

Reprint  
as at 13 November 2018



## Crown Minerals Act 1991

Public Act 1991 No 70  
Date of assent 22 July 1991  
Commencement see section 1(2)

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

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**Title *[Repealed]***

Title: repealed, on 24 May 2013, by section 4 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **1 Title and commencement**

- (1) This Act may be cited as the Crown Minerals Act 1991.
- (2) This Act shall come into force on 1 October 1991.

Section 1 heading: amended, on 24 May 2013, by section 5 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **1A Purpose**

- (1) The purpose of this Act is to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand.
- (2) To this end, this Act provides for—
  - (a) the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals; and
  - (b) the effective management and regulation of the exercise of those rights; and
  - (c) the carrying out, in accordance with good industry practice, of activities in respect of those rights; and
  - (d) a fair financial return to the Crown for its minerals.

Section 1A: inserted, on 24 May 2013, by section 6 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **1B Provisions affecting application of Act**

Schedule 1 contains savings and transitional provisions that affect other provisions of this Act (*see* section 106).

Section 1B: inserted, on 24 May 2013, by section 6 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **Part 1 Preliminary provisions**

Part 1 heading: replaced, on 24 May 2013, by section 7 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Interpretation and application* *[Repealed]*

Heading: repealed, on 24 May 2013, by section 8 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **2 Interpretation**

- (1) In this Act, unless the context otherwise requires,—



**access arrangement and arrangement** means an arrangement to permit access to land—

- (a) entered into by way of arrangement or determined by an arbiter in accordance with this Act; and
- (b) between a person desiring to carry out mineral-related activities and either—
  - (i) the owner (and occupier, if any) of the land; or
  - (ii) in the case of land in the common marine and coastal area that is not a customary marine title area, the appropriate Minister

**appropriate Minister** has the meaning given by section 2A

**bed** means—

- (a) in relation to any river, the space of land which the waters of the river cover at its fullest flow without overtopping the banks; and
- (b) in relation to a lake, the space of land which the waters of the lake cover at its highest level without exceeding its physical margin; and
- (c) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea

**change** includes amend, add to, delete from, and replace

**chief executive** means the chief executive of the department that, with the authority of the Prime Minister, is responsible for the administration of this Act

**coal** means anthracite, bituminous coal, sub-bituminous coal, lignite, and peat; and includes every other substance worked or normally worked with coal

**coastal marine area** has the meaning given in section 2(1) of the Resource Management Act 1991

**common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**consent authority** has the same meaning as in section 2(1) of the Resource Management Act 1991

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

**contravene** includes fail to comply with

**controlling authority**, in relation to land, means—

- (a) in the case of land within 20 metres of a road, the authority having control of the road;
- (b) in the case of land within 100 metres of a public bridge, the authority having control of the public bridge;
- (c) in the case of land within 60 metres of a private bridge, the person owning or having control of the private bridge;

- (d) in the case of land within 100 metres of a railway, the person responsible for the administration of that railway;
- (e) in the case of land within 60 metres of any river control or flood protection work, the authority having control of the river control or flood protection work

**crop** means plants grown on cultivated land, the produce of which is to be harvested

**Crown land** means all land held in allodium by, or the fee simple title to which is vested in, the Crown whether by virtue of Crown prerogative, operation of law, any enactment, or any deed or instrument; and includes—

- (a) land alienated by way of lease or licence under section 66, section 68, or section 69 of the Land Act 1948; and
- (b) Crown land within the meaning of paragraphs (a) to (f) of the definition of the term Crown land in section 2 of the Land Act 1948

**Crown owned mineral** means any mineral that is the property of the Crown

**current** means, in relation to a permit, that the permit has been granted and has not expired or been surrendered or revoked; and **currency** has a corresponding meaning

**customary marine title agreement** has the meaning given to agreement in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**customary marine title group** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**customary marine title order** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

**discovery** means the discovery of a deposit or occurrence of a mineral

**draft minerals programme** means a programme prepared or in the course of preparation under section 15

**dwellinghouse** means any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited

**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)

**enter** includes to re-enter; and **entry** has a similar meaning

**existing privilege** means any of the following:

- (a) any mining privilege granted under Part 4 of the Mining Act 1971:
- (b) any mining privilege or licence referred to in section 136(b) and (c) of the Mining Act 1971:
- (c) any coal mining right or other right, lease, sublease, tenancy, licence, or easement granted under the Coal Mines Act 1979:
- (d) any prospecting licence or mining licence granted under Part 1 of the Petroleum Act 1937 or authorisation granted under Part 2 of that Act:
- (e) any authorisation given, agreement entered into, or grant of rights under the Iron and Steel Industry Act 1959, and any existing rights referred to in section 5 of that Act

**exploration** means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and **to explore** has a corresponding meaning

**exploration permit** means an exploration permit granted under this Act

**foreshore** means any land covered and uncovered by the flow and ebb of the tide at mean spring tides and, in relation to any such land that forms part of the bed of a river, does not include any area that is not part of the coastal marine area

**fuel minerals** includes coal and petroleum

**gold** includes any substance containing gold, or having gold mixed in it

**gold fossicking area** means any area designated under section 98 or 98A to be a gold fossicking area

**good industry practice**, in relation to an activity, means acting in a manner that is technically competent and at a level of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in a similar activity and under similar circumstances, but (for the purposes of this Act) does not include any aspect of the activity regulated under environmental legislation

**health and safety regulator** has the same meaning as regulator in section 16 of the Health and Safety at Work Act 2015

**in**, in relation to land, means on or under the surface of land

**industrial rocks and building stones** includes aggregate, basalt, diatomite, dunite, granite, limestone, marble, perlite, pumice, sandstone, serpentine, slate, sand, and gravel

**initial permit** means a permit that is not a subsequent permit

**internal waters** has the meaning given by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

**land** includes land covered by water; and also includes the foreshore and seabed to the outer limits of the territorial sea

**local authority** means a regional council or a territorial authority (as those terms are defined in section 5(1) of the Local Government Act 2002)

**Maori land** has the same meaning as in Te Ture Whenua Maori Act 1993; and includes Maori reserves within the meaning of that Act

**metallic minerals** includes compounds of aluminium, chromium, copper, gold, iron, lead, manganese, mercury, molybdenum, nickel, platinum, silver, tin, titanium, tungsten, uranium, vanadium, and zinc

**mineral** means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945

**minerals programme** means a programme issued by the Governor-General under section 19 that is current

**minimum impact activity** means any of the following:

- (a) geological, geochemical, and geophysical surveying:
- (b) taking samples by hand or hand held methods:
- (ba) taking small samples offshore by low-impact mechanical methods:
- (c) aerial surveying:
- (d) land surveying:
- (e) any activity prescribed as a minimum impact activity:
- (f) any lawful act incidental to any activity to which paragraphs (a) to (e) relate—

to the extent that it does not involve any activity that results in impacts of greater than minimum scale and in no circumstances shall include activities involving—

- (g) the cutting, destroying, removing, or injury of any vegetation on greater than a minimum scale; or
- (h) the use of explosives; or
- (i) damage to improvements, stock, or chattels on any land; or
- (j) any breach of the provisions of this or any other Act, including provisions in relation to protected native plants, water, noise, and historic sites; or
- (k) the use of more persons for any particular activity than is reasonably necessary; or
- (l) any impacts prescribed as prohibited impacts; or

(m) entry on land prescribed as prohibited land

**mining**—

- (a) means to take, win, or extract, by whatever means,—
  - (i) a mineral existing in its natural state in land; or
  - (ii) a chemical substance from a mineral existing in its natural state in land; and
- (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
- (c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a)

**mining operations**—

- (a) means operations in connection with mining, exploring, or prospecting for any Crown owned mineral; and
- (b) includes, when carried out at or near the site where the mining, exploration, or prospecting is undertaken,—
  - (i) the extraction, transport, treatment, processing, and separation of any mineral or chemical substance from the mineral; and
  - (ii) the construction, maintenance, and operation of any works, structures, and other land improvements, and of any related machinery and equipment connected with the operations; and
  - (iii) the removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral; and
  - (iv) the deposit or discharge of any mineral, material, debris, tailings, refuse, or wastewater produced from or consequent on the operations; and
  - (v) the doing of all lawful acts incidental or conducive to the operations; and
- (c) includes any activities relating to the injection into and extraction of petroleum from an underground gas storage facility

**mining permit** means a mining permit granted under this Act

**Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

**non-exclusive permit** means a permit which confers a right to prospect or explore for, or mine, any Crown owned mineral which right is not exclusive to the holder of the permit

**non-metallic minerals** includes asbestos, barite, bentonite, calcite, clays, dolomite, feldspar, fluorite, magnesite, mica, phosphate, potash, quartz, salt, silica lump, silica sand, sulphur, talc, and wax

**occupier**, in relation to land, means a person who has a right to occupy the land by virtue of a lease, sublease, licence, or any renewal thereof, granted by the owner of the land; and includes—

- (a) a holder of an exploration permit or mining permit who has a right of access in respect of the land for the purpose of carrying out an activity under the permit or mining operations; and
- (b) a person in actual occupation of the land by virtue of being the holder of an existing privilege (other than an authorisation granted under Part 2 of the Petroleum Act 1937); and
- (c) a controlling authority in respect of the land

**offshore** means anywhere that is the seaward side of the mean high-water mark

**onshore Taranaki region** means the Taranaki Region as constituted by clause 4 of the Local Government (Taranaki Region) Reorganisation Order 1989, but excludes any part of that region that is offshore

**owner** means—

- (a) in relation to Crown land, the appropriate Minister within the meaning of subsection (2); and
- (b) in relation to land other than Crown land, the person or persons who hold the fee simple title to the land; and includes, except for the purposes of sections 8 and 49 to 52, the person or persons (other than the Crown) who owns or own the minerals in the land

**participating interest** means an undivided share of a permit that is expressed as a percentage recorded on the permit

**permit** means a prospecting permit, an exploration permit, or a mining permit to the extent that it remains current; or, if the context requires, all or any of these permits

**permit holder** means the person who is the sole permit participant, or all of the permit participants, as the case may be

**permit operator** means the person described in section 27

**permit participant** means a person who holds a participating interest in a permit

**permit year** means the period of 12 months from the commencement of a permit, or any successive period of 12 months from an anniversary of the commencement of a permit

**person** includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate

**petroleum** means—

- (a) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or
- (b) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or
- (c) any naturally occurring mixture of 1 or more hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and 1 or more of the following, namely hydrogen sulphide, nitrogen, helium, or carbon dioxide—

and, except in sections 10 and 11, includes any petroleum as so defined which has been mined or otherwise recovered from its natural condition, or which has been so mined or otherwise recovered but which has been returned to a natural reservoir for storage purposes

**petroleum mining permit** means a mining permit for petroleum

**prescribed** means prescribed by regulations made under this Act

**prescribed form** means a form prescribed by regulations made under this Act and containing and having attached such information and documents as those regulations may require

**private bridge** means a bridge or culvert (other than a footbridge) that is owned by or under the control of any person other than the Government or a public authority

