

[AS REPORTED FROM THE COMMERCE AND ENERGY
COMMITTEE]

House of Representatives, 30 September 1981.

Words struck out are shown in italics within bold round brackets or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Birch

MINING AMENDMENT

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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) January 1982.

(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 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:

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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.

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(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 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 the Registrar of the Planning Tribunal and the said section 126 (as so substituted) shall apply accordingly.

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*1971, No. 25

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

New

(4) The principal Act, as amended by this Act, shall apply to all applications for mining privileges, not being applications to which subsection (3) of this section applies, lodged
5 before the commencement of this Act as if sections 4, 15, 19, and 20 of this Act had not been enacted:

Provided that, in respect of any objection validly made under section 126 or section 127 of the principal Act, as in force before the commencement of this Act,—

- 10 (a) Any objection that is to be finally determined by the Minister under section 128 of the principal Act (as in force before the commencement of this Act), shall be determined by the Minister as if this Act had not been enacted:
- 15 (b) Any objection, where the hearing of the objection has commenced before the commencement of this Act, shall be heard and determined as if this Act had not been enacted:
- 20 (c) Any other objection shall be deemed to have been validly made under section 126 of the principal Act (as substituted by section 25 of this Act) and, as soon as practicable after the conditions to be attached to the grant of the mining privilege have been settled, shall be referred to the Registrar of the
25 Planning Tribunal and the said section 126 (as so substituted) shall, with any necessary modifications, apply accordingly.

1A. Town and Country Planning Act 1977 not to apply—

The principal Act is hereby amended by inserting, after
30 section 4, the following section:

“4A. Except as specifically provided in this Act, nothing in the Town and Country Planning Act 1977 shall apply to the granting and lawful exercise of any mining privilege granted under this Act.”

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

40 “‘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:

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

“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:

New

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“Urban area” means any area within the boundaries of any borough, town district, or community within the meaning of the Local Government Act 1974, and that part of any district that, before its constitution, was or formed part of any borough, town district, or community within the meaning of that Act:

“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.”

New

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2A. Protection of houses and gardens, etc.—(1) The principal Act is hereby further amended by omitting from sections 8 (4) (c), 25 (1) (c), 37 (7) (c), 66 (2) (c), and 112 (7) (c) (in each case as amended by section 3 (1) of the Mining Amendment Act 1975) the words “a borough or town district and having an area of 2,000 square metres or less”, and substituting in each case the words “an urban area and having an area of 2,025 square metres or less”.

(2) The Mining Amendment Act 1975 is hereby consequentially amended by repealing so much of the Schedule as relates to sections 8 (4) (c), 25 (1) (c), 37 (7) (c), 66 (2) (c), and 112 (7) (c) of the principal Act.

3. Public reserves, etc., open for mining—Section (26 (1)) 26 (2) (d) of the principal Act is hereby amended by inserting, after the words “wildlife refuges”, the words “, wildlife management reserves,”.

New

3A. Rights of holders of prospectors' rights—Section 46 of the principal Act is hereby amended by repealing subsection (1) and substituting the following subsection:

5 “(1) The issue of a prospector’s right shall not confer any right or title to or interest in any other mining privilege, but shall be personal to the holder of the right, and, while it continues in force and subject to section 45 and all other relevant provisions of this Act, shall authorise him and his
10 agents and employees to enter on land and carry out prospecting activities restricted to—

“(a) With the use of hand tools, extracting and removing samples or specimens of rock, ore, or minerals for testing purposes, with as little damage as possible to the surface of the land:

15 “(b) Carrying out any other method of testing for minerals that does not disturb the surface of the land:

20 “(c) Keeping as the property of the holder of the right samples or specimens of any mineral found by him on the land.”

3B. Grant of prospecting licences—Section 48 of the principal Act is hereby amended by adding the following subsection:

25 “(3) Every holder of a prospecting licence shall, on the receipt of the prospecting licence, notify in writing every owner and occupier of land to which the licence relates that the licence has been granted.”

3c. Limited impact prospecting licence—The principal
30 Act is hereby further amended by inserting, after section 48, the following section:

“48A. (1) The Minister may, in his discretion and subject to such conditions as he may specify in the licence, grant a category of prospecting licence to be known as a limited
35 impact prospecting licence, which shall be subject to all the provisions of this Act that apply to a prospecting licence, except as provided by this section.

