

House of Representatives
Supplementary Order Paper

Wednesday, 10 April 2013

Crown Minerals (Permitting and Crown Land) Bill

Proposed amendments

Hon Simon Bridges, in Committee, to move the following amendments:

Clause 2

In *clause 2(2)(b)*, replace “day” (line 15 on page 7) with “date”.

New clause 7A

After *clause 7* (after line 8 on page 9), insert:

- 7A Cross-heading above section 2 repealed**
Repeal the cross-heading above section 2.

Clause 8

In *clause 8(1)*, after the new definition of **consent authority** (after line 16 on page 9), insert:

“**continental shelf** has the same meaning as in section 2(1) of the Continental Shelf Act 1964

In *clause 8(1)*, new definition of **underground gas storage facility**, replace “has been” (line 22 on page 11) with “is”.

Delete *clause 8(3)* (lines 28 and 29 on page 11).

Replace *clause 8(4)* (lines 30 to 33 on page 11) with:

- (4) In section 2(1), replace the definition of **enforcement officer** with:
“**enforcement officer**,—
“(a) other than for the purposes of **sections 101A to 101C**, means a person appointed under **section 99A**:
“(b) for the purposes of **sections 101A to 101C**, has the meaning given by **section 101C(6)**”.

In *clause 8(6A)*, new definition of **mining**, replace *new paragraph (b)* (lines 16 and 17 on page 12) with:

- “(b) includes—
- “(i) the injection of petroleum into an underground gas storage facility; and
- “(ii) the extraction of petroleum from an underground gas storage facility; but

In *clause 8(6B)*, new definition of **mining operations**, *new paragraph (c)*, after “injection” (line 6 on page 13), insert “into”.

In *clause 8(12)*, new definition of **relevant minerals programme**, *new paragraph (a)*, after “applies” (line 4 on page 14), insert “to the permit”.

In *clause 8(12)*, new definition of **relevant minerals programme**, *new paragraph (b)*, replace “mineral” (line 8 on page 14) with “permit”.

New clause 9A

After *clause 9* (after line 3 on page 17), insert:

9A Cross-heading above section 5 amended

In the cross-heading above section 5, after “*Minister*”, insert “*and chief executive*”.

Clause 15: new section 14

In *clause 15*, *new section 14(2)(a)*, replace “to which the programme applies” (lines 29 and 30 on page 20) with “that are subject to the programme”.

In *clause 15*, *new section 14(5)*, replace “including” (line 22 on page 21) with “or”.

Clause 15: new section 15

In *clause 15*, heading to *new section 15*, after “**programmes**” (line 25 on page 21), insert “**in certain situations**”.

Clause 15: new section 16

In *clause 15*, *new section 16(5)(b)*, after “submission” (line 13 on page 22), insert “on the proposed change”.

Clause 15: new section 17

In *clause 15*, *new section 17(1)(c)*, after “site” (line 22 on page 22), insert “maintained by or on behalf of the chief executive”.

In *clause 15*, *new section 17(2)(b)*, replace “an Internet site” (line 26 on page 22) with “the Internet site referred to in **subsection (1)(c)**”.

Clause 15: new section 19

In *clause 15*, after *new section 19(1)* (after line 22 on page 23), insert:

- “(1A) Before recommending the making of an order, the Minister satisfy the requirements of **sections 15 to 18** relevant to the order.

Clause 15: new section 20

In *clause 15, new section 20(c)*, after “submission” (line 4 on page 24), insert “on the draft programme”.

Clause 15: new section 21

In *clause 15, new section 21(1)*, delete “current” (line 28 on page 24).

In *clause 15, new section 21(1)(a)*, after “applies” (line 30 on page 24), insert “after the proposed change has been notified”.

In *clause 15, new section 21(2)(a)*, replace “**19(1)**” (line 3 on page 25) with “**19(1)**”.

Clause 15: new section 22

In *clause 15, new section 22(2)*, replace “including” (line 26 on page 25) with “or”.

Clause 15B: new section 23

In *clause 15B*, delete *new section 23* (line 15 on page 27 to line 11 on page 28).