**prospecting**—

- (a) means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and
- (b) includes the following activities:
  - (i) geological, geochemical, and geophysical surveying;
  - (ii) aerial surveying;
  - (iii) taking samples by hand or hand held methods;
  - (iv) taking small samples offshore by low-impact mechanical methods

**prospecting permit** means a prospecting permit granted under this Act

**public bridge** means a bridge or culvert intended for public use or for use in connection with any public work within the meaning of the Public Works Act 1981 and under the control of the Government or any public authority

**public notice**, when given by the Minister, means notice published in 1 or more daily newspapers circulating in the main metropolitan areas

**railway** means a railway within the meaning of the New Zealand Railways Corporation Act 1981 and also within the meaning of section 2 of the Public Works Act 1981

**regulations** means regulations made under this Act

**regulatory agency** means—

- (a) the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011;
- (b) a consent authority;
- (c) Maritime New Zealand and the Director of Maritime New Zealand;
- (d) WorkSafe New Zealand;
- (e) the Department of Conservation

**relevant minerals programme**,—

- (a) in relation to a permit that had effect immediately before the commencement of section 13 (as enacted by section 18 of the Crown Minerals Amendment Act 2013), means the minerals programme that for the time being applies to the permit under clause 3 of Schedule 1;
- (b) in relation to a permit granted on or after the commencement of section 13 (as so enacted), means the minerals programme that for the time being applies to that permit under Part 1A

**right of access** means, in respect of land, the right of a permit holder (and employees, agents, and contractors of a permit holder) to enter, use, occupy, and enjoy (with or without vehicles and equipment) the land for the purpose of carrying out lawful activity under a permit or any mining operations

**road** means—

- (a) a road within the meaning of section 121 of the Public Works Act 1981 or section 315 of the Local Government Act 1974;
- (b) a motorway within the meaning of section 2 of the Public Works Act 1981;
- (c) a limited access road within the meaning of section 153 of the Public Works Act 1981 or section 346 of the Local Government Act 1974;
- (d) a regional road within the meaning of section 362 of the Local Government Act 1974;
- (e) a limited access regional road within the meaning of section 371 of the Local Government Act 1974;
- (f) a regional motorway within the meaning of section 374 of the Local Government Act 1974

**royalties** means money payable to the Crown under section 33(1)(c) in accordance with—

- (a) section 34(b); or



(b) regulations made under section 105A

**sand** does not include ironsand

**serve** means serve in accordance with section 352 or section 353 of the Resource Management Act 1991

**silver** includes any substance containing silver, or having silver mixed in it, other than a substance that also contains gold or has gold mixed in it

**special purpose mining activity** means an activity carried out to demonstrate historical mining methods

**specified Act** means the—

- (a) Health and Safety at Work Act 2015:
- (b) Maritime Transport Act 1994:
- (c) Resource Management Act 1991:
- (d) Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

**speculative prospector** has the meaning given by section 90C(7)

**submission** means a written submission

**subsequent permit** means a permit granted in accordance with section 32

**territorial sea** means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

**Tier 1 permit** has the meaning given by section 2B(1)

**Tier 2 permit** has the meaning given by section 2B(2)

**Treaty of Waitangi (Te Tiriti o Waitangi)** has the same meaning as the word Treaty as defined in section 2 of the Treaty of Waitangi Act 1975

**underground gas storage facility** means a natural reservoir into which petroleum is injected in a gaseous state for subsequent extraction

**uranium** includes thorium and all natural substances, chemical compounds, and physical combinations of uranium or thorium

**work programme** means a programme of work to be undertaken by a permit holder in relation to the holder's permit

**working day** means any day except—

- (a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (b) a day in the period commencing with 20 December in any year and ending with 15 January in the following year.

(2) *[Repealed]*

- (3) *[Repealed]*
- (4) In this Act, unless the context otherwise requires,—
- (a) a reference to a Part, section, or Schedule, is a reference to a Part, section, or Schedule of this Act; and
  - (b) a reference in a section to a subsection is a reference to a subsection of that section; and
  - (c) a reference in a subsection to a paragraph is a reference to a paragraph of that subsection; and
  - (d) a reference in a section to a paragraph is a reference to a paragraph of that section.

Section 2(1) **access arrangement** and **arrangement**: substituted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **appropriate Minister**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **chief executive**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **coal**: amended, on 24 May 2013, by section 9(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **coastal marine area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **common marine and coastal area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **consent authority**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **continental shelf**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **customary marine title agreement**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **customary marine title group**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **customary marine title order**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **draft minerals programme**: amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **enforcement officer**: replaced, on 24 May 2013, by section 9(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **existing privilege**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **exploration permit**: amended, on 28 September 1993, by section 2(2)(a) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 2(1) **gold fossicking area**: amended, on 24 May 2013, by section 9(4) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **good industry practice** inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **health and safety regulator**: replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 2(1) **industrial rocks and building stones**: amended, on 28 September 1993, by section 2(2)(b) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 2(1) **internal waters**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **local authority**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **Maori land**: amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 2(1) **metallic minerals**: amended, on 28 September 1993, by section 2(2)(c) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 2(1) **minerals programme**: amended, on 24 May 2013, by section 9(5) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **minimum impact activity** paragraph (ba): inserted, on 24 May 2013, by section 9(6) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **mining**: replaced, on 24 May 2013, by section 9(7) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **mining operations**: replaced, on 24 May 2013, by section 9(8) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **mining permit**: amended, on 28 September 1993, by section 2(2)(d) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 2(1) **Minister**: replaced, on 24 May 2013, by section 9(9) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **occupier** paragraph (a): amended, on 21 August 2003, by section 3 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 2(1) **occupier** paragraph (b): amended, on 24 May 2013, by section 9(10) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **offshore**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **onshore Taranaki region**: inserted, on 13 November 2018, by section 4 of the Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49).

Section 2(1) **owner** paragraph (b): amended, on 28 September 1993, by section 2(2)(e) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 2(1) **participating interest**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **permit holder**: replaced, on 24 May 2013, by section 9(11) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **permit operator**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **permit participant**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **permit year**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **petroleum**: amended, on 24 May 2013, by section 9(12) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **prospecting**: replaced, on 24 May 2013, by section 9(13) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **prospecting permit**: amended, on 28 September 1993, by section 2(2)(f) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 2(1) **public foreshore and seabed**: repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **regulatory agency**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **regulatory agency** paragraph (d): replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 2(1) **relevant minerals programme**: replaced, on 24 May 2013, by section 9(14) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **royalties**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **Secretary**: repealed, on 24 May 2013, by section 9(15) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **special purpose mining activity**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **specified Act**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **specified Act** paragraph (a): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 2(1) **speculative prospector**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **territorial sea**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **Tier 1 permit**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **Tier 2 permit**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **underground gas storage facility**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **work programme**: inserted, on 24 May 2013, by section 9(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(1) **WorkSafe**: repealed, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 2(2): repealed, on 24 May 2013, by section 9(16) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 2(3): repealed, on 24 May 2013, by section 9(16) of the Crown Minerals Amendment Act 2013 (2013 No 14).

## 2A Meaning of appropriate Minister

- (1) In this Act, **appropriate Minister**, in relation to Crown land or land in the common marine and coastal area, means—
- (a) the Minister charged with the administration of the land; or
  - (b) if the land is part of the common marine and coastal area, the Minister described in paragraph (a) and the Minister of Conservation (if he or she is not the Minister described in that paragraph); or
  - (c) if neither of paragraphs (a) and (b) applies, the Minister of Lands.

- (2) However, if after subsection (1) is applied there is uncertainty as to who is the appropriate Minister, the appropriate Minister is the Minister designated by the Governor-General by Order in Council.

Section 2A: inserted, on 24 May 2013, by section 10 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **2B Meaning of Tier 1 permit and Tier 2 permit**

- (1) In this Act, **Tier 1 permit** means the following permits:
- (a) a prospecting, exploration, or mining permit that relates to petroleum:
  - (b) a prospecting permit that relates to a mineral listed in the first column of Schedule 5, unless the permit relates to prospecting for alluvial gold:
  - (c) an exploration permit that relates to a mineral listed in the first column of Schedule 5, unless the expected total work programme expenditure in relation to the permit for the final 5 permit years of its life, or for the entire duration of its life if the permit is for less than 5 permit years, is, in the Minister's estimation, less than the amount specified for the mineral in the second column of that schedule:
  - (d) a mining permit that relates to a mineral listed in the first column of Schedule 5, if, in any 1 permit year in the next 5 permit years of its life, the annual royalty or annual production in relation to the permit will be, in the Minister's estimation, equal to or more than the amount specified in the third or fourth column of that schedule:
  - (e) a permit that (irrespective of the type of mineral to which the permit relates, the year of the permit's life, or any threshold amounts specified for the mineral to which the permit relates in Schedule 5)—
    - (i) relates to an underground operation or an operation that is (whether wholly or partially) 50 metres or more beyond the seaward side of the mean high-water mark; and
    - (ii) is not for a special purpose mining activity.
- (2) In this Act, **Tier 2 permit** means a permit that is not a Tier 1 permit.
- (3) For the purposes of the Minister making an estimate for the purposes of subsection (1)(c) or (d), the life of a permit includes any extensions of duration to the permit granted under this Act.

Section 2B: inserted, on 24 May 2013, by section 10 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **2C Determination of permit tier status**

- (1) This section applies to each exploration permit and mining permit whose Tier 1 (or, by default, Tier 2) status must be determined in accordance with section 2B(1)(c) or (d).
- (2) The Minister must determine the tier status of a permit—

- (a) on first granting the permit, and then once in each permit year and at any time that the permit is changed under section 36(1); or
  - (b) if the permit exists on the commencement of this section, as soon as practicable after the commencement of this section, and then once in each permit year and at any time that the permit is changed under section 36(1).
- (3) The Minister may determine the tier status of a permit at any other time as he or she thinks fit.
- (4) For the purposes of subsection (2)(a), a determination made because of a change to the permit may, in the Minister's complete discretion, be treated as the required determination for the following permit year.

Section 2C: inserted, on 24 May 2013, by section 10 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **2D Consequences of change in status of permit**

- (1) This section applies if, as a result of a determination made by the Minister under section 2C, a Tier 1 permit becomes a Tier 2 permit or a Tier 2 permit becomes a Tier 1 permit.
- (2) The chief executive must notify the permit holder of the change in tier.
- (3) The change in tier takes effect for the purposes of this Act on and from the start of the permit year following the date of the notification under subsection (2).

Section 2D: inserted, on 24 May 2013, by section 10 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **3 Act to bind Crown**

This Act shall bind the Crown.

## **4 Treaty of Waitangi**

All persons exercising functions and powers under this Act shall have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

### *Functions, powers, and duties of Minister and chief executive*

Heading: amended, on 24 May 2013, by section 11 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **5 Functions of Minister**

The Minister has the following functions under this Act:

- (a) to attract permit applications, including by way of public tender:
- (b) to grant permits, grant changes to permits, and revoke permits:
- (c) to prepare minerals programmes:
- (d) to co-operate with regulatory agencies that perform functions in relation to Crown owned minerals (including under section 90E):

- (e) to collect and disclose information in connection with mineral resources and mineral production in order to—
  - (i) promote informed investment decisions about mineral exploration and production; and
  - (ii) improve the working of related markets:
- (f) any other functions conferred on him or her by or under this Act.

