mining privilege, to the documents to be noted in the appropriate District Land Registry.

Clause 28 empowers the Surveyor-General to keep an index and map record of mining privileges and applications for mining privileges.

Clause 29 replaces the Secretary of Energy by the Deputy Secretary of Energy (Mines) as the Chairman of the Board of Examiners.

Clause 30 makes it clear that compensation payable under section 220 of the principal Act to the owners of land in respect of damage to the land as a result of the grant of a mining privilege is to be paid by the holder of the mining privilege.

Clause 31 provides for the making of regulations in respect of the procedure to be followed in connection with any application or request to the Minister and authorising the rectification of any irregularities of procedure.

Clause 32 revises the penalties payable under various sections of the principal Act.

Hon. Mr Birch

MINING AMENDMENT

ANALYSIS

Title	17. Maintenance of application priorities
1. Short Title, commencement, and application	18. Survey not required in certain cases
2. Interpretation	19. New sections inserted
3. Public reserves, etc., open for mining	
4. Applications for prospecting licences	<i>Protection of Land</i>
5. Conditions attached to all prospecting licences	103A. Conditions relating to prevention or reduction of injury to land
6. Additional provisions for prospecting licences relating to areas of 40 hectares or less	103B. Protection of surface of land
7. Rights of holders of prospecting licences	103C. Views of territorial authority
8. New sections inserted	103D. Variation of conditions
57A. Holder of prospecting licence to have priority for grant of mining licence	103E. Objections to variation of conditions
57B. Extension of period of priority for grant of mining licence	20. Form of applications, fees, and notices of applications and proposed conditions
9. Exploration licences may be granted in respect of land, whether open for mining or not	21. Minister may decline application
10. Grant of exploration licences	22. Priority of applications if more than one made
11. Rent payable in respect of exploration licences	23. Deposit or bond in respect of grant of mining privilege
12. Holders of exploration licences not to interfere with other mining operations, etc.	24. Entry on land
13. Holder of exploration licence to have priority for grant of prospecting or mining licence	25. Objections to Planning Tribunal
14. Grant of mining licences	26. Mining privileges not to be granted until time for objections has expired
15. Applications for mining licences	27. Revision of records
16. Plan of land to accompany application	28. Records of mining privileges and applications
	29. Board of Examiners
	30. Owner and occupier of land entitled to compensation
	31. General regulations
	32. Penalties
	Schedule

A BILL INTITULED

An Act to amend the Mining Act 1971

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

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1. Short Title, commencement, and application—(1) This Act may be cited as the Mining Amendment Act 1981, and shall be read together with and deemed part of the Mining Act 1971* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of 10 October 1981.

(3) Section 8 of this Act shall apply to all holders of prospecting licences, whether the prospecting licence was granted before or after the date of commencement of this Act, and where any application for a mining licence has been lodged 15 before the date of commencement of this Act by a holder of a prospecting licence under section 57 of the principal Act, but the mining licence has not been granted before that date, the provisions of the principal Act, as amended by this Act, shall apply in respect of that application: 20

Provided that where, before the 16th day of July 1981, the holder of a prospecting licence has lodged an application for a mining licence pursuant to section 57 (1) of the principal Act, the provisions of this Act shall not apply in respect of the grant of that mining licence. 25

(4) The principal Act shall apply to all applications for mining privileges, not being applications to which subsection (3) of this section applies, lodged before the date of commencement of this Act as if sections 4, 15, 19, and 20 of this Act had not been enacted and all objections validly made 30 under sections 126 and 127 of the principal Act (as in force before the date of commencement of this Act) and not determined before that date shall be deemed to have been validly made under section 126 of the principal Act (as substituted by section 25 of this Act) and the objections shall be referred to 35 the Registrar of the Planning Tribunal and the said section 126 (as so substituted) shall apply accordingly.

*1971, No. 25

Amendments: 1972, No. 83; 1973, No. 76; 1975, No. 91; 1978, No. 52

2. Interpretation—Section 5 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

5 “‘Explore’ means to explore for minerals on a broad basis and take samples, predominantly by hand except where it is impractical to do so, in order to define more accurately specific prospecting areas; and ‘exploration’ has a corresponding meaning:

10 “‘Prospect’ means to prospect for and identify mineral deposits and test their mining feasibility, and ‘prospecting’ has a corresponding meaning:

15 “‘Territorial authority’ has the same meaning as in section 2 (1) of the Local Government Act 1974; except that, in respect of territorial waters on the seaward side of the mean high water mark, it means a maritime planning authority and a regional water board:

20 “‘Working day’ means any day of the week other than—
“ (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and
“ (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.”