Clause 16: new section 25

In *clause 16, new section 25(3)(c)*, replace “name” (line 22 on page 29) with “names”.

Clause 17: new section 27A

In *clause 17, new section 27A(3)*, replace “and this Act,” (line 1 on page 31) with “, this Act, and the regulations,”.

New clause 17A

After *clause 17* (after line 3 on page 31), insert:

17A New section 28A inserted (Declaration that permits not to be issued or extended for specified land for specified period)

After section 28, insert:

“28A Declaration that permits not to be issued or extended for specified land for specified period

“(1) The Minister may, by notice in the *Gazette*, declare that specified kinds of permits will not be granted, or extended, in respect of specified land during a specified period if he or she believes the declaration is necessary to better meet the purpose of the Act.

“(2) A notice under **subsection (1)**—

“(a) must specify the kind or kinds of permits to which it applies:

“(b) must specify the land to which it applies:

“(c) may apply to different minerals, to minerals that occur in a particular state, place, phase, or stratum, or to minerals that are to be explored for or mined by a particular method:

- “(d) has effect until the close of the earlier of the following periods:
 - “(i) the period specified in the notice:
 - “(ii) 3 years from the date on which the notice is published in the *Gazette*.
- “(3) The Minister must not accept a permit application that is contrary to a notice under **subsection (1)** while the notice has effect, unless the application relates to a subsequent permit referred to in **subsection (4)(c)**.
- “(4) A notice under **subsection (1)** does not affect any—
 - “(a) application received by the Minister before the notice is published in the *Gazette*; or
 - “(b) permit granted before the notice is published in the *Gazette*; or
 - “(c) right under section 32 of the holder of a permit described in **paragraph (b)** to be granted a subsequent permit.”

Clause 18: new section 29A

In *clause 18*, replace *new section 29A(1)(a)* (lines 13 to 15 on page 31) with:

- “(a) a proposed work programme for the proposed permit, which may comprise committed work, or committed and contingent work; and

In *clause 18*, *new section 29A(2)(b)(ii)*, delete “(including the ability to pay any money owed to the Crown)” (lines 33 and 34 on page 31).

In *clause 18*, *new section 29A(4)*, delete “the requirement in” (line 27 on page 32).

Clause 20: new section 32

In *clause 20(1AD)*, *new section 32(5A)*, delete “or additional” (line 36 on page 33).

Clause 21: new section 33AA

In *clause 21*, *new section 33AA(1)*, replace “under a permit” (lines 6 and 7 on page 35) with “and the activity is an activity of a type authorised under a permit”.

In *clause 21*, *new section 33AA(2)*, replace “The activity” (line 8 on page 35) with “Despite the activity being authorised under a permit, it”.

In *clause 21*, *new section 33AA(2)(a)*, replace “consent” (line 10 on page 35) with “consent (in respect of the requirements of the Health and Safety in Employment Act 1992 or regulations made under that Act)”.

Clause 21: new section 33B

In *clause 21*, *new section 33B(2)(a)*, replace “20 working days or more” (lines 35 and 36 on page 36) with “at least 20 working days”.

Clause 22: new section 35A

In *clause 22, new section 35A(2)(b)*, after “duration of the” (line 7 on page 39), insert “exploration”.

Clause 25: new section 38

In *clause 25, new section 38(9)*, replace “parties” (line 29 on page 45) with “Minister and the permit holder”.

Clause 26: new section 39

In *clause 26, new section 39(3)*, after “the notice” (line 3 on page 47), insert “under **subsection (2)**”.

Clause 28: new section 41A

In *clause 28*, replace *new section 41A(4)* (lines 27 to 32 on page 51) with:

- “(4) If required to do so, a permit participant must provide to the Minister information or documents relevant to the financial capability of the person A concerned, which may be—
 - “(a) general information about that person’s financial capability; or
 - “(b) information specific to the matters referred to in **subsection (2)(b) and (c)**.

In *clause 28, new section 41A(6)(b)*, replace “6” with “3”.

Clause 28: new section 41C

In *clause 28, new section 41C(3)(a)(ii)*, replace “the Act” (lines 32 and 33 on page 53) with “this Act”.