Section 5: replaced, on 24 May 2013, by section 12 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **6 Delegation of functions by Minister**

- (1) The Minister may, either generally or particularly, delegate to the chief executive, in accordance with section 28 of the State Sector Act 1988, any of the Minister's functions, powers, or duties under this Act other than—
  - (a) the making of decisions on submissions on a draft minerals programme under section 18 and the recommendation of a minerals programme under section 19:
  - (b) this power of delegation.
- (2) The chief executive may, in accordance with section 41 of the State Sector Act 1988, subdelegate any function, power, or duty delegated to him or her by the Minister in accordance with subsection (1).
- (3) Any delegation or subdelegation made under this section may be revoked in accordance with section 29 or section 42 of the State Sector Act 1988, as the case may be.

Section 6 heading: amended, on 24 May 2013, by section 13(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 6(1)(a): replaced, on 24 May 2013, by section 13(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **7 Functions of chief executive**

The chief executive has the following functions under this Act:

- (a) to require, and monitor, compliance with permits, this Act, and the regulations:
- (b) to investigate conduct that constitutes or may constitute a contravention of a permit, this Act, or the regulations:
- (c) to keep a register of permits and permit holders:
- (d) to advise the Minister on any matter relating to this Act:
- (e) to co-operate with regulatory agencies that perform functions in relation to Crown owned minerals (including under section 90E):
- (f) any other functions conferred on him or her by or under this Act.

Section 7: replaced, on 24 May 2013, by section 14 of the Crown Minerals Amendment Act 2013 (2013 No 14).

*Duties and restrictions***8 Restrictions on prospecting or exploring for, or mining, Crown owned minerals**

- (1) No person may prospect or explore for, or mine, Crown owned minerals in land unless the person—
- (a) is the holder of a permit granted under this Act which authorises the holder to do so, or is authorised to do so by the holder of such a permit in accordance with the permit, or is otherwise authorised to do so under this Act; and
  - (b) complies with sections 49, 50, 51, 53, and 54.
- (2) Subsection (1)(a) does not apply to the taking by any person of—
- (a) any Crown owned mineral that—
    - (i) exists in a natural state in land of which the person is an owner or occupier; and
    - (ii) is in land which is not the subject of a permit in respect of such mineral—  
for use for any reasonable agricultural, pastoral, domestic, roadmaking, or building purpose on land of which the person is an owner or occupier; or
  - (b) any sand, shingle, or other natural material in the bed of a river or a lake or in the coastal marine area unless otherwise specified in a minerals programme.
- (2A) Subsection (1) does not apply to the taking by any person of any Crown owned mineral in a legal road, whether formed, unformed, or stopped, if—
- (a) the mineral is—
    - (i) coal; or
    - (ii) a mineral (other than coal) for which a Tier 2 permit would, but for this provision, be required; and
  - (b) the road is within an area of land that otherwise contains privately owned minerals.
- (3) Subsection (1) does not prohibit prospecting or exploring for, or mining, gold in a gold fossicking area by means of hand held non-motorised machinery in accordance with section 98 or 98A.
- (4) This section applies subject to section 86 of the Ngāti Awa Claims Settlement Act 2005.

Section 8(2A): inserted, on 24 May 2013, by section 15(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 8(3): amended, on 24 May 2013, by section 15(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).



Section 8(4): added, on 25 March 2005, by section 87 of the Ngāti Awa Claims Settlement Act 2005 (2005 No 28).

## **9 Other legal requirements not affected**

Compliance with this Act or the regulations does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.

Section 9: amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Minerals owned by the Crown*

## **10 Petroleum, gold, silver, and uranium**

Notwithstanding anything to the contrary in any Act or in any Crown grant, record of title, lease, or other instrument of title, all petroleum, gold, silver, and uranium existing in its natural condition in land (whether or not the land has been alienated from the Crown) shall be the property of the Crown.

Section 10: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## **11 Minerals reserved to Crown**

- (1) Every alienation of land from the Crown made on or after the commencement of this Act (whether by way of sale, lease, or otherwise) shall be deemed to be made subject to a reservation in favour of the Crown of every mineral existing in its natural condition in the land.
- (1A) Nothing in subsection (1) applies to pounamu to which section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 applies.
- (2) For the avoidance of doubt, every mineral reserved in favour of the Crown by any enactment shall continue to be reserved in favour of the Crown, notwithstanding the repeal of that enactment.

Section 11(1A): inserted, on 29 October 1997, by section 2 of the Crown Minerals Amendment Act 1997 (1997 No 82).

### *Minerals programmes*

*[Repealed]*

Heading: repealed, on 24 May 2013, by section 16 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **12 Purpose of minerals programme**

*[Repealed]*

Section 12: repealed, on 24 May 2013, by section 16 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## Part 1A

### Minerals programmes

Part 1A heading: inserted, on 24 May 2013, by section 17 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### 13 Application of minerals programmes

The most recent version of a minerals programme issued or changed by the Governor-General under section 19 applies to all permits for minerals that are subject to the programme.

Section 13: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### 14 Contents of minerals programmes

- (1) A minerals programme—
  - (a) must specify the mineral or minerals to which it applies; and
  - (b) must set out or describe how the Minister and the chief executive will have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (as required by section 4) for the purposes of the minerals programme.
- (2) A minerals programme—
  - (a) may set out or describe how the Minister or the chief executive will exercise any specified powers or discretions conferred on him or her by or under this Act in relation to the mineral or minerals that are subject to the programme; and
  - (b) may include any other information that the Minister considers is likely to be of assistance to any person wishing to use or understand the Act and the regulations, including—
    - (i) general guidance on the scheme of the Act and the regulations; and
    - (ii) how the Minister or the chief executive will interpret and apply specified provisions of the Act or the regulations (other than those referred to in paragraph (a)) in relation to any Crown owned mineral or minerals subject to the programme; and
  - (c) on the request of an iwi or hapū, may provide that defined areas of land of particular importance to the iwi's or hapū's mana are excluded from the operation of the minerals programme or are not to be included in any permit.
- (3) There must not be more than 1 minerals programme for any mineral, but a minerals programme may provide that different practices, procedures, and provisions in the programme apply—
  - (a) to different areas within New Zealand; or

- (b) to a mineral that occurs in different states, places, phases, or strata; or
  - (c) to a mineral that is to be explored for or mined by substantially different methods.
- (4) A minerals programme must not be inconsistent with this Act or the regulations.
- (5) However, if there is any inconsistency between a minerals programme (or a relevant minerals programme that has effect during a transitional period) and this Act or any of the regulations, this Act or the regulation prevails.

Section 14: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **15 Minister must prepare draft minerals programmes in certain situations**

The Minister must, as soon as practicable, prepare a draft minerals programme for a Crown owned mineral, or group of Crown owned minerals, if—

- (a) there is no minerals programme for that mineral or group of minerals; and
- (b) in the opinion of the Minister, that mineral or group of minerals is likely to be the subject of a permit application under this Act.

Section 15: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **16 Changes to minerals programmes**

- (1) The Minister may propose any change to a minerals programme.
- (2) In sections 17 and 18, a reference to a draft minerals programme includes a reference to a draft change to a minerals programme.
- (3) Nothing in section 17 or 18 applies to any change to a minerals programme if the purpose of the change is to correct any error and the effect of the change is minor.
- (4) Subsection (5) applies if the Minister decides not to proceed with a proposed change to a minerals programme and no recommendation is made to the Governor-General under section 19(1).
- (5) The Minister must—
- (a) publicly notify his or her decision; and
  - (b) notify every person who made a submission on the proposed change under section 18.

Section 16: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **17 Public notice**

- (1) The Minister must ensure that—
- (a) public notice is given of a draft minerals programme; and

- (b) notice is given of a draft minerals programme to all iwi; and
  - (c) the draft minerals programme is available on an Internet site maintained by or on behalf of the chief executive.
- (2) Every notice under subsection (1)(a) must—
- (a) give reasonable notice of the contents of the draft minerals programme; and
  - (b) specify the Internet site referred to in subsection (1)(c) where the draft minerals programme may be inspected; and
  - (c) indicate that submissions may be made on the draft minerals programme, how submissions may be made, and by what date.

Section 17: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **18 Submissions**

- (1) Any person may make a submission on a draft minerals programme.
- (2) A submission under subsection (1) must be received by the chief executive not later than 40 working days after the date of public notification under section 17.
- (3) If any submission is made under this section, the chief executive must, following the expiry of the time for making submissions, arrange for a report and recommendations to be made to the Minister in respect of all submissions.
- (4) The Minister must consider the report and recommendations made under subsection (3) and may make such changes to the draft minerals programme as the Minister thinks fit.
- (5) Despite the provisions of the Official Information Act 1982, if a request is made by any person for disclosure of information contained in a submission, the department or Minister to whom the request was made may refuse to make the information available if the department or Minister is satisfied that—
  - (a) such refusal is necessary to avoid serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; and
  - (b) in the circumstances of the particular case, the importance of avoiding such offence or disclosure outweighs the public interest in making that information available.

Section 18: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **19 Issue of minerals programmes**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, issue a minerals programme or a change to a minerals programme.

- (2) Before recommending the making of an order, the Minister must satisfy those requirements of sections 15 to 18 relevant to the order.
- (3) A minerals programme—
  - (a) is a disallowable instrument for the purposes of the Legislation Act 2012; and
  - (b) must be presented to the House of Representatives under section 41 of that Act.
- (4) A minerals programme or a change to a minerals programme takes effect on and from the date specified in the order approving it, which must not be earlier than the date on which the order is made.

Section 19: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 19(3): replaced, on 5 August 2013, by section 63(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

## 20 Notification of minerals programmes

The Minister must—

- (a) make each minerals programme issued in accordance with section 19 available on an Internet site maintained by or on behalf of the chief executive; and
- (b) notify every person who made a submission on the draft programme under section 18 of the issuing of the minerals programme and where it may be inspected; and
- (c) give public notice, and notice in the *Gazette*, that the programme has been issued and of the places where it is available for inspection; and
- (d) make the programme available for public inspection at those places.

Section 20: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## 21 Minister may defer consideration of application for permit

- (1) Subsection (2) applies if the Minister has publicly notified a proposed change to a minerals programme and—
  - (a) the chief executive has received an application for a permit for a mineral to which the programme applies after the proposed change has been notified; and
  - (b) if the proposed change were in force, it would be likely that the Minister's decisions in respect of the application would be different than if the decisions were made without the proposed change.
- (2) The Minister may defer his or her consideration of the application until—
  - (a) the date on which the proposed change takes effect (as specified in the relevant Order in Council made under section 19(1)); or

- (b) if the Minister decides not to proceed with the change, the date on which the Minister publicly notifies his or her decision under section 16(5).