40 “(2) The scope of the prospecting activities that are permitted to be carried out under such licence shall be restricted to—

New

- “(a) The cutting of tracks with the approval of the owner and occupier of the land and the appropriate catchment authority:
- “(b) In respect of each site included in the licence area, 5
not exceeding 10, according to the licence,—
“(i) Machine drilling in not more than 3 drill
holes 150 millimetres in diameter in hard rock:
“(ii) Not more than 2 alluvial bore holes, up 10
to one metre in diameter:
“(iii) Digging one pit not exceeding 2 square
metres in area:
- “(c) Digging trenches not exceeding one metre in width
of a total length for all sites of 100 metres, and 15
limited to a depth attainable by machine from
the surface or such other depth as may be
approved by an Inspector:
- “(d) Clearing not more than 10 helicopter pads of 20
metres square:
- “(e) Mineral sampling using hand tools together with 20
geochemical sampling, geological mapping, and
geophysical surveys:
- “(f) The erection and maintenance of necessary buildings 25
associated with the activities specified in the
preceding paragraphs.
- “(3) The Minister may, in his discretion, limit the extent 25
of the activities specified in subsection (2) of this section
in accordance with the area and type of land included in
the licence.
- “(4) Section 103c of this Act shall not apply in respect 30
of any licence issued under this section but the appro-
priate territorial authority shall be provided with details
of the application, including the work programme, for its
information and any advice which it wishes to give to the
Minister in respect of the conditions to be attached to 35
the grant of the licence.
- “(5) Every licence under this section shall be granted
for a maximum term of 2 years:
- “Provided that, if the conditions of the licence are varied 40
pursuant to section 103d of this Act to include all the
activities specified in section 55 of this Act, the term of the

New

licence may be extended to 3 years, and the holder may be granted a renewal of the licence under section 50 (2) of this Act.

- 5 “(6) Where the applicant for or the holder of a licence is unable to proceed because the approvals required under subsection (2) (a) of this section cannot be obtained, that applicant or holder shall have a right of priority to the issue of a full prospecting licence under section 48 of this
10 Act in respect of the land concerned.

“(7) The holder of any licence under this section shall complete the restoration of the surface of the land to which the licence relates progressively during the period of the licence.”

- 15 **4. Applications for prospecting licences**—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”.

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

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- 25 **4A. Term of licence and renewal**—Section 50 of the principal Act is hereby amended by adding the following subsection:

30 “(6) Every holder of a prospecting licence shall, on the receipt of the renewal of the prospecting licence, notify in writing every owner and occupier of land to which the licence relates that the licence has been renewed.”

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:

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- 35 “(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;”.

New

“(ca) That all such steps as are reasonably practicable are taken by the licensee to prevent damage to areas of established scientific, wildlife, fishing, or historic interest, or established scenic significance;”

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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:

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“(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.”

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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)* the words “in force”, the words “and subject to any conditions attached to the prospecting licence”.

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New

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(1A) Section 55 (1) of the principal Act is hereby further amended by inserting, after paragraph (b), the following paragraph:

“(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 helicopter pads, and engage in other works in connection with and for the purpose of the prospecting operations:”

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

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

5 “**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) any mining licences** in respect of land to which the prospecting licence relates, his **(application shall have priority over every other application)** applications shall have priority over any other application for a mining licence in respect of the same land.

15 “(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.

20 “(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.

25 “**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) 6** years after the date of the refusal of the original application, as may be requested by the applicant.

35 “(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.

40 “(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 “subject to section 105 of this Act, 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):

New

(fa) By inserting in section 105 (a), after the words “of this Act”, the words “or pursuant to a priority under section 57A or section 57B of this Act”:

(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”.

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—

“(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.

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”.

5 **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:

10 “68. (1) Subject to subsections (2) and (3) of this section, 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 right), his application shall have priority over every other application for (a prospecting licence or a mining licence) one or more prospecting licences or mining licences in respect of that land.

20 “(2) If (an) a bona fide application for a prospecting licence or a mining 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.

25 “(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 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.

30 “(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.”

14. Grant of mining licences—(1) 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—

“(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 and social factors involved in the development of that resource; and

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

New

(2) Section 69 of the principal Act is hereby further amended by adding the following subsection:

“(4) Every holder of a mining licence shall, on the receipt of the mining licence, notify in writing every owner and occupier of land to which the licence relates that the licence has been granted.”

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

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

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(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.

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”:
- 5 (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 monu-
- 10 mentation for an application that is exempted from survey requirements under this paragraph”.

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

15 **“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.

“**(2)** On the granting of a mining privilege, the Minister may impose upon the holder of the mining privilege such
20 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
25 water produced from the exercise of the mining privilege.

“**(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
30 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.

