

House of Representatives

Supplementary Order Paper

Tuesday, 27 November 2012

Crown Minerals (Permitting and Crown Land) Bill

Proposed amendments

Hon Phil Heatley, in Committee, to move the following amendments:

Clause 8

In *clause 8(1)*, new definition of **good industry practice**, delete “health, safety, or” (line 6 on page 9).

In *clause 8(1)*, after the new definition of **good industry practice** (after line 7 on page 9), insert:

“**Health and Safety Regulator** means the department that with the authority of the Prime Minister is responsible for the administration of the Health and Safety in Employment Act 1992

In *clause 8(1)*, new definition of **regulatory agency**, replace *paragraph (d)* (lines 32 to 34 on page 9) with:

- “(d) the Health and Safety Regulator:
- “(e) the Department of Conservation

Clause 18

In *clause 18*, *new section 29A(2)(a)(iii)*, delete “in respect of the proposed activities”.

In *clause 18*, replace *new section 29A(2)(b)* (lines 24 to 36 on page 22) with:

- “(b) the applicant is likely to comply with, and give proper effect to, the proposed work programme, taking into account—
 - “(i) the applicant’s technical capability; and
 - “(ii) the applicant’s financial capability (including ability to pay any money owed to the Crown); and
 - “(iii) any relevant information on the applicant’s failure to comply with permits or rights, or con-

ditions in respect of those permits or rights, to prospect, explore, or mine in New Zealand or internationally; and

In *clause 18*, new *section 29A(2)(c)*, after “exploration” (line 37 on page 22), insert “or mining”.

In *clause 18*, replace *new section 29A(3)(b)* (lines 10 and 11 on page 23) with:

“(b) must seek the views of the Health and Safety Regulator and may, but is not required to, seek the views of any other regulatory agency; and

Clause 21

In *clause 21*, after *new section 33(1)(a)* (after line 14 on page 24), insert:

“(aa) comply with the Health and Safety in Employment Act 1992 and regulations made under that Act; and

In *clause 21*, after *new section 33* (after line 31 on page 24), insert:

“33AA Exercise of Tier 1 or petroleum exploration permit conditional on clearance from Health and Safety Regulator

“(1) This section applies in relation to—

“(a) Tier 1 mining permits; and
“(b) petroleum exploration permits.

“(2) If any requirements of the Health and Safety in Employment Act 1992 or regulations made under that Act must be met before an activity can be commenced under a permit to which this section applies, the activity must not be commenced until—

“(a) the Health and Safety Regulator is satisfied that the requirements of that Act and those regulations that must be met before that activity can commence have been met; and

“(b) the Health and Safety Regulator has advised the chief executive that it is so satisfied; and

“(c) the chief executive has notified the permit holder of the regulator’s advice.

“(3) This section applies to activities commenced or recommenced under a permit after the commencement of this section.

“33AB Health and Safety Regulator to notify chief executive of breaches of legislation

“(1) If the Health and Safety Regulator has reasonable grounds to suspect that a permit holder has contravened or failed to comply with the Health and Safety in Employment Act 1992 or regulations made under that Act, the regulator must notify the chief executive of that suspected contravention or non-compliance.

- “(2) Nothing in this Act derogates from the Health and Safety Regulator’s responsibility for the administration and enforcement of that Act or those regulations.

In *clause 21*, after *new section 33B(2)* (after line 28 on page 25) insert:

- “(3) The chief executive must invite to attend any review meeting any regulatory agency that he or she thinks is likely to have regulatory oversight of the activities under the permit.

Clause 28

In *clause 28*, replace *new clause 41C(4)* (lines 17 to 20 on page 38) with:

- “(4) Before the Minister consents to the change of operator of a Tier 1 mining permit or a petroleum exploration permit,—
“(a) the Health and Safety Regulator must be satisfied that the requirements of the Health and Safety in Employment Act 1992 and regulations made under that Act that a proposed operator must meet before commencing day-to-day management of activities under the permit have been met; and
“(b) the Health and Safety Regulator must have advised the Minister that it is so satisfied.

New clause 28A

After *clause 28* (after line 2 on page 39), insert:

28A Section 43 amended (Work programmes to be approved by Minister)

In section 43(2)(b)(i) and (3)(b)(i), replace “exploration or mining” with “industry”.