Section 21: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **22 Minister and chief executive must act in accordance with minerals programmes**

- (1) The Minister and the chief executive must act in accordance with a minerals programme.
- (2) However, if there is any inconsistency between the actions required of them under a minerals programme (or a relevant minerals programme that has effect during a transitional period) and the actions required of them under this Act or any of the regulations, they must act in accordance with the Act or the regulation.

Section 22: replaced, on 24 May 2013, by section 18 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **Part 1B**

### **Permits, access to land, and other matters**

Part 1B heading: inserted, on 24 May 2013, by section 19 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **23 Purpose of permits**

- (1) The purpose of a prospecting permit is to authorise the permit holder to prospect for minerals as specified in the permit.
- (2) The purpose of an exploration permit is to authorise the permit holder to explore for minerals as specified in the permit.
- (3) The purpose of a mining permit is to authorise the permit holder to mine for minerals as specified in the permit.

Section 23: replaced, on 24 May 2013, by section 19 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **23A Application for permits**

- (1) Any person or persons may apply to the chief executive for a permit in respect of a mineral in land, whether or not there is a minerals programme for the mineral.
- (2) However,—
- (a) a person may not apply under this section for an exploration permit for petroleum (but *see* section 24(1) and (5A));
- (b) a person may apply under this section for a prospecting permit for petroleum, or a mining permit for petroleum, in respect of any land in the onshore Taranaki region only:

- (c) the chief executive must not accept an application for a permit for petroleum in respect of any land outside the onshore Taranaki region:
- (d) this subsection applies despite anything to the contrary in this Act (including sections 1A, 25(1)(b)(i), and 32).

Section 23A: inserted, on 24 May 2013, by section 19 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 23A(2): inserted, on 13 November 2018, by section 5 of the Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49).

## **24 Allocation by public tender**

- (1) Unless a minerals programme expressly provides otherwise, the Minister may, from time to time, by notice in such publications as the Minister considers appropriate, offer permits for allocation by public tender.
- (2) Every notice for the purposes of subsection (1) shall specify—
  - (a) the type of permit offered; and
  - (b) the land and minerals to which the permit relates; and
  - (c) the manner in which tenders must be submitted, and the time by which tenders must be received by the Minister, in order for such tenders to be valid; and
  - (ca) that each tender must include an application that complies with section 29A(1) and be accompanied by sufficient information in relation to the permit offered for the Minister to satisfy himself or herself of the matters set out in section 29A(2) or the matters required under section 29B, as the case may be; and
  - (cb) that, if the tender is to be considered in accordance with section 29B, the tender must include a statement to that effect; and
  - (d) the conditions to which any permit granted pursuant to the tender will be subject.
- (3) The Minister shall not accept any tender which does not comply in a material way with the requirements of the notice.
- (4) The Minister may amend or revoke a notice before the time by which tenders must be received expires.
- (4A) To avoid doubt, tenders must be assessed by the Minister in accordance with this section and the criteria in section 29A or in section 29B, as the case may be.
- (5) The Minister may decline to grant any permit pursuant to a tender.
- (5A) The following provisions apply to offers of permits for petroleum under subsection (1):
  - (a) an offer may be made in respect of any land in the onshore Taranaki region only:

- (b) the Minister must not accept a tender for a permit for petroleum in respect of any land outside the onshore Taranaki region:
  - (c) a person may submit a tender for a permit for petroleum only in accordance with an offer (if any) made in accordance with this section:
  - (d) this subsection applies despite anything to the contrary in this Act (including section 1A).
- (6) A permit granted pursuant to a tender shall be subject to the relevant conditions specified in the notice, unless otherwise agreed with the applicant.

Section 24(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 24(2)(ca): inserted, on 24 May 2013, by section 20A(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 24(2)(cb): inserted, on 24 May 2013, by section 20A(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 24(4A): inserted, on 24 May 2013, by section 20A(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 24(5A): inserted, on 13 November 2018, by section 6 of the Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49).

## 25 Grant of permit

- (1) The Minister may grant a prospecting permit, an exploration permit, or a mining permit under this Act in respect of minerals in land—
- (a) to any person or persons; and
  - (b) in either of the following ways:
    - (i) as the result of an application initiated by a person under section 23A:
    - (ii) as the result of a public tender process under section 24; and
  - (c) subject to any conditions that the Minister may impose, as the Minister thinks fit, including authorising the prospecting or exploration for, or mining of, a mineral only—
    - (i) in particular circumstances; or
    - (ii) by means of a particular method; or
    - (iii) if the mineral occurs in a particular state, place, phase, or stratum.
- (2) However, the Minister is not obliged to grant a permit to any person or persons unless expressly required to do so under section 32.
- (2A) The Minister must not grant a permit for petroleum in respect of any land outside the onshore Taranaki region (despite anything to the contrary in this Act (including section 1A)).
- (3) Each permit granted by the Minister must specify—
- (a) the minerals and land to which the permit applies; and
  - (b) the conditions on which the permit is granted; and



- (c) the names of the permit participants; and
  - (d) the name of the permit operator; and
  - (e) if any of the minerals to which the permit applies are minerals listed in the first column of Schedule 5, whether the permit in respect of those minerals is a Tier 1 or a Tier 2 permit.
- (4) A permit may also specify the date on which the permit expires if the permit is to expire on a date earlier than the default expiry date set out in section 35.
- (5) A permit must not be granted under this Part if a monetary deposit or bond that is required by the Minister as security for compliance with the conditions of the permit has not been deposited with the chief executive.
- (6) The Minister must not grant an exploration permit or a mining permit in respect of privately owned minerals, except as provided for by section 84 of the Marine and Coastal Area (Takutai Moana) Act 2011.
- (7) If an existing privilege exists, the Minister must not grant a permit in respect of all or part of the land and the mineral to which the privilege relates without the consent of the current holder of the privilege.
- (8) Subsection (1) is subject to section 5A(3) of the Continental Shelf Act 1964.

Section 25: replaced, on 24 May 2013, by section 21 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 25(2A): inserted, on 13 November 2018, by section 7 of the Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49).

## **25A Record of permit**

- (1) On the granting of a permit, the chief executive must forward 1 copy of the permit to the permit holder.
- (2) The chief executive must also forward 1 copy of the permit to the Registrar of the Māori Land Court if the permit was granted in respect of Māori land.
- (3) On receipt of a copy of a permit under subsection (2), the Registrar of the Māori Land Court must enter in his or her records the particulars of the permit.

Section 25A: inserted, on 21 August 2003, by section 4 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 25A(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 25A(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **26 Priority of applications if more than 1 made and no minerals programme**

- (1) Subject to the provisions of this Act, if more than 1 application is made for a permit in respect of all or part of the same land and in respect of a common mineral, and there is no minerals programme for that mineral, the applicant whose application is first received by the chief executive shall have a right in priority over every other applicant to have a permit granted in respect of such land and mineral.

- (2) If 2 or more applications in respect of the same or partly the same land and a common mineral appear to have been received at the same time, the applicant to have a prior right shall be determined as the Minister thinks fit.
- (3) Every applicant who has a right of priority under this section shall retain the right until that application has been finally disposed of by being granted, refused, or withdrawn.
- (4) An applicant shall not have a right of priority under this section over any tender for a permit in respect of the same or partly the same land and a common mineral if that application was received on or after the date of publication of the notice of offer of the permit to which any such tender relates.
- (5) The chief executive shall be under no obligation to process an application for a permit while it is in second or subsequent priority to another application.

Section 26(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 26(3): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 26(4): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 26(5): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **27 Permit holder must have permit operator**

- (1) A permit holder must have a permit operator.
- (2) A permit operator must be a permit participant.
- (3) For the purposes of the permit, this Act, and the regulations, the permit operator is responsible, on behalf of the permit holder, for the day-to-day management of activities under the permit.

Section 27: replaced, on 24 May 2013, by section 22 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **28 Restriction on granting of prospecting permits**

Where, in respect of any application for a prospecting permit, the Minister considers that—

- (a) the prospecting proposed in the application is unlikely to materially add to the existing knowledge of the mineral in all or part of the land to which the application relates; or
- (b) there exists, at the time of the application, substantial interest in exploring for or mining the mineral in all or part of the land to which the application relates,—

the Minister shall not grant a prospecting permit in respect of the mineral and the land or part of the land concerned unless he or she is satisfied that special circumstances apply.

**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.

Section 28A: inserted, on 24 May 2013, by section 23 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**29 Minister may require survey to be done**

Where the Minister considers it appropriate to do so, the Minister may require that land to which an application for a permit relates be surveyed in the prescribed manner and may postpone making a determination in respect of the granting of a permit until a survey plan, certified by the Surveyor-General, has been lodged with the chief executive by or on behalf of the applicant.

Section 29: amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

*Process for dealing with applications for permits*

Heading: inserted, on 24 May 2013, by section 24 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**29A Process for considering application**

- (1) An applicant for a permit must provide to the Minister—
  - (a) the name and contact details of the proposed permit participants and the proposed permit operator; and
  - (b) a proposed work programme for the proposed permit, which may comprise committed work, or committed and contingent work; and
  - (c) in the case of an exploration permit for minerals other than petroleum, an estimate of the expected total work programme expenditure in relation to the permit; and
  - (d) any other information prescribed in the regulations.
- (2) Before granting a permit, the Minister must be satisfied—
  - (a) that the proposed work programme provided by the applicant is consistent with—
    - (i) the purpose of this Act; and
    - (ii) the purpose of the proposed permit; and
    - (iii) good industry practice in respect of the proposed activities; and
  - (b) that 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; and
    - (iii) any relevant information on the applicant's failure to comply with permits or rights, or conditions in respect of those permits or rights, to prospect, explore, or mine in New Zealand or internationally; and
  - (c) that the applicant is likely to comply with the relevant obligations under the Act or the regulations in respect of reporting and the payment of fees and royalties; and
  - (d) in the case of a Tier 1 permit for exploration or mining, that the proposed permit operator has, or is likely to have, by the time the relevant work in any granted permit is undertaken, the capability and systems that are likely to be required to meet the health and safety and environmental requirements of all specified Acts for the types of activities proposed under the permit.
- (3) For the purposes of the Minister satisfying himself or herself of the matter in subsection (2)(d), the Minister—
  - (a) is only required to undertake a high-level preliminary assessment; and

- (b) must seek the views of the health and safety regulator and may, but is not required to, obtain the views of any other regulatory agency; and
  - (c) may, but is not required to, rely on the views of the regulatory agencies; and
  - (d) is not required to duplicate any assessment process that a regulatory agency may be required to undertake in accordance with a specified Act.
- (4) To avoid doubt, subsection (2)(d) does not limit, have any effect on, or have any bearing on—
- (a) whether the permit holder or permit operator is required to obtain any permit, consent, or other permission under any health and safety or environmental legislation:
  - (b) the granting to the permit holder or permit operator of any permit, consent, or other permission necessary under any health and safety or environmental legislation by any government agency, consent authority, or Minister responsible for the administration of that legislation.
- (5) This section is subject to section 29B.