25 **3. Public reserves, etc., open for mining**—Section 26 (1) (d) of the principal Act is hereby amended by inserting, after the words “wildlife refuges”, the words “, wildlife management reserves,”.

30 **4. Applications for prospecting licences**—(1) Section 49 (1) of the principal Act is hereby amended by adding the words “and shall be accompanied by an environmental assessment in the prescribed form”.

35 (2) Section 49 (2) of the principal Act is hereby amended by omitting the words “or subsequently lodged with or forwarded to the Secretary”.

5. Conditions attached to all prospecting licences—Section 52 (1) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

40 “(ca) That all necessary steps are taken by the licensee to prevent damage to areas of scientific, wildlife, fishing, or historic interest, or special visual appeal;”.

6. Additional provisions for prospecting licences relating to areas of 40 hectares or less—Section 53 of the principal Act (as amended by section 3 of the Mining Amendment Act 1975) is hereby further amended by adding the following subsection: 5

“(4) Where any discrepancy exists between the plan of the area accompanying the application and the area as established by the pegs on the marking out of the land, the boundaries of the area shall, in the absence of any other evidence, be those determined by the pegs, where ascertainable, and the plan shall be amended accordingly. Any request for any such amendment shall be determined by the Minister, after consideration of a report from the Chief Surveyor of the district.” 10

7. Rights of holders of prospecting licences—(1) Section 55 (1) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph: 15

“(ba) Subject to any conditions imposed by the appropriate Minister under section 26 (6) of this Act, erect, maintain, and use buildings, dwellings, and plant and machinery, construct, maintain, and use tracks, and engage in other works in connection with and for the purpose of the prospecting operations:” 20

(2) Section 55 (2) of the principal Act is hereby amended by inserting, after the words “exclusive rights”, the words “for prospecting purposes”. 25

8. New sections inserted—(1) The principal Act is hereby further amended by inserting, after section 57, the following sections:

“57A. **Holder of prospecting licence to have priority for grant of mining licence**—(1) Subject to section 57B of this Act, if the holder of a prospecting licence applies during the currency of the prospecting licence for a mining licence in respect of land to which the prospecting licence relates, his application shall have priority over every other application for a mining licence in respect of the same land. 30 35

“(2) An application for a mining licence which has priority under subsection (1) of this section shall retain that priority until the application has been granted, refused, or withdrawn.

“(3) Subject to subsections (1) and (2) of this section, all the provisions of this Act in relation to mining licences, including the procedure for the granting of the licences, shall apply in respect of every mining licence applied for under subsection (1) of this section.

“57B. Extension of period of priority for grant of mining licence—(1) Subject to subsections (2) and (3) of this section, if an application for a mining licence made under section 57A (1) of this Act during the currency of the prospecting licence is refused, the Minister shall, on request by the applicant, extend the period during which a further application may be made with the benefit of the priority given by section 57A of this Act to such date, not exceeding 3 years after the date of the refusal of the original application, as may be requested by the applicant.

“(2) Any request under subsection (1) of this section for extension of the period during which a further application may be made with the benefit of priority shall be made to the Secretary in the prescribed form within 15 working days after the date of the refusal of the original application.

“(3) No extension that may be granted by the Minister under subsection (1) of this section shall apply otherwise than to one such further application for a mining licence made by the original applicant or by his successor in title and in respect of land that is wholly comprised within the land to which the original application for a mining licence related.”

(2) The principal Act is hereby consequentially amended—

(a) By repealing section 26 (7):

(b) By omitting from section 27 (1) the words “Subject to subsection (1) of section 57 of this Act”:

(c) By omitting from section 47 the expression “58”, and substituting the expression “57B”:

(d) By omitting from section 49 (2) the words “subject to sections 57 and 58 of this Act, to the grant of mining licences under the said section 57”, and substituting the words “to the grant of a mining licence under sections 57A and 57B of this Act”.

(e) By repealing sections 57 and 58:

(f) By repealing the proviso to section 69 (3):

(g) By omitting from section 239 (1) the expression “section 58”.

(3) The Mining Amendment Act 1978 is hereby consequentially amended by repealing section 4.

9. Exploration licences may be granted in respect of land, whether open for mining or not—Section 59 of the principal Act is hereby amended by omitting from the proviso the words “without the written consent of the holder of the existing licence”. 5

10. Grant of exploration licences—Section 60 of the principal Act is hereby amended by adding the following subsection:
 “(4) The Minister shall not, except in special circumstances, grant an exploration licence in respect of any area where he considers that— 10
 “(a) There is adequate knowledge of the mineral resources of that area; or
 “(b) There is substantial interest in mining in that area.”