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

35 **“(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 privilege, forward copies of the application to—

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“(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 privilege: 5

New

“(a) Where the land is under his jurisdiction, the Commissioner of Crown Lands for the land district in which that land is situated for such report on the surface of the land as is necessary in view of the nature of the mining privilege: 10

“(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. 15 20 25

“(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 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 may proceed to establish the conditions to be attached to the grant of the mining privilege. 30 35

“(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 considers necessary, and after giving the applicant an opportunity to comment on the reports and the results of any such 40

inquiry, the Minister may, on granting a mining privilege, specify in the licence such conditions as he thinks fit for the purpose of—

5 “(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:

10 “(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:

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15 “(d) Preventing, as far as is reasonably practicable, the destruction of or damage to areas of scientific, wildlife, fishing, or historic interest, or special visual appeal.

New

20 “(d) Preventing, as far as is reasonably practicable, the destruction of or damage to areas of established scientific, wildlife, fishing, or historic interest, or established scenic significance.

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

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

30 “(3) Every territorial authority, on receiving a copy of the

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35 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.

New

application under subsection (2) of this section, shall—

- “(a) 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; and 5
- “(b) Where the territorial authority considers that it is likely that there is significant Maori interest, give notice to the local District Maori Council of the receipt of the application; and 10
- “(c) In the case of an application for a mining licence, give notice of the application to the appropriate regional council or, as the case may be, united council. 15

“(4) The territorial authority shall consider the application 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 effects of the proposal on its district, as to— 20

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

“(b) The conditions that should be attached to the mining privilege if it were to be granted,— 25

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 comment on the reply, shall have regard to those recommendations in dealing with the application for the grant of the mining privilege. 30

“103D. **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 84 (6) of this Act or to any review or reduction of the rate of royalty under section 86 of this Act or any increase in any bond or deposit under section 108A of this Act or to any postponement, reduction, or remission of rent or royalties under section 131 of this Act. 40

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

“(3) Subject to subsections (5) to (7) of this section and section 103E of this Act the Minister may, at any time after the grant of a mining privilege, at the request of any person
10 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 conditions subject to which the mining privilege was granted by suspending, cancelling, amending, or adding any condition,
15 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 the mining privilege or by the Minister of his own accord, the Minister shall consult with the person who or body which
20 proposed the conditions and, if the conditions were imposed pursuant to section 26 or section 27 of this Act or by the owner of private land or Maori land, also obtain the consent of that person or body to the variation.

“(4) Every memorandum of variation issued under this
25 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 Registrar and the provisions of this Act, with any necessary
30 modifications, shall apply accordingly.

“(5) Before the Minister varies the conditions of a mining 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
35 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
40 newspaper suitable for the purpose 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.

“(7) As soon as (*practical*) practicable 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—

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

“(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.

“(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.

“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.

“(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.”

(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)”.

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:

5 “(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
10 granted.

“*(6)* As soon as *(practical)* practicable 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.

15 “(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 of the proposed
20 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 and shall forward a copy of the notice to the occupier of any land to which the application relates.

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
30 date of issue of the newspaper.

“*(9)* As soon as *(practical)* practicable 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
35 days—

“*(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:

“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.” 5

New

21A. Consents to be irrevocable, etc.—Section 105 of the principal Act is hereby amended by adding the following subsections: 10

“(2) Notwithstanding subsection (1) of this section, the owner and occupier of private land and Maori land may, within 20 working days of the receipt of the notice under section 104 (4) of this Act of an application for a mining privilege in respect of the land, or within such longer period as the Minister may in any case allow, serve on the Minister a written notice requiring conditions to be attached to the mining licence, being conditions relating to— 15

“(a) Preventing or reducing injury to the surface of the land: 20

“(b) The restoration of the surface of the land after the completion of mining operations:

“(c) Preventing or reducing interference with the use of the land or any adjacent land by the owner or occupier of the land in respect of which the licence is sought. 25

“(3) If a notice is served on the Minister under subsection (2) of this section, a copy of it shall be served on the applicant for the mining licence either before or immediately after it is served on the Minister. 30

“(4) If the Minister receives a written notice in accordance with subsection (2) of this section, he shall not grant the mining licence to which the notice relates unless the required conditions are specified in the licence.” 35

22. Priority of applications if more than one made—
(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”. 40

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

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

"108A. (1) This section shall not apply to prospectors' rights.

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

15 "(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 become payable under subsection (5) of this section, he (*may*) shall, at intervals of not less than 3 years, require the holder of the mining privilege to increase the amount of the

20 deposit or bond accordingly.
 "(4) Subject to this section, section 52 of the Public 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.

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

Struck Out

30 "(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

35 "(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.

New

“(a) First, 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, or damaged through the carrying out of any operations under that mining privilege: 5

“(b) Any balance remaining 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. 10

“(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 25

“(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 35

New

“Provided that the Minister may, if he thinks fit, retain all or any part of that deposit for such further period as he considers necessary. 40

“(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
5 made.

“(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
10 by repealing sections 54 (3), 56, and 62.