Section 29A: inserted, on 24 May 2013, by section 24 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 29A(3)(b): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

## **29B Process for considering application under public tender for conditional exploration permit**

- (1) This section applies if—
- (a) a Tier 1 permit for exploration is offered for allocation by public tender under section 24(1); and
  - (b) a tender made in response to the offer under section 24(1) states that it is to be considered in accordance with this section; and
  - (c) the proposed work programme provided with the tender contains an exploration drilling committal date.
- (2) If this section applies, the Minister must, when considering whether to grant the permit to the tenderer, be satisfied of the matters set out in section 29A(2)(b) and (d) only in relation to work that will be undertaken before the exploration drilling committal date.
- (3) If a permit is granted in accordance with this section,—
- (a) work cannot be undertaken after the exploration drilling committal date unless, before that date,—
    - (i) the Minister has, upon application by the permit holder, satisfied himself or herself of the matters set out in section 29A(2)(b) and (d) in relation to that work; and

- (ii) the permit holder has committed, in accordance with the permit, to drilling for exploration purposes; and
- (b) the requirements of paragraph (a) are a condition of the permit.
- (4) For the purposes of subsection (3),—
  - (a) section 29A(3) and (4) apply for the purposes of the Minister satisfying himself or herself; and
  - (b) section 29A(2) to (4) must be read with all necessary modifications.
- (5) In this section,—

**exploration drilling committal date** means the point in a work programme at which a permit holder must commit to drilling for exploration purposes or surrender the permit

**work** means work to be undertaken under a work programme for a permit.

Section 29B: inserted, on 24 May 2013, by section 24 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Conditions of permits*

#### **30 Rights to prospect, explore, mine**

- (1) Subject to section 8, the holder of a current prospecting permit shall have a right to prospect for the mineral, in the land, and on the conditions, stated in the permit, whether the mineral is owned by the Crown or privately owned.
- (2) Subject to section 8, the holder of a current exploration permit shall have the rights of a holder of a current prospecting permit and, in addition, a right to explore for the Crown owned mineral, in the land, and on the conditions, stated in the permit.
- (3) Subject to section 8 and subsections (4) and (5), the holder of a mining permit shall have the rights of a holder of a current exploration permit and, in addition, a right to mine the Crown owned mineral, in the land, and on the conditions, stated in the permit.
- (4) Where a mining permit states that the right to mine only applies to a specified discovery of a mineral, the right to mine shall only extend to that discovery.
- (5) Where a mining permit states that the right to mine only applies to a specified discovery of a mineral, and the holder of the permit makes a further discovery in relation to a mineral and land to which the permit relates, the permit holder shall only have a right to receive a mining permit in accordance with section 32 in relation to that discovery—
  - (a) if within 12 months after making the further discovery, the permit holder notifies the Minister in writing of the making of the discovery and that the permit holder is interested in applying for a permit to mine the discovery; and
  - (b) within the period notified to the permit holder under subsection (6).

- (6) On receiving a notice from a permit holder under subsection (5), the Minister shall notify the permit holder in writing of the period which in the Minister's opinion is reasonable to allow for—
- (a) the carrying out of the necessary appraisal work in respect of the discovery; and
  - (b) the preparation of a work programme for the mining of the discovery; and
  - (c) the consideration and granting of an application for a permit to mine the discovery.
- (7) Subject to subsection (8) and unless the permit expressly provides otherwise, the rights referred to in subsections (1) to (3) are exclusive to the permit holder.
- (8) A permit conferring all or any of the same rights as a current permit in respect of all or part of the same land and the same mineral may only be granted to a person other than the holder of the current permit with the prior written consent of the current permit holder.

Section 30(1): amended, on 28 September 1993, by section 5 of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 30(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 30(3): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 30(5): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 30(8): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **31 Right of permit holder to minerals**

Every permit holder shall be the owner of all minerals lawfully obtained by or on behalf of the permit holder in the course of activities authorised by the permit.

### **32 Right of permit holder to subsequent permits**

- (1) Subject to sections 22, 27, 29A, and 43, and subsection (7), and unless the prospecting permit expressly provides otherwise, if the holder of a prospecting permit satisfies the Minister that the results of his or her prospecting under the prospecting permit justifies the granting of an exploration permit in respect of any land and mineral to which the prospecting permit relates, the permit holder shall have the right, on applying under section 23A before the expiry of the prospecting permit, to surrender the permit insofar as it relates to that land and to be granted in exchange an exploration permit for that land and mineral.
- (2) If an exploration permit is granted in accordance with subsection (1), and the prospecting permit in respect of which it is granted specified any condition to be included in such exploration permit, no other or additional condition which

modifies or conflicts with that condition shall be included in the exploration permit without the consent of the permit holder.

- (3) Subject to sections 22, 27, 29A, and 43, and subsection (7), and unless the exploration permit expressly provides otherwise, if the holder of an exploration permit satisfies the Minister that he or she has, as a result of activities authorised by the permit, discovered a deposit or occurrence of a mineral to which the permit relates, the permit holder shall have the right, on applying under section 23A before the expiry of the exploration permit, to surrender the permit insofar as it relates to the land in which the deposit or occurrence exists and to be granted in exchange a mining permit for that land and mineral.
- (4) A permit granted in accordance with this section may be limited to such part of the land to which the current permit relates as the Minister determines is reasonably adequate to enable the activities authorised by the subsequent permit to be carried out.
- (5) Subsection (5A) applies if a mining permit is to be granted in accordance with subsection (3) and the initial permit or any subsequent permit specified any condition to be included in the mining permit or in any subsequent privilege, right, or licence conferring a right to mine.
- (5A) The condition must be included in the mining permit, unless the Minister and the holder of the exploration permit otherwise agree, and no other condition which modifies or conflicts with the condition may be included in the mining permit without the consent of the holder of the mining permit.
- (6) For the purposes of this section—
  - (a) an exploration permit shall be deemed to be an exploration permit and a prospecting permit; and
  - (b) a mining permit shall be deemed to be a mining permit and an exploration permit and a prospecting permit.
- (7) The Minister may not grant an exploration permit or a mining permit under this section in respect of minerals that are privately owned except in the case of minerals owned by customary marine title groups, as provided for in section 83(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 and subject to section 84 of that Act.
- (8) A permit that is the subject of an application for a subsequent permit under this section continues in force until the Minister determines the application.

Section 32(1): amended, on 24 May 2013, by section 25(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 32(1): amended, on 24 May 2013, by section 25(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 32(1): amended, on 28 September 1993, by section 6(1) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 32(3): amended, on 24 May 2013, by section 25(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).



Section 32(3): amended, on 24 May 2013, by section 25(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 32(3): amended, on 28 September 1993, by section 6(2) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 32(4): amended, on 24 May 2013, by section 25(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 32(5): replaced, on 24 May 2013, by section 25(4) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 32(5A): inserted, on 24 May 2013, by section 25(4) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 32(7): added, on 28 September 1993, by section 6(4) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 32(7): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 32(8): inserted, on 24 May 2013, by section 25(5) of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **33 Permit holder responsibilities**

- (1) A permit holder must—
  - (a) comply with—
    - (i) the conditions of the permit; and
    - (ii) this Act and the regulations; and
    - (iii) the Health and Safety at Work Act 2015 and regulations made under that Act; and
  - (b) perform activities under the permit in accordance with good industry practice; and
  - (c) submit royalty returns, and pay royalties; and
  - (d) keep records for at least 7 years after the year to which they relate or for at least 2 years after the permit to which they relate ceases to be in force, whichever is the longer; and
  - (e) co-operate with the Minister, the chief executive, and enforcement officers for the purpose of complying with the conditions of the permit, this Act, and the regulations.
- (2) Subsection (3) applies if the permit holder is 2 or more persons.
- (3) Each person to whom this subsection applies is jointly and severally liable to comply with and perform the obligations of the permit holder under the permit, this Act, and the regulations.

Section 33: replaced, on 24 May 2013, by section 26 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 33(1)(a)(iii): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

**33A Exercise of permit conditional on authorisation**

- (1) This section applies if—
  - (a) in accordance with regulations made under the Health and Safety at Work Act 2015 an activity must be authorised (as defined in section 203 of that Act); and
  - (b) the activity is an activity of a type authorised under a permit; and
  - (c) the regulations referred to in paragraph (a) specify that it is an authorisation for the purposes of this section.
- (2) Despite the activity being authorised under a permit, it must not be carried out until—
  - (a) it has been authorised in accordance with subpart 2 of Part 5 of the Health and Safety at Work Act 2015 or regulations made under that Act; and
  - (b) the health and safety regulator has advised the chief executive that the activity has been so authorised; and
  - (c) the chief executive has notified the permit holder of the health and safety regulator's advice.

Section 33A: replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

**33B Health and Safety regulator to notify chief executive of breaches of legislation**

- (1) The health and safety regulator must notify the chief executive if—
  - (a) a permit holder is issued with a prohibition notice under section 105 of the Health and Safety at Work Act 2015; or
  - (b) an enforcement action (as defined in section 141 of that Act) is taken against the permit holder under that Act.
- (2) Nothing in this Act derogates from the health and safety regulator's responsibility for the administration and enforcement of the Health and Safety at Work Act 2015.

Section 33B: replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

**33C Iwi engagement reports**

- (1) Every holder of a Tier 1 permit must provide to the Minister an annual report of the holder's engagement with iwi or hapū whose rohe includes some or all of the permit area or who otherwise may be directly affected by the permit.
- (2) Every holder of a Tier 2 permit of any class or kind specified in the regulations must provide to the Minister an annual report of the holder's engagement with iwi or hapū whose rohe includes some or all of the permit area or who otherwise may be directly affected by the permit.

- (3) Regulations may specify—
- (a) an annual period to which annual reports must apply, which may vary for different classes or kinds of Tier 2 permit;
  - (b) a time by which annual reports must be provided, which may vary for different classes or kinds of Tier 2 permit.
- (4) The first report to be provided under subsection (1) must relate to the period of 12 months ending with 31 December 2014.

Section 33C: inserted, on 24 May 2013, by section 26 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **33D Annual review meeting for holders of Tier 1 permits**

- (1) The chief executive may require the holder of a Tier 1 permit to attend, once in each permit year, a review meeting for the purposes of—
- (a) monitoring the permit holder's progress against the work programme for the permit; and
  - (b) providing an opportunity for discussion between the chief executive, the permit holder, the appropriate Minister (but only if the permit relates to Crown land), and any regulatory agency that the chief executive has invited to attend the meeting.
- (2) Without limiting subsection (1)(b), the chief executive must invite any regulatory agency that he or she thinks is likely to have regulatory oversight of the activities under the permit to attend a review meeting. However, the chief executive may limit the agency's attendance at the meeting to only those parts of the meeting that are relevant to its oversight.
- (3) Unless otherwise agreed between the chief executive and a permit holder, a review meeting must be—
- (a) held on a date and at a place notified to the permit holder by the chief executive (which date must be at least 20 working days after the date of notification); and
  - (b) attended by at least 1 representative of the permit operator who has sufficient seniority, expertise, and knowledge to enable full discussion of the work programme and conditions of the permit.
- (4) Any person other than those referred to in subsections (1) and (2) may attend a review meeting only with the consent of the permit holder.