11. Rent payable in respect of exploration licences—The principal Act is hereby further amended by repealing section 64. 15

12. Holders of exploration licences not to interfere with other mining operations, etc.—Section 67 of the principal Act is hereby amended by omitting the words “, other than a prospector’s right”. 20

13. Holder of exploration licence to have priority for grant of prospecting or mining licence—The principal Act is hereby further amended by repealing section 68, and substituting the following section:
 “68. (1) Subject to subsections (2) and (3) of this section, 25
 if the holder of an exploration licence applies during the currency of the exploration licence for a prospecting licence or a mining licence in respect of land to which the exploration licence relates that is open for mining and is not the subject of an existing mining privilege (other than a prospector’s 30
 right), his application shall have priority over every other application for a prospecting licence or a mining licence in respect of that land.
 “(2) If an application for a prospecting licence or a mining 35
 licence is made in respect of land that includes any portion of land not exceeding 3 hectares in area included in a current exploration licence held by a person other than the applicant,

the Secretary shall give written notice of the application to the holder of the exploration licence and afford him an opportunity of applying for and obtaining a prospecting licence or a mining licence in respect of that portion.

5 “(3) If the holder of the exploration licence does so apply, his application shall have priority. If he declines or fails to so apply within 20 working days after receiving notice of the application of the other person or within such extended period
10 as the Minister may allow, or if he fails to accept the prospecting licence or the mining licence when it is granted, he shall be deemed to have relinquished his entitlement to priority under subsection (1) of this section for any application for a prospecting licence or a mining licence in respect of the portion of land concerned.

15 “(4) Subject to subsections (1) to (3) of this section, all the provisions of this Act in relation to prospecting licences and mining licences, including the procedure for granting the licences, shall apply in respect of every prospecting licence or mining licence applied for under this section.”

20 **14. Grant of mining licences**—Section 69 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“**(1A)** Before granting a mining licence under this section, the Minister shall have regard to—

25 “(a) The nature and extent of the mineral resource on or under the land and its relationship to other resources and industries in the area; and

“(b) The best and most efficient utilisation of that resource; and

30 “(c) Any environmental and social factors involved in the development of that resource; and

“(d) The general development and conservation of New Zealand’s mineral resources.”

15. Applications for mining licences—(1) Section 70 (1)
35 of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“**(ba)** An environmental assessment in the prescribed form;”.

40 (2) Section 70 (3) of the principal Act is hereby amended by omitting the words “or subsequently lodged with or forwarded to the Secretary”.

16. Plan of land to accompany application—Section 71 of the principal Act is hereby amended by repealing subsection (4).

17. Maintenance of application priorities—The principal Act is hereby amended by repealing section 72. 5

18. Survey not required in certain cases—Section 74 (1) (d) of the principal Act is hereby amended—

(a) By omitting the word “Surveyor-General”, and substituting the words “Chief Surveyor”:

(b) By adding the words “and the Chief Surveyor has certified the plan as being satisfactory for the purpose of identifying the land and the applicant shall be responsible at all times for the ground monumentation for an application that is exempted from survey requirements under this paragraph”. 10
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19. New sections inserted—(1) The principal Act is hereby further amended by inserting, after section 103, the following subheading and sections:

“Protection of Land

“103A. Conditions relating to prevention or reduction of injury to land—(1) This section shall not apply in respect of prospectors’ rights or exploration licences. 20

“(2) On the granting of a mining privilege, the Minister may impose upon the holder of the mining privilege such conditions as the Minister thinks fit for the purpose of preventing, or reducing, or making good, injury to the surface of land to which the mining privilege relates or injury to anything on the surface of the land, or the disposal or discharge of any mineral, material, debris, tailings, refuse, or waste water produced from the exercise of the mining privilege. 25
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“(3) Without limiting the generality of the power conferred on the Minister by subsection (2) of this section, the Minister may, on granting a mining licence, impose on the licensee a condition that mining operations shall not be carried out within such distance of the surface of the land to which the licence relates as the Minister may specify. 35

“103B. Protection of surface of land—(1) This section shall not apply in respect of prospectors’ rights or exploration licences.