Clause 28: new section 41D

In *clause 28, new section 41D(1)*, replace “condition” (line 16 on page 54) with “conditions”.

Clause 28D

In *clause 28D*, after the heading to that clause (after line 14 on page 55), insert:

- (1) In section 46(1)(b), delete “prevent waste, avoid unnecessary competitive extraction, and”.

In *clause 28D, new section 46(7)*, replace “1 or more relevant permit” (lines 24 and 25 on page 55) with “1 or more permit holders”.

In *clause 28D, new section 46(7)(a)*, replace “prevent waste of the petroleum” (line 29 on page 55) with “secure the maximum ultimate recovery of the petroleum mineral deposit”.

In *clause 28D, new section 46(8)*, replace “**relevant permit or existing privilege holder** means a permit” (lines 32 and 33 on page 55) with “**permit holder or existing privilege holder** means a permit holder”.

Clause 29: new section 53(3)

In *clause 29, new section 53(3)(a)*, delete “, as defined in section 2(1) of the Continental Shelf Act 1964” (lines 4 and 5 on page 56).

Clause 30: new section 54(3)

In *clause 30, new section 54(3)(a)*, delete “, as defined in section 2(1) of the Continental Shelf Act 1964” (lines 19 and 20 on page 56).

New clause 30A

After *clause 30* (after line 29 on page 56), insert:

30A Section 59 amended (Notice of request for grant of right of access)

- (1) In section 59(2)(e), after “notice”, insert “; and”.
- (2) After section 59(2)(e), insert:
 - “(f) if the notice relates to access to Crown land or land in the common marine and coastal area, the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought.”

Clause 31

In *clause 31(1), new section 61(1)*, after “agreement” (line 34 on page 56), insert “with the permit holder concerned”.

In *clause 31(1), new section 61(1AA)*, after “agreement” (lines 11 and 12 on page 57), insert “with the permit holder concerned”.

In *clause 31(9), new section 61(9)*, replace “described, or within a category of land described,” (line 31 on page 58) with “within a category of land described”.

In *clause 31(9)*, after *new section 61(9)* (after line 33 on page 58), insert:

- “(10) To avoid doubt, **subsection (9)** does not limit or affect—
 - “(a) any provision of any other enactment that has the effect of excluding land from **clauses 1 to 8 of Schedule 4**; or
 - “(b) any action taken under a provision of any other enactment that has the effect of excluding land from **clauses 1 to 8 of Schedule 4**.

Clause 38: new section 90

In *clause 38, new section 90(6)*, after “made available” (line 5 on page 68), insert “by the chief executive”.

In *clause 38, new section 90(6)(b)*, replace “cessation” (line 11 on page 68) with “expiry”.

In *clause 38, new section 90(6)(c)*, replace “cessation” (lines 18 and 19 on page 68) with “expiry”.

In *clause 38, new section 90(7)*, after “made available” (line 27 on page 68), insert “by the chief executive”.

In *clause 38, new section 90(7)(b)*, after “a public tender process” (line 33 on page 68), insert “for exploration permits”.

In *clause 38, new section 90(8)*, replace “is available” (line 4 on page 69) with “must be made available by the chief executive”.

In *clause 38*, delete *new section 90(12)* (lines 20 to 23 on page 69).

In *clause 38, new section 90(12)*, replace “licence” (line 22 on page 69) with “existing privilege under the enactment that applied to the privilege”.

Clause 38: new section 90B

In *clause 38, new section 90B(4)*, replace “who is a” (line 28 on page 70) with “who is the”.

Clause 38: new section 90D

In *clause 38, new section 90D(1)*, after “licenses information” (line 5 on page 72), insert “that relates to the permit”.

In *clause 38, new section 90D(3)*, after “made available” (line 14 on page 72), insert “by the chief executive”.

New clause 41C

After *clause 41B* (after line 10 on page 77), insert:

41C New section 97A (Chief executive may prescribe form of certain documents)

After section 97, insert:

“97A Chief executive may prescribe form of certain documents

“(1) The chief executive may prescribe—

“(a) the form and electronic format of any applications, returns, information accompanying any applications or returns, or any other documents that are not otherwise prescribed in regulations made under this Act:

“(b) the manner in which any applications, returns, information, or other documents must be submitted or notified if the manner of submission or notification is not otherwise prescribed in regulations made under this Act.