Section 33D: inserted, on 24 May 2013, by section 26 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **34 Financial return to the Crown**

The Minister may—

- (a) require, in return for any permit granted under this Act, the payment of money to the Crown:

- (b) include in any permit granted under this Act a condition requiring payments to the Crown by the permit holder for—
  - (i) the rights given by the permit and this Act; and
  - (ii) any minerals obtained by the permit holder under the permit.

Section 34(a): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 34(b): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 34(b)(i): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **35 Duration of permit**

- (1) A prospecting permit expires—
  - (a) 4 years after the commencement date specified in the permit; or
  - (b) if an earlier expiry date is specified in the permit, on that date.
- (2) A prospecting permit may not be extended beyond 4 years after the commencement date specified in the permit.
- (3) An exploration permit for petroleum expires—
  - (a) 15 years after the commencement date specified in the permit; or
  - (b) if an earlier expiry date is specified in the permit, on that date.
- (4) An exploration permit for petroleum may be extended only in accordance with section 35A.
- (5) An exploration permit for minerals other than petroleum expires—
  - (a) 10 years after the commencement date specified in the permit; or
  - (b) if an earlier expiry date is specified in the permit, on that date.
- (6) An exploration permit for minerals other than petroleum may not be extended beyond 10 years after the commencement date specified in the permit, unless extended further under section 35A.
- (7) A mining permit expires—
  - (a) 40 years after the commencement date specified in the permit; or
  - (b) if an earlier expiry date is specified in the permit, on that date.
- (8) A mining permit may be extended only in accordance with section 36(1), (2), and (5).
- (9) The Minister may, on the application of a permit holder, amend the commencement date of a permit, and subsection (1), (3), (5), or (7) applies accordingly, if the Minister is satisfied that—
  - (a) the permit holder has been prevented from commencing activities under the permit by delays in obtaining consents under any Act; and

- (b) those delays have not been caused or contributed to by default on the part of the permit holder.
- (10) If the Minister amends the commencement date of a permit under subsection (9), the new commencement date must be specified in the permit.

Section 35: replaced, on 24 May 2013, by section 27 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **35A Appraisal extension of exploration permits**

- (1) The holder of an exploration permit may apply to the Minister, in accordance with section 36(1) to (4), for an extension to the duration of the permit (an **appraisal extension**) so as to appraise the extent and characteristics of a discovery and the Minister may grant an extension for that purpose for any period the Minister considers necessary, up to a maximum of 4 years.
- (2) However, the Minister may grant an appraisal extension under subsection (1) only if the Minister is satisfied that—
  - (a) the permit holder has made a discovery that has the potential to lead to the granting of a mining permit; and
  - (b) the current specified duration of the exploration permit does not allow sufficient time to appraise the discovery; and
  - (c) the work programme in relation to the appraisal is adequate.
- (3) If the Minister grants an appraisal extension, it must be restricted to the land in the permit to which the Minister determines it is likely that the discovery relates.
- (4) A permit holder granted an appraisal extension under subsection (1) may apply to the Minister once only for a further appraisal extension, and subsection (1) applies as if the reference to an appraisal extension were a reference to a further appraisal extension.

Section 35A: inserted, on 24 May 2013, by section 27 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **35B Conditions imposing relinquishment obligation: prospecting permits**

- (1) The Minister may impose a condition of the kind described in subsection (2) on—
  - (a) the grant of a prospecting permit other than a prospecting permit for petroleum; or
  - (b) the grant of an application for a change to any prospecting permit other than a prospecting permit for petroleum.
- (2) The Minister may impose a condition requiring the permit holder to relinquish a specified amount of the permit area at a specified time or on a specified event (a **relinquishment obligation**).

- (3) The Minister may impose a relinquishment obligation not more than twice in relation to a permit, and the total area to be relinquished must not exceed 50% of the original area of land to which the permit applied.
- (4) The holder of a permit that is subject to a relinquishment obligation must submit to the Minister for approval, within the time frame specified in the permit condition, a map of the area that the holder proposes to relinquish.
- (5) The Minister must consider the map and approve the area to be relinquished, with or without amendment, as he or she thinks fit.

Section 35B: inserted, on 24 May 2013, by section 27 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **35C Conditions imposing relinquishment obligation: exploration permits**

- (1) The Minister may impose a condition of the kind described in subsection (2) on—
  - (a) the grant of an exploration permit; or
  - (b) the grant of an application for a change to an exploration permit.
- (2) The Minister may impose a condition requiring the permit holder to relinquish a specified amount of the permit area at a specified time or on a specified event (**a relinquishment obligation**).
- (3) The Minister may impose a relinquishment obligation not more than twice in relation to a permit, and the total area to be relinquished must not exceed,—
  - (a) in the case of an exploration permit for petroleum, 75% of the original area of land to which the permit applied;
  - (b) in the case of an exploration permit for minerals other than petroleum, 50% of the original area of land to which the permit applied.
- (4) The holder of a permit that is subject to a relinquishment obligation must submit to the Minister for approval, within the time frame specified in the permit condition, a map of the area that the holder proposes to relinquish.
- (5) The Minister must consider the map and approve the area to be relinquished, with or without amendment, as he or she thinks fit.

Section 35C: inserted, on 24 May 2013, by section 27 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Changes to permits*

Heading: inserted, on 24 May 2013, by section 28 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **36 Change to permit**

- (1) The Minister may, on any conditions that he or she thinks fit and at any time or times during the currency of a permit, change a permit by granting a certificate of change to the permit—
  - (a) with the prior written consent of the permit holder; or

- (b) on the written application of the permit holder; or
  - (c) in the manner, if any, provided in the permit.
- (2) A change to a permit may do 1 or more of the following:
- (a) amend the conditions of the permit:
  - (b) extend the land to which the permit relates:
  - (c) change the minerals to which the permit relates:
  - (d) extend the duration of the permit.
- (2A) However, the land to which a permit for petroleum relates cannot be extended to include any land outside the onshore Taranaki region.
- (3) An application under subsection (1)(b) to extend the duration of an exploration permit for petroleum may only be made as provided by section 35A.
- (4) An application under subsection (1)(b) to extend the duration of a mining permit in accordance with this section, or to extend the duration of an exploration permit under section 35A, must be received by the Minister not later than 6 months before the expiry of the permit.
- (4A) However, if the Minister is satisfied that there are compelling reasons why a permit holder could not comply with subsection (4), the Minister may receive an application by a later date agreed by the Minister.
- (4B) All other applications under subsection (1)(b) must be received by the Minister not later than 90 days before—
- (a) the expiry date of the permit; or
  - (b) in the case of an application to change the specified date by which specified work must be carried out, the specified date; or
  - (c) in the case of an application to change the specified work that must be carried out by a specified date, the specified date.
- (4C) However, if the Minister is satisfied that there are compelling reasons why a permit holder could not comply with subsection (4B), the Minister may receive an application by a later date agreed by the Minister (which date must not be later than the date of expiry of the permit or the specified date by which the specified work must be done).
- (4D) If a permit holder makes an application to which subsection (4B)(b) or (c) applies, the permit holder does not contravene the condition that the permit holder has applied to change if the condition—
- (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.

- (4E) However, if the application is declined, the permit holder contravenes the condition from the date on which the condition should have been complied with or fulfilled.
- (5) The duration of a mining permit may not be extended under this section unless the permit holder—
- (a) satisfies the Minister that the discovery to which the permit relates cannot be economically depleted before the expiry date of the permit (and in this respect the Minister may consider the extent to which the inability to deplete the discovery during the term of the permit is due to causes or reasons beyond the permit holder's control); and
  - (b) where required to do so by the Minister, submits a work programme which is approved by the Minister in the same manner, with any necessary modifications, as a work programme is approved under section 43—

and any such extension shall be only for such period as the Minister considers reasonable to enable the permit holder to economically deplete the discovery.

- (5A) A permit that is the subject of an application for an extension of duration under this section or section 35A continues in force until the Minister determines the application.
- (5B) On the granting of a certificate of change in relation to a permit, the chief executive must forward 1 copy of the certificate of change to the permit holder.
- (5C) If the certificate of change is for an extension of land to which a permit relates and that extension of land was granted in respect of Māori land, the chief executive must also forward 1 copy of the certificate to the Registrar of the Māori Land Court.
- (5D) On receiving a copy of a certificate of change under subsection (5C), the Registrar of the Māori Land Court must enter in his or her records the particulars of that certificate.
- (6) Every application under this section shall be in the form and contain the information required by the Minister in that case.

Section 36(1): replaced, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(2): replaced, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(2A): inserted, on 13 November 2018, by section 8 of the Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49).

Section 36(3): replaced, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(4): replaced, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(4A): replaced, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).



Section 36(4B): inserted, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(4C): inserted, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(4D): inserted, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(4E): inserted, on 24 May 2013, by section 29(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(5)(a): amended, on 24 May 2013, by section 29(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(5A): inserted, on 21 August 2003, by section 5(3) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 36(5A): amended, on 24 May 2013, by section 29(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(5B): inserted, on 21 August 2003, by section 5(3) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 36(5B): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(5C): inserted, on 21 August 2003, by section 5(3) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 36(5C): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 36(5D): inserted, on 21 August 2003, by section 5(3) of the Crown Minerals Amendment Act 2003 (2003 No 45).

### **37 Process for Minister's proposal to change work programme for petroleum mining permit**

- (1) The work programme for a petroleum mining permit granted on or after the commencement of this section may be changed in accordance with this section if the change is necessary to maximise the economic recovery of the petroleum in accordance with good industry practice.
- (2) If the Minister considers, on the basis of information on the characteristics and extent of the petroleum field received by the Minister at any time during the currency of the permit, that a change to the work programme is necessary, the Minister must notify the permit holder of the proposed change and set out the reasons why it is being proposed.
- (3) If the permit holder and the Minister cannot agree on the proposed changes, the permit holder may notify the Minister within 30 days after the date of the notification under subsection (2) (or within any further time that the Minister may allow) that the permit holder requires a determination by an independent expert on—
  - (a) whether the work programme should be changed to maximise the economic recovery of the petroleum in accordance with good industry practice; and
  - (b) what any change should be.

- (4) If the permit holder does not exercise the right under subsection (3) within the time specified by or allowed under that subsection, the conditions of the permit are deemed to be changed as proposed by the Minister.
- (5) If the permit holder exercises the right under subsection (3) within the time specified by or allowed under that subsection, an independent expert must be appointed by agreement between the Minister and the permit holder, or, failing agreement, by the President of the New Zealand Law Society (or his or her delegate) on the application of either party.