“(2) In every case where an application for a mining privilege specifies a method of use of the land that will disturb the surface of the land, whether by way of dredging, sluicing, or other means, the Minister shall, before granting the mining
5 privilege, forward copies of the application to—

“(a) The Commissioner of Crown Lands for the land district in which the land is situated for such report on the surface of the land as the Minister considers necessary in view of the nature of the mining
10 privilege:

“(b) The Catchment Board of the catchment district, or the Catchment Commission of the catchment area, as the case may require, in which the land is situated or, if the land is situated in the Waikato Valley within the meaning of the Waikato Valley Authority Act 1956, to the Waikato Valley Authority, or, if the land is not situated within a catchment district or catchment area or the Waikato Valley, to the Soil Conservation and Rivers Control Council, for a report as to whether or not, in the opinion of the Board, Commission, Authority, or Council, the grant of a mining privilege would conflict with the purposes of the Soil Conservation and Rivers Control Act 1941 or the Water and Soil Conservation Act 1967.
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“(3) If a Commissioner of Crown Lands, Catchment Board, Catchment Commission, the Waikato Valley Authority, or the Soil Conservation and Rivers Control Council, receives a copy of an application under subsection (2) of
30 this section, he or it shall forward a report to the Minister in accordance with that subsection within 40 working days after receiving a copy of the application or within such longer period as the Minister may in any case allow; and if the report is not received by the Minister within that period the Minister
35 may proceed to establish the conditions to be attached to the grant of the mining privilege.

“(4) After the consideration of any reports received by him under subsection (2) of this section, the Minister may require such environmental inquiries to be undertaken as he
40 considers necessary, and after giving the applicant an opportunity to comment on the reports and the results of any such inquiry, the Minister may, on granting a mining privilege, specify in the licence such conditions as he thinks fit for the purpose of—

- “(a) Preventing, as far as is reasonably practicable, the destruction of the surface of the land:
- “(b) Providing, as far as is reasonably practicable, for the restoration of the surface of the land:
- “(c) Preventing, as far as is reasonably practicable, any conflict with the purposes of the Soil Conservation and Rivers Control Act 1941 and the Water and Soil Conservation Act 1967: 5
- “(d) Preventing, as far as is reasonably practicable, the destruction of or damage to areas of scientific, 10
wildlife, fishing, or historic interest, or special visual appeal.

“103c. **Views of territorial authority**—(1) This section shall not apply to prospectors’ rights or exploration licences.

“(2) In every case where an application for a mining 15
privilege is received the Minister shall, before granting the mining privilege, forward a copy of the application to the territorial authority for the district in which the land to which the mining privilege relates is situated.

“(3) Every territorial authority, on receiving a copy of the 20
application under subsection (2) of this section, shall cause a public notice in the prescribed form of the receipt of the application to be published in a newspaper suitable for the purpose circulating (at least once a week) in its district, and may recover the cost of the public notice from the applicant. 25

“(4) The territorial authority shall consider the applica-
tion and shall, within 40 working days after receiving a copy of the application or within such longer period as the Minister may in any case allow, advise the Minister of its opinion, having regard to the economic, social, and environmental 30
effects of the proposal on its district, as to—

“(a) Whether or not the application for the mining privilege should be granted; and

“(b) The conditions that should be attached to the mining 35
privilege if it were to be granted,—

and if the reply is not received by the Minister within that period the Minister may proceed to establish the conditions to be attached to the grant of the mining privilege.

“(5) The Minister shall consider the reply of the territorial authority and, after giving the applicant an opportunity to 40
comment on the reply, shall have regard to those recommendations in dealing with the application for the grant of the mining privilege.

“103b. **Variation of conditions**—(1) This section shall not apply to prospectors’ rights or exploration licences, or to any authorisation (including any conditions thereof) under section 80 of this Act, or any conditions suspended pursuant to section 5 84 (6) of this Act or to any review or reduction of the rate of royalty under section 86 of this Act or to any postponement, reduction, or remission of rent or royalties under section 131 of this Act.

“(2) The Minister may, upon such evidence as appears to 10 him sufficient, correct errors and supply omissions in respect of any conditions attached to a mining privilege and shall thereupon forward to the holder of the mining privilege a memorandum of variation accordingly.

“(3) Subject to subsections (5) to (7) of this section and 15 section 103E of this Act the Minister may, at any time after the grant of a mining privilege, at the request of any person who or body which proposed conditions to be attached to the grant of the appropriate licence, or at the request of the holder of the mining privilege, or of his own accord, vary the 20 conditions subject to which the mining privilege was granted by suspending, cancelling, amending, or adding any condition, and shall thereupon forward to the holder of the mining privilege a memorandum of variation accordingly:

“Provided that where the request is made by the holder of 25 the mining privilege or by the Minister of his own accord, the Minister shall consult with the person who or body which proposed the conditions and, if the conditions were imposed pursuant to section 26 or section 27 of this Act, also obtain the consent of that person or body to the variation.