“(2) For the purposes of **subsection (1)(a)**, the chief executive may prescribe different forms or formats for different classes of permits or minerals.

“(3) The chief executive must publish any form or format prescribed under **subsection (1)** on an Internet site maintained by or on behalf of the chief executive.

“(4) The production by the chief executive of any document purporting to be a prescribed form or an extract from a prescribed form, or a copy of a form or an extract, is, in all courts and in all proceedings, unless the contrary is proved, sufficient evidence that the form or electronic format was prescribed.

“(5) To avoid doubt, if the chief executive prescribes an electronic format for a form, the chief executive may require any signature on the form to be an electronic signature.”

Clause 44: new section 99CA

In *clause 44, new section 99CA*, after “this Act” (line 34 on page 79), insert “by enforcement officers”.

Clause 44: new section 99H

In *clause 44*, after *new section 99H(7)* (after line 9 on page 83), insert:

- “(8) Despite **subsection (1)**, the chief executive must not make an amendment to a permit holder’s royalty return under this section at any time after the date that is 7 years from the end of the permit year in which the permit holder submitted the return if the amendment would result in an increase in the amount payable to the Crown, unless the chief executive is satisfied on reasonable grounds that the contents of the return—
- “(a) are fraudulent or wilfully misleading; or
 - “(b) do not include an assessment of minerals obtained under the permit through a particular method or from a particular location, and in respect of which an assessment was required to be included in the return.

Clause 49: new section 105A

In *clause 49*, *new section 105A(1)(c)*, replace “lodging” (lines 1 and 2 on page 88) with “submitting”.

In *clause 49*, after *new section 105A(3)* (after line 21 on page 88), insert:

- “(3A) Despite **subsection (3)**, the period in relation to which the royalty calculations are made must be that specified in the current regulations.

In *clause 49*, delete *new section 105A(4)* (lines 22 to 31 on page 88).

In *clause 49*, after *new section 105A* (after line 31 on page 88), insert:

“105AB Regulations not invalid for certain matters

- “(1) No regulation made under section 105 or **105A** is invalid because—
- “(a) it authorises the Minister or any other person—
 - “(i) to give any consent or approval on or subject to conditions to be imposed or approved by the Minister or any other person; or
 - “(ii) to set any standard; or
 - “(b) it otherwise leaves any matter to the discretion of the Minister or any other person.
- “(2) No regulation made under **section 105A** is invalid because it authorises the Minister or any other person to determine any costs, value, or price for the purpose of assessing royalties payable in any case.

Clause 60: new section 5

In *clause 60*, replace *new section 5(8) to (10)* (lines 7 to 17 on page 102) with:

- “(8) No licence may be granted under this section after the commencement of **section 5AA**, regardless of whether an application for the licence is made before that date. Instead, **clause 5 of Schedule 1** of the Crown Minerals Act 1991 applies to

the application as if it were an application described in **sub-clause (1)** of that clause.

- “(9) A person granted a licence to prospect for minerals under this section before the commencement of **section 5AA** may apply for a subsequent exploration or mining permit in accordance with section 32 of the Crown Minerals Act 1991 as if the licence to prospect were a prospecting permit or exploration permit granted under that Act by operation of **section 5AA**.

Clause 65: new section 6

In *clause 65, new section 6(2A)(b)*, replace “the purpose of any reserve to be” (line 6 on page 104) with “any reserve as”.

Clause 67: new section 16A

In *clause 67, new section 16A(2)*, replace “must” (line 21 on page 106) with “may”.

In *clause 67, new section 16A(2)*, after “made to” (line 22 on page 106), insert “name and”.

In *clause 67, new section 16A(3)*, after “Minister,” (line 28 on page 106), insert “name and”.

In *clause 67*, replace *new section 16A(4)* (lines 30 to 35 on page 106) with:

- “(4) Before making a recommendation under **subsection (2)**, the Minister must—
- “(a) refer the proposed name to the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa under section 27(2) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008; and
 - “(b) give public notice in accordance with section 119 specifying the name and classification proposed, and must consider in accordance with section 120 all objections and submissions in relation to the proposal, and those sections apply accordingly with any necessary modifications.