Section 37: replaced, on 24 May 2013, by section 30 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **38 Determination by independent expert**

- (1) In making a determination for the purposes of section 37(3), an independent expert must have regard to the submissions from the Minister and the permit holder respectively, but is not required to conduct a hearing.
- (2) Each party must provide a single set of written submissions, and any written evidence and any relevant documents or technical reports may be provided with the submissions.
- (3) In accordance with a timetable set by the independent expert,—
  - (a) the permit holder must provide its submissions to the independent expert and provide a copy to the Minister at the same time; and
  - (b) the Minister must subsequently provide his or her submissions to the independent expert and provide a copy to the permit holder at the same time.
- (4) The Minister and the permit holder must provide the independent expert with any assistance the independent expert may reasonably request.
- (5) After due consideration, the independent expert must provide a written determination to the Minister and the permit holder.
- (6) Any change to a work programme determined by the independent expert—
  - (a) must be limited to what is reasonably required to ensure that the economic recovery of the resource is maximised in accordance with good industry practice; and
  - (b) takes effect on the date of the determination.
- (7) The conditions of the permit holder's permit are deemed to be changed—
  - (a) in accordance with any change to a work programme determined by the independent expert; and
  - (b) with effect on the date of the determination.
- (8) The independent expert must not act as a mediator or an arbitrator and the Arbitration Act 1996 does not apply.

- (9) The independent expert's fees must be borne equally by the Minister and the permit holder unless the independent expert determines one party should bear a greater proportion or all of the fees on the ground that the party's position has not been reasonable.
- (10) The independent expert's determination is final and binding on the parties and there is no right of appeal against the determination. However, if the Minister and the permit holder agree a different allocation of costs to that determined by the independent expert, the determination must be treated as varied to the extent agreed.
- (11) The permit holder must continue to comply with its existing work programme pending the independent expert's consideration and determination of the matter.

Section 38: replaced, on 24 May 2013, by section 30 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **39 Revocation or transfer of permit**

- (1) The Minister may revoke a permit or transfer a permit to the Minister (in replacement for the permit holder)—
  - (a) if the Minister is satisfied that a permit holder has contravened—
    - (i) a condition of the permit; or
    - (ii) this Act or the regulations; or
  - (b) in any case where a condition relates to payment of money to the Crown under the permit, this Act, or the regulations, payment has not been made within 90 days after the due date for the payment.
- (2) Before deciding whether to revoke or transfer a permit, the Minister must serve on the permit holder written notice of his or her intention to revoke or transfer the permit that—
  - (a) sets out the grounds on which the Minister intends to revoke or transfer the permit; and
  - (b) gives the holder 40 working days after the date on which the notice is served to—
    - (i) remove the grounds for the revocation or transfer; or
    - (ii) provide reasons why the permit should not be revoked or transferred.
- (3) The Minister may, by serving written notice on the permit holder, revoke or transfer the permit with effect on the date that is 41 working days after the date on which the notice under subsection (2) is served if—
  - (a) the grounds for revocation or transfer have not been removed; or
  - (b) after having considered reasons provided in accordance with subsection (2)(b)(ii), the Minister still considers there are grounds for revoking or transferring the permit.

- (4) If the Minister transfers a permit in accordance with subsection (3),—
- (a) the permit is automatically transferred into the name of the Minister; and
  - (b) the consent of the Minister under section 41 is not required to transfer the permit to, or from, the Minister; and
  - (c) the Minister may exercise the rights granted by the permit, or offer it or any share in it for sale by public tender or otherwise.
- (5) A permit holder who is served with written notice under subsection (3) may, not later than 20 working days after the date on which the notice is served, appeal against the Minister's decision to the High Court, but only on the ground that the decision is erroneous in point of law.
- (6) Pending the determination of an appeal under subsection (5), the permit in respect of which the appeal is made continues in force for all purposes unless it sooner expires.
- (6A) The Minister must record any revocation or transfer of a permit on the register of permits, but need not record the reasons for the revocation or transfer.
- (7) The revocation of a permit or the transfer of a permit to the Minister under this section shall not release the permit holder from any liability in respect of—
- (a) a permit, or any condition of it, up to the date of revocation or transfer; and
  - (b) any act under the permit up to the date of revocation or transfer giving rise to a cause of action.
- (8) As soon as practicable after a permit (other than a permit in respect of petroleum) is revoked, the chief executive shall lodge a copy of the notice served on the permit holder under subsection (2) with the Registrar-General of Land.
- (9) Subsection (8) applies only to permits granted before 21 August 2003.

Section 39 heading: replaced, on 24 May 2013, by section 31(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(1): replaced, on 24 May 2013, by section 31(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(2): replaced, on 24 May 2013, by section 31(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(3): replaced, on 24 May 2013, by section 31(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(4): replaced, on 24 May 2013, by section 31(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(5): replaced, on 24 May 2013, by section 31(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(6): replaced, on 24 May 2013, by section 31(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(6A): inserted, on 24 May 2013, by section 31(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(8): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 39(9): added, on 21 August 2003, by section 6 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 39(9): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **40 Surrender of permit**

- (1) A permit holder may apply to the chief executive to surrender a permit or any part of it by—
  - (a) lodging an application; and
  - (b) paying any money the permit holder owes to the Crown under this Act; and
  - (c) providing information and records as required by the permit, this Act, or the regulations.
- (2) Unless the Minister considers it is in the interests of the Crown to acquire the permit for the purposes of reallocation or otherwise (in which case the permit vests in the Crown as if it were personal property), the surrender—
  - (a) must be accepted by the chief executive if everything is in order and, in the case of a partial surrender, the Minister has approved the area to be surrendered under subsection (7A); and
  - (b) takes effect when the chief executive accepts it.
- (2A) Despite subsection (1)(b) and (c), the chief executive may accept a surrender application even though the permit holder has not paid to the Crown all the money owing to the Crown or has not provided to the chief executive all the information and records required to be provided.
- (3) For the purposes of subsections (5) and (6), if a permit vests in the Crown under this section,—
  - (a) the permit is deemed to have been surrendered under this section; and
  - (b) the date on which the permit is deemed to have been surrendered,—
    - (i) for the purposes of subsection (5), is the date that the surrender application was lodged; and
    - (ii) for the purposes of subsection (6), is the date of the Minister's decision under subsection (2).
- (4) The consent of the Minister under section 41 shall not be required to the transfer of a permit under this section.
- (5) Where a permit is surrendered in whole or in part and payments have been made to the Crown under the permit or under this Part, the permit holder shall be entitled to a refund of so much of the payments as have been made in respect of—
  - (a) the remaining part of the period subsequent to the date of the surrender; and

- (b) the land surrendered.
- (6) The surrender of a permit shall not release the permit holder from any liability in respect of—
  - (a) the permit up to the date of the surrender; and
  - (b) any act under the permit up to the date of surrender giving rise to a cause of action.
- (7) If a permit is being surrendered in part only, the form of surrender shall be accompanied by a plan that has the land in respect of which part of the permit is being surrendered clearly delineated and identified on it.
- (7A) The Minister may approve the area to be surrendered, with or without amendment, as he or she thinks fit.
- (8) The surrender of only part of a permit shall, on acceptance, be endorsed on the permit by the chief executive.
- (9) The chief executive shall, on acceptance, lodge every surrender of a permit (other than a permit in respect of petroleum), whether in whole or in part, with the Registrar-General of Land.
- (9A) Subsection (9) applies only to permits granted before 21 August 2003.
- (10) Every right, title, and interest held under a permit that has been surrendered under this section shall end in respect of the land to which the permit related, or in respect of that part of the land in relation to which the permit is surrendered, as the case may be, on the date on which the chief executive accepts the surrender.

Section 40(1): replaced, on 24 May 2013, by section 32(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(2): replaced, on 24 May 2013, by section 32(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(2A): inserted, on 24 May 2013, by section 32(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(3): replaced, on 24 May 2013, by section 32(4) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(7A): inserted, on 24 May 2013, by section 32(5) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(8): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(9): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(9A): inserted, on 21 August 2003, by section 7 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 40(9A): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 40(10): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **41 Transfer of interest in permit**

- (1) The transfer of all or part of a participating interest in a permit requires the consent of the Minister under this section.
- (2) An application for consent to a transfer must—
  - (a) be made jointly by the relevant permit participant and the transferee; and
  - (b) be made within 3 months after the date of the agreement that contains the transfer; and
  - (c) be accompanied by a copy of the agreement that contains the transfer; and
  - (d) be accompanied by evidence of the notification required under subsection (3).
- (3) Before or at the same time as the application is made, the permit participant must notify any other permit participants that it has applied for consent to the transfer.
- (4) If so required by the Minister, the transferee must provide to the Minister—
  - (a) a statement, signed by or on behalf of the transferee, in which the person signing the statement must confirm that the transferee has the financial capability to meet its obligations under the permit (a **statement of financial capability**); and
  - (b) any specified supporting information.
- (5) If the transferee is a company, a statement of financial capability must be signed on behalf of all the directors by at least 2 directors of the company or, if the company has only 1 director, by that director.
- (6) Before granting consent, the Minister must be satisfied that the transferee is likely to be able to comply with the conditions of, and give proper effect to, the permit.
- (7) The chief executive must record the transfer of any participating interest consented to by the Minister under this section on the permit concerned and the transfer is effective, for the purposes of the permit, this Act, and the regulations from the date of the Minister's consent.

Section 41: replaced, on 24 May 2013, by section 33 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **41A Change of control of permit participants**

- (1) For the purposes of this section, a corporate body undergoes a **change of control** if—
  - (a) a person (**person A**) obtains the power (whether directly or indirectly) to exercise, or control the exercise of, 50% or more of the voting rights in the corporate body; or

- (b) a person (**person A**) obtains, together with 1 or more specified persons, the power (whether directly or indirectly) to exercise, or control the exercise of, 50% or more of the voting rights in the corporate body.
- (2) A permit participant must notify the Minister in accordance with subsection (3) if—
  - (a) the permit participant is a corporate body and undergoes a change of control; or
  - (b) a corporate body that has provided a guarantee for the permit participant's obligations under the permit (**guarantor**) undergoes a change of control.
- (3) The notification must be given within 3 months of the change of control and be accompanied by—
  - (a) a copy of any agreement or document that specifies the change of control; and
  - (b) a statement from the permit participant that it has the financial capability to meet its obligations under the permit; and
  - (c) in the case of a change of control of a guarantor, a statement from the guarantor that it has the financial capability to meet its obligations under the guarantee.
- (4) A statement for the purposes of subsection (3)(b) or (c) must be signed,—
  - (a) if the permit participant or guarantor is a company, on behalf of all the directors by at least 2 directors of the company or, if the company has only 1 director, by that director; or
  - (b) if the permit participant or guarantor is not a company, by a person responsible for the management of the permit participant or guarantor.
- (5) 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 (3)(b) and (c).
- (6) However, the permit participant must do so only if the Minister requests the information or documents no later than 3 months from the date on which the permit participant notifies the Minister of the change of control in accordance with this section.
- (7) The Minister may revoke the permit in accordance with the procedure set out in section 39 if the Minister—
  - (a) is not satisfied that, following the change of control, the permit holder has the financial capability to meet its obligations under the permit; and



- (b) revokes the permit no later than 3 months from the date on which the permit participant notifies the change of control in accordance with this section.
- (8) In subsection (1)(b), a **specified person**, in relation to person A, means—
  - (a) a person who is acting or will act jointly or in concert with person A in respect of exercising, or controlling the exercise of, the voting rights of the permit participant; or
  - (b) a person who acts, or is accustomed to acting, in accordance with the wishes of person A.