“(4) Every memorandum of variation issued under this 30 section shall be read with and deemed part of the mining privilege to which it relates, and, where the mining privilege has been recorded with the District Land Registrar, a memorandum of variation shall be lodged with the District Land 35 Registrar and the provisions of this Act, with any necessary modifications, shall apply accordingly.

“(5) Before the Minister varies the conditions of a mining 40 privilege under subsection (3) of this section of this Act, the Secretary shall cause notice of the proposed variation to be given to the holder of the mining privilege and to the appropriate territorial authority, and, if required, the appropriate body referred to in section 103B (2) (b) of this Act.

“(6) Subsequent to the giving of the notice required by subsection (5) of this section, the Secretary shall cause public notice of the proposed variation to be published in a newspaper circulating (at least once a week) in the place or district in which the land to which the mining privilege relates is situated and may, where the proposed variation was requested by the holder of the mining privilege, recover the cost of the public notice from the holder. 5

“(7) As soon as practical after notice has been given to the holder of the mining privilege under subsection (5) of this section, the Secretary shall cause notice of the proposed variation to be exhibited for not less than 40 working days— 10

“(a) In the office of the territorial authority in whose district the land to which the mining privilege relates is situated: 15

“(b) In the office of the Inspector of Mines nearest to the land to which the mining privilege relates.

“(8) The Minister shall not issue any memorandum of variation of conditions before the time allowed for objections to the proposed variation has expired. 20

“(9) Where an objection to a proposed variation of conditions has been made to the Planning Tribunal, the Minister shall not issue the memorandum of variation before the report and recommendations of the Planning Tribunal have been received. 25

“103E. **Objections to variation of conditions**—(1) Within 20 working days after the date on which public notice has been given in accordance with section 103D (6) of this Act, objections on any ground may be made to the proposed variation by any person having the right to object under subsection (2) of this section by lodging a written notice of objection in the prescribed form, stating the grounds of the objection, with the Registrar of the Planning Tribunal. 30

“(2) The provisions of subsections (2) to (15) of section 126 of this Act shall apply as if every reference to the applicant were a reference to the holder of the mining privilege and every reference to the proposed conditions to be attached to the mining privilege were a reference to the proposed variations.” 35

(2) The principal Act is hereby consequentially amended—

(a) By repealing sections 82, 83, and 84 (7):

(b) By omitting from section 84 (8) the words “, alteration, or amendment” and also the words “or subsection (7)”.

5

20. Form of applications, fees, and notices of applications and proposed conditions—Section 104 of the principal Act is hereby amended by repealing subsections (5) to (7), and substituting the following subsections:

10

“(5) When the Minister considers that, subject to this Act, it is likely that the mining privilege may be granted, he shall establish the conditions (including those established pursuant to sections 26, 27, 103A, 103B, and 103C of this Act) that he considers should be attached to the mining privilege if it is granted.

15

“(6) As soon as practical after the proposed conditions to be attached to the grant of the mining privilege applied for have been established, the Secretary shall give notice of those conditions to the applicant and to the appropriate territorial authority and body referred to in section 103B (2) (b) of this Act.

20

“(7) Within 15 working days after the receipt of that notice, the applicant shall give public notice of the application by causing a notice of the application and the proposed conditions in the prescribed form to be published in a newspaper circulating (at least once a week) in the place or district in which the land to which the application relates is situated.

25

“(8) Within 10 working days after public notice of an application has been given under subsection (7) of this section, the applicant shall forward to the Secretary an extract from the newspaper in which the notice appeared, containing the notice, the name of the newspaper, and the date of issue of the newspaper.

30

“(9) As soon as practical after giving notice to the applicant under subsection (6) of this section, the Secretary shall cause such notice of the application as may be prescribed to be exhibited for not less than 40 working days—

35

“(a) In the office of the territorial authority in whose district the land to which the application relates is situated:

40

“(b) In the office of the Inspector of Mines nearest to the land to which the application relates.”

21. Minister may decline application—The principal Act is hereby further amended by inserting, after section 104 (as amended by section 20 of this Act), the following section: 5

“104A. The Minister may at any time decline any application for a mining privilege and, notwithstanding anything in this Act, any objections under this Act to the granting of that application shall thereupon lapse and be of no effect.”