Clause 71

In *clause 71(1E)*, after “and (4)” (line 21 on page 108), insert “, replace”.

Schedule 1A

In *Schedule 1A, new Schedule 1, new clause 1*, after the definition of **Amendment Act** (after line 5 on page 111), insert:

existing permit means a permit that existed immediately before the commencement of the Amendment Act

In *Schedule 1A, new Schedule 1*, replace *new clause 3(1) and (2)* (line 30 on page 111 to line 3 on page 112) with:

- (1) Despite **section 13**, a minerals programme in force immediately before the commencement of the Amendment Act (an

old minerals programme) continues to have effect subject to this clause and new **section 22(2)**.

In *Schedule 1A, new Schedule 1, new clause 3(3)*, replace “that applies to a permit immediately before the commencement of the Amendment Act continues to apply to the” (lines 4 to 6 on page 112) with “continues to apply to each relevant existing”.

In *Schedule 1A, new Schedule 1, new clause 3(5)*, replace “permit to which this clause applies” (lines 28 and 29 on page 112) with “relevant existing permit”.

In *Schedule 1A, new Schedule 1*, replace *new clause 3(6) to (8)* (lines 1 to 19 on page 113) with:

- (6) Any valid action taken in anticipation of, or as part of, offering a permit for allocation by public tender under an old minerals programme (including any consultation) must be treated for all purposes as complying with any requirements imposed in relation to those actions by—
 - (a) the principal Act (as amended by the Amendment Act) in respect of those actions; or
 - (b) any minerals programme approved under new **Part 1A** in place of the old minerals programme.
- (7) If the Minister has offered permits for allocation by public tender under an old minerals programme, that process must be continued and completed under the principal Act (as amended by the Amendment Act) and any minerals programme approved under new **Part 1A** in place of the old minerals programme.
- (8) The Governor-General may by Order in Council issue a minerals programme that comes into force on the same date as the Amendment Act commences, and any such minerals programme must be treated for all purposes as if it were issued under new **section 19(1)** and all the requirements of that section had been satisfied.

In *Schedule 1A, new Schedule 1*, delete *new clause 4(1)* (lines 21 to 23 on page 113).

In *Schedule 1A, new Schedule 1, new clause 4(2)*, replace “an existing” (line 26 on page 113) with “a”.

In *Schedule 1A, new Schedule 1, new clause 4(2)*, replace “for the” (line 27 on page 113) with “for an”.

In *Schedule 1A, new Schedule 1*, after *new clause 4(2)* (after line 31 on page 113), insert:

- (2A) Despite **subclause (2)**, the period in relation to which the royalty calculations are made must be that specified in the current regulations made under new **section 105A**.

In *Schedule 1A, new Schedule 1, new clause 5(1)(a)*, after “permit” (line 11 on page 114), insert “under old section 23”.

In *Schedule 1A*, new *Schedule 1*, replace new clause 5(2) to (4) (lines 15 to 26 on page 114) with:

- (2) The application or notification must be determined by the Minister or accepted by the chief executive, as the case may be, in accordance with—
 - (a) the principal Act (as amended by the Amendment Act); and
 - (b) the minerals programme that—
 - (i) comes into force on the date on which the Amendment Act commences; and
 - (ii) relates to the mineral to which the application applies.
- (3) The Minister or the chief executive may require the applicant or the person making the notification to provide any further information or document that the Minister or the chief executive considers necessary in order to determine or accept the application or notification in accordance with the principal Act as so amended.
- (4) If an application was made under old section 36 or 37 and relates to a change to the specified date by which specified work must be carried out, or to a change to specified work that must be carried out by a specified date, the permit holder does not contravene the conditions if the conditions—
 - (a) must be complied with or fulfilled while the application is being considered by the Minister; and
 - (b) is not complied with or fulfilled while the application is being considered by the Minister.
- (5) However, if the Minister declines the application, the permit holder contravenes the conditions from the date on which the conditions should have been complied with or fulfilled.
- (6) To avoid doubt, any permit granted by the Minister in response to an application made in accordance with this clause is subject to—
 - (a) the principal Act (as amended by the Amendment Act); and
 - (b) the minerals programme that comes into force on the date on which the Amendment Act commences and that relates to the mineral to which the permit applies unless and until that programme is changed in accordance with the principal Act (as amended by the Amendment Act).