Clause 35

In *clause 35*, *new section 90AA*, after “Minister,” (line 4 on page 43), insert “an appropriate Minister,”.

In *clause 35*, *new section 90AA*, replace “, or 90” (line 6 on page 43) with “61, 61B, **61C**, 90, or **99E**”.

Clause 38

In *clause 38*, after *new section 90E* (after line 5 on page 48), insert:

“90F Regulatory agency may provide information for purposes of this Act

- “(1) A regulatory agency may provide to any recipient specified in **subsection (2)** any information or a copy of any document that it believes would assist the recipient in the performance or exercise of the recipient’s functions, duties, or powers under this Act.
“(2) The recipients are—
“(a) the Minister:
“(b) an appropriate Minister:

- “(c) the chief executive;
- “(d) an enforcement officer.
- “(3) A regulatory agency may provide to another regulatory agency any information or a copy of any document that it believes would assist that other agency in the exercise of its functions, duties, or powers under a specified Act that relate to activities under or associated with a permit.
- “(4) The provision of information under this section is subject to only the Privacy Act 1993, except as otherwise expressly provided.”
- “(5) A person or agency that receives information provided under this section must not disclose the information to any other person or organisation unless—
- “(a) the disclosure is made for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed by this Act or a specified Act on the person or agency; or
- “(b) the information is publicly available; or
- “(c) the disclosure is made with the consent of the person to whom the information relates or to whom the information is confidential; or
- “(d) the disclosure is made in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other enactment; or
- “(e) the disclosure is required by another enactment; or
- “(f) the disclosure is required by a court of competent jurisdiction.”
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Explanatory note

This Supplementary Order Paper amends *Part 1* of the Crown Minerals (Permitting and Crown Land) Bill, which amends the Crown Minerals Act 1991 (the **principal Act**). The purpose of the amendments is to implement recommendations in the Report of the Royal Commission of Inquiry on the Pike River Coal Mine Tragedy that seek better integration of health and safety matters in the permit allocation and management provisions of the principal Act.

This Supplementary Order Paper—

- amends the new definition of **good industry practice** in *clause 8* to limit the exclusion to activities regulated under environmental legislation;
- inserts in *clause 8* a new definition of **Health and Safety Regulator**;
- adds the Department of Conservation to the list of regulatory agencies in the new definition of regulatory agency that is inserted by *clause 8*;
- amends *new section 29A* set out in *clause 18* to provide that the Minister must be satisfied that an applicant for a permit is likely to comply with the

relevant work programme and to require the Minister to seek the views of the Health and Safety Regulator before granting a Tier 1 permit for exploration or mining:

- amends *new section 33* set out in *clause 21* to specifically require permit holders to comply with the Health and Safety in Employment Act 1992 and regulations made under that Act:
- amends *clause 21* by inserting a *new section 33AA*, which makes the exercise of Tier 1 mining permits or petroleum exploration permits conditional on clearance from the Health and Safety Regulator. The object of this section is to ensure that any requirements of the Health and Safety in Employment Act 1992 or regulations made under that Act that are required to be met before an activity can be commenced or recommenced are in fact met before the activity is commenced or recommenced:
- amends *clause 21* by inserting a *new section 33AB*, which requires the Health and Safety Regulator to notify the chief executive if the regulator has reasonable grounds to suspect that a permit holder has contravened or failed to comply with the Health and Safety in Employment Act 1992 or regulations made under that Act:
- amends *clause 21* by adding to *new section 33B* a requirement that the chief executive invite affected regulatory agencies to attend annual review meetings:
- amends *clause 28* by replacing *new section 41C(4)* with a provision that prevents the Minister from consenting to the change of operator of a Tier 1 mining permit or a petroleum exploration permit if the Health and Safety Regulator is not satisfied that the relevant requirements of the Health and Safety in Employment Act 1992 and regulations made under that Act have been met:
- inserts a *new clause 28A*, which amends section 43 of the principal Act to make good industry practice an integral part of the provisions relating to the approval of work programmes:
- makes technical amendments to *clause 35*:
- amends *clause 38* by inserting a *new section 90F*, which enables regulatory agencies to provide information for purposes of the Act.