22. Priority of applications if more than one made— 10
(1) Section 107 (1) of the principal Act is hereby amended by inserting, after the words “section 112 of this Act”, the words “and where no other provision of this Act specifically applies”.

(2) Section 107 (4) of the principal Act is hereby amended 15
by inserting, before the words “If more than one application”, the words “Where no other provision of this Act specifically applies,”.

23. Deposit or bond in respect of grant of mining privilege—(1) The principal Act is hereby further amended 20
by inserting, after section 108, the following section:

“108A. (1) This section shall not apply to prospectors’ rights.

“(2) A mining privilege shall not be issued until the applicant has lodged with the Secretary, as security for compliance 25
with the terms and conditions of the mining privilege, such monetary deposit or bond as may be required.

“(3) Where the Minister is satisfied that the amount of the deposit or bond lodged pursuant to subsection (2) of this section is insufficient to meet the amount that is or may 30
become payable under subsection (5) of this section, he may, at intervals of not less than 3 years, require the holder of the mining privilege to increase the amount of the deposit or bond accordingly.

“(4) Subject to this section, section 52 of the Public 35
Finance Act 1977 shall apply in respect of all money deposited with the Secretary by holders of mining privileges, or received by the Secretary under the terms of a bond, under this Act.

“(5) The amount of any deposit so made by any person together with the accrued interest (if any) thereon, shall be 40
applied by the Minister, as he thinks fit,—

5 “(a) In or towards the payment of any money payable to the Crown by that person in relation to the mining privilege in respect of which the deposit was made or in relation to any other mining privilege held by him; or

10 “(b) In or towards the restoration or protection of any property injuriously affected or endangered by reason of the failure of that person to comply with the terms and conditions of any mining privilege held by him.

“(6) On the termination (whether by effluxion of time or otherwise) or on the transfer of any mining privilege in respect of which a monetary deposit or bond has been deposited the following provisions shall apply:

15 “(a) If, in the opinion of the Minister, the depositor has substantially complied with the terms and conditions of the mining privilege throughout its currency, he shall be entitled to a refund of the monetary deposit, with accrued interest (if any) thereon, reduced by any amount that may have been applied by the Minister in accordance with subsection (4) of this section, or the release of the bond:

20 “(b) If, in the opinion of the Minister, the depositor has failed to comply substantially with the terms and conditions of the mining privilege, in addition to the amount that may have been applied by the Minister in accordance with subsection (4) of this section, the Minister may direct that the whole or part of the deposit shall be forfeited and the depositor shall be entitled to the balance (if any) of the deposit, reduced by the amount so applied or forfeited.

30 “(7) Any money forfeited under subsection (6) (b) of this section may be applied by the Minister, as he thinks fit, as if it were rent or royalties payable by the depositor in relation to the mining privilege in respect of which the deposit was made.

40 “(8) Subsections (5) and (6) of this section shall apply in respect of money received under this Act by the Secretary under the terms of a bond as if that money were a deposit.”

(2) The principal Act is hereby consequentially amended by repealing sections 54 (3), 56, and 62.

24. Entry on land—(1) Section 112 (3) (b) of the principal Act is hereby amended by omitting the words “twenty-four hours’”, and substituting the words “3 working days”.

(2) Section 112 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection: 5

“(4) No person shall, for the purposes specified in subsection (1) or subsection (2) of this section, enter on—

“(a) Any State forest land, without the written consent of the Conservator of Forests; or 10

“(b) Any wildlife refuge, wildlife management reserve, or wildlife sanctuary within the meaning of the Wildlife Act 1953 without the written consent of the Secretary of Internal Affairs; or

“(c) Any National Park or public reserve without the written consent of the Commissioner of Crown Lands— 15

and the Conservator of Forests, the Secretary of Internal Affairs, or the Commissioner of Crown Lands, as the case may be, shall not unreasonably or arbitrarily withhold his consent.” 20

(3) Section 112 of the principal Act is hereby further amended by inserting, after subsection (6), the following subsections:

“(6A) No person shall enter on any occupied Crown land for the purposes specified in subsection (1) or subsection (2) of this section unless he gives the occupier at least 3 working days’ notice in writing of his intention to do so, and shall identify himself on the occasion of his first entry pursuant to this power and at any subsequent time if so requested by an occupier of the land. 25 30