In *Schedule 1A*, new *Schedule 1*, heading to clause 6, delete “**or change to permit**” (line 28 on page 114).

In *Schedule 1A*, new *Schedule 1*, delete new clause 7(1) (lines 13 to 15 on page 115).

In *Schedule 1A*, new *Schedule 1*, new clause 7(2), replace “permit may” (line 16 on page 115) with “exploration permit for petroleum may”.

In *Schedule 1A*, new *Schedule 1*, new clause 8(1), replace “exploration permit that exists immediately before the commencement of the Amendment Act” (lines 23 and 24 on page 115) with “existing exploration permit”.

Schedule 1

In *Schedule 1*, new *Schedule 4* heading, replace “53, 54, 61” (line 4 on page 127) with “53(3), 54(3), 61, **Schedule 1 cl 9**”.

In *Schedule 1*, new *Schedule 4* heading, replace “**section 61(1A) applies**” (line 5 on page 127) with “**access restrictions apply**”.

Schedule 3

In *Schedule 3*, item relating to section 30, after item relating to section 30(3) (after line 26 on page 130), insert:

In section 30(5), replace “32(6)” with “32”.

In *Schedule 3*, after the item relating to section 30 (after line 27 on page 130), insert:

Section 34

In section 34, replace “Part” with “Act” in each place.

Schedule 4

In *Schedule 4*, item relating to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, after item relating to section 28(8)(a) (after line 9 on page 135), insert:

In section 161(1)(b), replace “section 107” with “**clause 12 of Schedule 1**”.

In section 162(1)(b), replace “section 107” with “**clause 12 of Schedule 1**”.

In section 166(8)(a), replace “section 107” with “**clause 12 of Schedule 1**”.

In *Schedule 4*, item relating to the Forestry Encouragement Act 1962, replace “**Parts 1 to 1B**” (lines 11 and 12 on page 135) with “section 2(1)”.

In *Schedule 4*, item relating to the Gas Act 1992, replace the item relating to section 3(2)(a)(i) (line 14 on page 135) with:

In section 3(2)(a)(i), delete “Part 1 of”.

In *Schedule 4*, item relating to the Ngai Tahu (Pounamu Vesting) Act 1997, after the item relating to section 2 (after line 3 on page 136), insert:

In section 4(1), delete “Part 2 of”.

In *Schedule 4*, replace the item relating to the Property Law Act 2007 (lines 7 to 10 on page 136) with:

Property Law Act 2007 (2007 No 91)

In section 325(6)(c), delete “Part 1 of”.

In section 330(5)(c), delete “Part 1 of”.

In section 339(6)(c), delete “Part 1 of”.

In *Schedule 4*, item relating to the Rating Valuations Act 1998, replace “**Parts 1 to 1B**” (lines 12 and 13 on page 136) with “section 2(1)”.

In *Schedule 4*, after the item relating to the Rating Valuations Act 1998 (after line 13 on page 136), insert:

Resource Management Act 1991 (1991 No 69)

In section 387(5), replace “Subsections (2) to (7) of section 108” with “**Clause 15(2) to (7) of Schedule 1**”.

In *Schedule 4*, item relating to the Search and Surveillance Act 2012, item relating to **99C**, after “118 and 119” (on page 136), insert “in the case of an enforcement officer”.

In *Schedule 4*, item relating to the Soil Conservation and Rivers Control Act 1941, replace the item relating to section 20(2) with:

In section 20(2), delete “Part 1 of”.

In *Schedule 4*, item relating to Te Ture Whenua Maori Act 1993, replace the item relating to section 326D(1) with:

In section 326D(1), delete “Part 1 of”.

Explanatory note

This Supplementary Order Paper proposes minor or technical amendments to the Crown Minerals (Permitting and Crown Land) Bill to correct errors, clarify provisions, and rectify omissions.