Struck Out

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”.
15

New

24. **Entry on land**—(1) Section 112 (3) (a) of the principal Act is hereby amended by omitting the word “writing”, and substituting the words “the prescribed form”.

20 (1A) 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
25 following subsection:

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

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

“(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

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

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
40 consent.”

(3) Section 112 of the principal Act is hereby further amended by inserting, after subsection ~~(6)~~ (5), the following subsection:

“(6A) (5A) 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: 5

New

“Provided that, if the occupier agrees, entry may be made prior to the expiry of the notice.” 10

Struck Out

“(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.” 15 20

New

(4) Section 112 (6) of the principal Act is hereby amended by inserting, after the expression “subsection (3)” the words “or subsection (5A)”. 25

25. Objections to Planning Tribunal—(1) The principal Act is hereby further amended by repealing sections 126 to 129, and substituting the following section: 30

“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*) any person or body specified in subsection (2) of this section may object 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 grounds of the objection, with the Registrar of the Planning Tribunal. 35

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

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

5 “(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
10 district the land to which the application relates is situated:

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

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

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

“(3) A copy of the notice of objection shall be served on the applicant and on the Secretary either before or
20 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, including the work programmes and
25 any environmental assessment, and the proposed conditions to be 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
30 conduct 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
35 150, 151, 152, 153, 155, 157, 159, 162, 163, and 164 of that Act.

“(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:

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

“(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 or an officer of the Commission for the Environment 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. 5

“(9) (*Without limiting the scope of the inquiry*) In conducting any inquiry under this section the Planning Tribunal shall have regard to— 10

“(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: 15

“(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: 20

New

“(f) Such other matters as the Planning Tribunal may consider relevant in any particular case.

“(10) On completion of the inquiry, the Planning Tribunal shall prepare a written report on the objection and on whether, in the light of that report, the application for the mining privilege should be granted, and, if so, the changes, if any, that should be made to the relevant conditions attached thereto, and shall submit the report, together with such recommendations as it considers proper to make in the circumstances, to the Minister. 25 30

“(11) At the same time as the Planning Tribunal submits its report to the Minister, it shall send a copy of the report and 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. 35

“(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, 40

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
5 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
15 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”.

20 (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
25 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
30 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”:

35 (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”:

40 (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”.

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

(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".

(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.

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.

"(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."

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

"(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:

"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.

"(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”.

10 31. **General regulations**—(1) Section 233 of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

15 “(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:”.

New

20 (2) Section 233 of the principal Act is hereby further amended by inserting, after paragraph (q), the following paragraph:

“(qa) Providing for the procedure to be followed in relation to objections:”.

25 31A. **Determination of dispute as to area of land**—(1) The principal Act is hereby further amended by inserting, after section 237, the following section:

30 “237A. (1) Where any dispute arises as to the area of land comprised in any application or mining privilege, the Minister may refer the dispute to the Registrar of the District Court nearest to the land or, with the consent of every party to the dispute, any other District Court, for the Court to determine the area of land comprised therein.

“(2) At least 10 days’ notice in writing of any such application shall be given by the Minister to every other party to the dispute.

35 “(3) On the receipt of any such application the Registrar of the Court shall give notice of the time and place fixed for the hearing of the application to the Minister and every other party to the dispute.

New

“(4) The Minister and every other party to the dispute, either personally or by their counsel, shall be entitled to be present and to be heard at the hearing of the application.

“(5) On hearing the application the Court shall determine the area of land that is in dispute.” 5

(2) Section 239 (1) of the principal Act is hereby consequentially amended by omitting the words “or section 237”, and substituting the words “section 237, or section 237A”.

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. 10

SCHEDULE

Section 32

AMENDMENTS TO PRINCIPAL ACT

Provision amended	How Amended
Section 13	By omitting the words "two hundred dollars", and substituting the expression (" <u>\$500</u> ") " <u>\$1,000</u> ".
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 (" <u>\$1,000</u> ") " <u>\$50,000</u> ".
Section 156	By omitting the words "ten dollars", and substituting the expression (" <u>\$50</u> ") " <u>\$1,000</u> ".
Section 156	By omitting the words "one thousand dollars", and substituting the expression "\$3,000".
Section 196 (5)	By omitting the words "two thousand dollars", and substituting the expression (" <u>\$5,000</u> ") " <u>\$10,000</u> ".
Section 201 (4)	By omitting the words "five hundred dollars", and substituting the expression (" <u>\$1,500</u> ") " <u>\$50,000</u> ".
Section 234 (2)	By omitting the words "two hundred dollars", and substituting the expression "\$500".
Section 236	By omitting the words "five hundred dollars", and substituting the expression "\$1,500".
Section 236	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".