“(6B) If, after service of a notice under subsection (6A) of this section and before the person who has served the notice could with reasonable diligence have marked out the land and lodged his application, some other person has lodged an application for a mining privilege in respect of the same or partially the same land, the Minister may, for the purpose of determining the priorities of the applications (but for no other purpose), regard the application of any person who has served such notice as having been lodged at the time of service of the notice and may also regard any marking out done by the person who has served the notice as having been completed before the time of service of the notice.” 35 40

25. Objections to Planning Tribunal—(1) The principal Act is hereby further amended by repealing sections 126 to 129, and substituting the following section:

5 “126. (1) Within 20 working days after the date on which public notice pursuant to section 104 of this Act has been given of any application for a mining privilege, objections on any grounds may be made to the application or to any proposed conditions attached to the application by lodging a written notice of objection in the prescribed form, stating the
10 grounds of the objection, with the Registrar of the Planning Tribunal.

“(2) The following shall have the right to object under this section:

15 “(a) Any person or body affected by the grant of the mining privilege:

“(b) The territorial authority for any district adjacent to the district in which the land to which the application relates is situated:

20 “(c) Any local authority (as defined in section 2 (1) of the Local Government Act 1974) in whose area or district the land to which the application relates is situated:

“(d) Any body referred to in section 103B (2) (b) of this Act:

25 “(e) Any body or person representing some relevant aspect of the public interest:

“(f) In relation to any proposed conditions attached to the application, the applicant.

30 “(3) A copy of the notice of objection shall be served on the applicant and on the Secretary either before or immediately after it is lodged with the Registrar.

“(4) On receipt of the copy of the notice of objection, the Secretary shall forthwith forward a copy of the application for the mining privilege and the proposed conditions to be
35 attached thereto to the Registrar of the Planning Tribunal.

“(5) On receiving an objection under this section, the Planning Tribunal shall inquire into the objection and the application for the mining privilege and the proposed conditions to be attached thereto and for that purpose shall
40 duct a hearing at such time and place as it may appoint.

“(6) For the purposes of conducting the inquiry, the Planning Tribunal shall have all the powers, duties, functions, and discretions conferred on it under Part VIII of the Town and Country Planning Act 1977, other than those under sections 150, 151, 152, 153, 155, 157, 159, 162, 163, and 164 of that Act. 5

“(7) The following may be represented by counsel or otherwise, and may call evidence on any matter that should be taken into account in the inquiry:

“(a) Any body or person specified in subsection (2) of this section: 10

“(b) The Minister of Energy.

“(8) Where an environmental impact report has been required in respect of any matter before the Planning Tribunal under this section, and the Commissioner for the Environment 15 has prepared an audit of that report, he may be called by the Planning Tribunal to appear before it and give evidence in respect of his audit.

“(9) Without limiting the scope of the inquiry, in conducting any inquiry under this section the Planning Tribunal 20 shall have regard to—

“(a) Whether the land should be used for mining operations:

“(b) Whether the site of any proposed ancillary works is suitable: 25

“(c) The economic, social, and environmental effects of the grant of the mining privilege:

“(d) The matters specified in section 3 (1) of the Town and Country Planning Act 1977:

“(e) In relation to mining licences, the matters specified in section 69 (1A) of this Act. 30

“(10) On completion of the inquiry, the Planning Tribunal shall prepare a written report on the objection and on whether the application for the mining privilege should be granted, and, if so, the changes, if any, that should be made 35 to the conditions attached thereto, and shall submit the report, together with such recommendations as it considers proper to make in the circumstances, to the Minister.

“(11) At the same time as the Planning Tribunal submits its report to the Minister, it shall send a copy of the report and 40 its recommendations to each objector and the applicant.

“(12) Subject to subsection (13) of this section, no appeal shall lie from any report or recommendation of the Planning Tribunal under this section.

“(13) Where any party to any proceedings under this section before the Planning Tribunal is dissatisfied with the report or any recommendation of the Planning Tribunal or of the Chairman sitting alone in accordance with section 135 of the Town and Country Planning Act 1977, as applied by subsection (6) of this section, as being erroneous in point of law, he may appeal to the High Court by way of case stated for the opinion of the Court on a question of law only and the provisions of subsections (2) to (11) of section 162 of the Town and Country Planning Act 1977 shall, with any necessary modifications, apply in respect of that report or recommendation in the same manner as they apply in respect of a determination of the Planning Tribunal under the Town and Country Planning Act 1977.

“(14) Where there is an objection to the Planning Tribunal under this Act and an appeal to the Planning Tribunal under the Water and Soil Conservation Act 1967 relating to the same subject matter, the Planning Tribunal may, at its discretion, hear the objection and the appeal together.

“(15) Subject to section 104A of this Act, on receipt of the report and recommendations of the Planning Tribunal, the Minister shall act in accordance therewith in making any decision on the application for the mining privilege.”

(2) Section 238 (1) of the principal Act is hereby consequentially amended by omitting the words “or section 126”.

(3) The Town and Country Planning Act 1977 is hereby amended—

- (a) By omitting from section 128 (2) the expression “4” (as substituted by section 19 (3) of the National Development Act 1979), and substituting the expression “5”:
- (b) By omitting from section 128 (3) (as substituted by section 19 (4) of the National Development Act 1979) the words “and the Number Four Division”, and substituting the words “the Number Four Division and the Number Five Division”:
- (c) By omitting from section 134 (1) the expression “4” (as substituted by section 19 (5) of the National Development Act 1979), and substituting the expression “5”:

(d) By omitting from section 136 (1) the expression “4” (as substituted by section 19 (6) (a) of the National Development Act 1979), and substituting the expression “5”:

(e) By omitting from section 136 (2) the expression “4” (as substituted by section 19 (6) (b) of the National Development Act 1979), and substituting the expression “5”. 5

(4) The National Development Act 1979 is hereby consequentially amended by repealing subsections (3), (5), and (6) of section 19. 10

(5) Section 5 of the District Courts Act 1947 (as substituted by section 6 (1) of the District Courts Amendment Act 1979) is hereby amended by omitting from subsection (2) the expression “83” (as substituted by section 17 (1) of the Family Courts Act 1980), and substituting the expression “84”. 15

(6) The Family Courts Act 1980 is hereby consequentially amended by repealing so much of the Schedule as relates to section 5 (2) of the District Courts Act 1947. 20

26. Mining privileges not to be granted until time for objections has expired—The principal Act is hereby further amended by repealing section 130, and substituting the following section:

“130. (1) The Minister shall not grant any application for a mining privilege before the time allowed for objections to the application has expired. 25

“(2) Where an objection to an application for a mining privilege has been made to the Planning Tribunal, the Minister shall not grant the mining privilege applied for before the report and recommendations of the Planning Tribunal have been received.” 30

27. Revision of records—Section 150 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph: 35

“(a) Any notice or memorandum, authorised under this Act, affecting a mining privilege;”.

28. Records of mining privileges and applications—The principal Act is hereby further amended by inserting in Part V, after section 151, the following section:

5 “151A. (1) The Surveyor-General shall from time to time, at the request of the Secretary, index and record on a cadastral map all mining privileges and applications for mining privileges.

10 “(2) Copies of the index and map record shall be kept for inspection at the office of the Surveyor-General and in the office of the Chief Surveyor for the appropriate land district.”

29. Board of Examiners—Section 163 (2) (a) of the principal Act (as amended by section 23 of the Ministry of Energy Act 1977) is hereby further amended by omitting the words “Secretary of Energy”, and substituting the words “Deputy Secretary of Energy (Mines)”.

30. Owner and occupier of land entitled to compensation—Section 220 of the principal Act is hereby amended by inserting, after the words “(according to their respective interests)”, the words “payable by the holder of the mining privilege”.

20 **31. General regulations**—Section 233 of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

25 “(ba) Regulating the procedure to be followed in connection with any application or request to the Minister and authorising the rectification of any irregularities of procedure:”.

32. Penalties—The provisions of the principal Act specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

SCHEDULE

Section 32

AMENDMENTS TO PRINCIPAL ACT

Provision amended	How Amended
Section 13	By omitting the words "two hundred dollars", and substituting the expression "\$500".
Section 20 (3)	By omitting the words "five hundred dollars", and substituting the expression "\$1,500".
Section 41 (1)	By omitting the words "four hundred dollars", and substituting the expression "\$1,000".
Section 156	By omitting the words "ten dollars", and substituting the expression "\$50".
Section 196 (5)	By omitting the words "one thousand dollars", and substituting the expression "\$3,000".
Section 201 (4)	By omitting the words "two thousand dollars", and substituting the expression "\$5,000".
Section 234 (2)	By omitting the words "five hundred dollars", and substituting the expression "\$1,500".
Section 236	By omitting the words "two hundred dollars", and substituting the expression "\$500".
	By omitting the words "five hundred dollars", and substituting the expression "\$1,500".
	By omitting the words "ten dollars", and substituting the expression "\$50".
Section 236	By omitting the words "two thousand dollars", and substituting the expression "\$5,000".