Section 41A: inserted, on 24 May 2013, by section 33 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **41B Dealings**

- (1) A permit participant may enter into a dealing.
- (2) However, the dealing has no legal effect if the dealing relates to a Tier 1 permit and the Minister does not consent to the dealing.
- (3) An application for consent to a dealing must—
  - (a) be made to the Minister; and
  - (b) be made within 3 months after the date of the agreement that contains the dealing; and
  - (c) be accompanied by a copy of the agreement that contains the dealing.
- (4) In this section, **dealing** means any agreement (other than a transfer of a participating interest, or a mortgage or other charge) that imposes on any permit participant any obligation that relates to the sale or the proceeds of production, if—
  - (a) a reasonable person would consider that the agreement—
    - (i) has not been entered into on an arm's-length basis; or
    - (ii) is not on arm's-length terms; or
    - (iii) is otherwise not on a fair market basis; or
  - (b) the term of the agreement is for 12 months or longer.

Section 41B: inserted, on 24 May 2013, by section 33 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **41C Change of permit operator**

- (1) A permit operator may be changed only with the prior consent of the Minister and no change of permit operator has any effect without that consent.
- (2) An application for consent must—
  - (a) be made by the permit holder; and
  - (b) be made jointly with the proposed new operator if that operator is not an existing permit participant.

- (3) The Minister may give consent to the change only—
- (a) if the Minister is satisfied that the permit holder, given the change in permit operator, is likely to—
- (i) comply with, and give proper effect to, the work programme for the permit; and
- (ii) comply with the relevant obligations under this Act or the regulations in respect of reporting and the payment of fees and royalties; and
- (b) if the change of operator relates to a Tier 1 permit for exploration or mining, if the health and safety regulator—
- (i) is satisfied that any requirements of the Health and Safety at Work Act 2015, or regulations made under that Act, that the proposed operator must meet before carrying out day-to-day management of activities under the permit have been, or are likely to be, met; and
- (ii) has advised the chief executive that it is so satisfied.

Section 41C: inserted, on 24 May 2013, by section 33 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 41C(3)(b): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

#### **41D General provisions relating to transfers, dealings, and changes of permit operator**

- (1) The Minister may grant consent under section 41, 41B, or 41C, subject to any conditions that the Minister thinks fit.
- (2) All conditions of the Minister's consent are, for the purposes of this Act, deemed to be conditions of the permit concerned.
- (3) If, as a result of the transfer of a participating interest in a permit, a person ceases to have an interest in the permit, that person ceases to have any rights or obligations under the permit except in respect of any contravention of the conditions of the permit that occurred before the date of transfer of the participating interest.
- (4) Subsection (3) is subject to—
- (a) the conditions of the permit; and
- (b) the conditions of the Minister's consent on the transfer of the participating interest.

Section 41D: inserted, on 24 May 2013, by section 33 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **42 Minister may require survey at any time**

It shall be a condition of every current mining permit that the Minister may at any time, require the holder of the permit to arrange for the survey, in the man-

ner prescribed by regulations, of all or part of the land to which the permit relates.

**42A Authorisation of geophysical surveys on adjacent land**

- (1) The Minister may, subject to such conditions as the Minister thinks fit to impose, grant written authorisation to a permit holder to carry out geophysical surveys on land adjacent to the land to which the permit relates if another permit is not in force in relation to that adjacent land.
- (2) Any authorisation granted under this section shall be subject to the provisions of this Act as if the authorisation were a prospecting permit.

Section 42A: inserted, on 28 September 1993, by section 8 of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 42A(2): amended, on 24 May 2013, by section 34 of the Crown Minerals Amendment Act 2013 (2013 No 14).

*Work programmes in respect of subsequent permits*

**43 Work programmes to be approved by Minister**

- (1) Where an application is made for a permit and the applicant has a right to receive the permit under section 32, the Minister must not grant the permit unless he or she has approved the work programme for the permit.
- (2) Where an application is made for a permit and the applicant has a right to receive that permit under section 32, the Minister, within 6 months after receiving the proposed work programme for the permit applied for, shall either—
  - (a) approve the programme; or
  - (b) withhold approval of the programme if the Minister considers that—
    - (i) it is contrary to good industry practice; or
    - (ii) to approve the programme would be acting contrary to section 22,—

and shall notify the applicant accordingly.

- (3) Where the Minister withholds approval of a proposed work programme under subsection (2), the applicant shall be entitled to submit a modified work programme to the Minister within a reasonable period, as specified by the Minister when withholding approval of the proposed work programme, and the Minister shall then, within a further 6 months, either—
  - (a) approve the modified work programme; or
  - (b) withhold approval of the modified work programme if the Minister considers that—
    - (i) it is contrary to good industry practice; or
    - (ii) to approve the programme would be acting contrary to section 22,—

and shall notify the applicant accordingly.

Section 43(1): replaced, on 24 May 2013, by section 35(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 43(2)(b)(i): amended, on 24 May 2013, by section 35(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 43(3)(b)(i): amended, on 24 May 2013, by section 35(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **44 Duty of Minister withholding approval of work programme**

- (1) The Minister shall not withhold approval of any work programme or modified work programme under section 43 without first advising the applicant of the reasons for the Minister's proposed withholding of approval and affording the applicant a reasonable opportunity to make representations to him or her regarding the work programme or modified work programme.
- (2) If the Minister withholds approval of a work programme or modified work programme under section 43, the applicant may refer the matter to arbitration under section 99.
- (3) If it is determined under section 99 that it would be contrary to good industry practice to carry out the work programme or modified work programme submitted by the applicant, or the Minister would be acting contrary to section 22 in approving the programme, the Minister shall give notice to the applicant of his or her intention to decline the application unless—
  - (a) a modified work programme is submitted to the Minister within 3 months after the date of the notice or within such longer period as the Minister may, in his or her discretion, determine in the notice; and
  - (b) the modified work programme is approved by the Minister.
- (4) Where it is determined under section 99 that it would not be contrary to good industry practice to carry out the work programme or modified work programme submitted by the applicant, or the Minister would not be acting contrary to section 22 in approving the programme, the Minister shall forthwith approve that programme.

Section 44(3): amended, on 24 May 2013, by section 36 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 44(4): amended, on 24 May 2013, by section 36 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **45 Minister may direct that petroleum be refined and processed in New Zealand, etc**

- (1) If, after consultation with the permit holder of a petroleum mining permit and having regard to the national interest, the Minister is satisfied that products are able to be manufactured in New Zealand by or on behalf of the permit holder from petroleum produced from land to which the permit relates, the Minister may direct that the permit holder refine or process (or cause to be refined or

processed) in New Zealand so much of the petroleum as may be required for the manufacture of those products.

- (2) Where a direction is given under subsection (1), the Minister may give a further direction prohibiting the export from New Zealand of any petroleum directed to be refined or processed and of all or any of the products so manufactured from any such petroleum.
- (3) Where a permit holder is directed under subsection (1) to refine or process (or cause to be refined or processed) in New Zealand any petroleum and the permit holder does not have facilities for refining or processing such petroleum in New Zealand, the Minister, after consultation with all interested parties, may direct the owner of any refinery or processing plant capable of refining or processing the petroleum, to refine or process the petroleum on behalf of the permit holder on such conditions as may be agreed upon between the permit holder and the owner of the refinery or processing plant or, failing agreement, as may be determined by the Minister.
- (4) The owner of or any other person lawfully using a refinery or processing plant may at any time apply to the Minister for a variation in the conditions of any direction given under subsection (3) and the Minister may make such variations as may be agreed upon between the owner and all other persons lawfully using the refinery or processing plant or, failing agreement, as may be determined by the Minister.
- (5) Any person who wilfully fails to comply with any direction of the Minister under this section commits an offence against this Act and, if he or she is a permit holder, shall be deemed to have failed to comply with the conditions of his or her permit.
- (6) No person shall be precluded by any agreement from doing or refraining from doing such acts as may be necessary to comply with a direction given under this section; and every person who does or refrains from doing any such act shall not thereby suffer, under any agreement, any liability of any kind whatsoever.
- (7) In this section, the term **agreement** includes a contract, deed, and arrangement.

#### **46 Unit development**

- (1) If the Minister is satisfied that—
  - (a) the land to which any 2 or more permits or existing privileges relate or any part thereof forms part of a single deposit of a mineral (in this section referred to as a mineral deposit); and
  - (b) in order to secure the maximum ultimate recovery of the mineral, the mineral deposit should be worked as a unit in co-operation by all relevant permit or existing privilege holders whose permits or existing privileges comprise any part thereof—

the Minister may, on the request of 1 or more of the permit or existing privilege holders or of his or her own accord, by notice in writing require all the permit or existing privilege holders to co-operate in the preparation of a scheme (in this section referred to as a development scheme) for the working and development of the mineral deposit as a unit by the permit or existing privilege holders in co-operation and to submit the scheme jointly for the approval of the Minister.

- (2) The notice shall specify the land in respect of which, and the period within which, the Minister requires a development scheme to be submitted.
- (3) If the Minister withholds his or her approval of a development scheme under subsection (1), the Minister shall notify the permit or existing privilege holders that he or she has withheld approval and of the reasons for doing so, and shall invite the permit or existing privilege holders to submit a modified development scheme for the Minister's approval within a reasonable period, as specified by the Minister in the notice given under this subsection.
- (4) If a development scheme or modified development scheme is not submitted to the Minister within the period specified in the relevant notice, or if a modified development scheme submitted under this section is not approved by the Minister, the Minister shall prepare a development scheme that in the opinion of the Minister is fair and equitable to all the permit or existing privilege holders, and the permit or existing privilege holders shall perform and observe the conditions of that scheme.
- (5) The Minister may recover from permit or existing privilege holders any costs incurred by him or her in approving or preparing a development scheme under this section, including the costs of any advice received from an independent expert, and may apportion those costs between the holders as he or she thinks fit.
- (6) Subsection (7) applies if a development scheme is required under subsection (1) for a petroleum mineral deposit.
- (7) The Minister may, by notice in writing, require 1 or more permit holders or existing privilege holders to suspend or reduce production from any well specified in the notice during the preparation of the development scheme if—
  - (a) the Minister is satisfied that the suspension or reduction is necessary to secure the maximum ultimate recovery of the petroleum mineral deposit; and
  - (b) before issuing the notice, he or she has consulted all relevant permit or existing privilege holders.
- (8) In subsection (7), **permit holder or existing privilege holder** means a permit holder or existing privilege holder whose permit or existing privilege comprises any part of the land to which the petroleum mineral deposit relates.

Section 46(1): substituted, on 28 September 1993, by section 9(1) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 46(1): amended, on 21 August 2003, by section 9(1)(d) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(1): amended, on 21 August 2003, by section 9(1)(e) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(1): amended, on 21 August 2003, by section 9(1)(f) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(1)(a): amended, on 21 August 2003, by section 9(1)(a) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(1)(b): amended, on 24 May 2013, by section 37(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 46(1)(b): amended, on 21 August 2003, by section 9(1)(b) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(1)(b): amended, on 21 August 2003, by section 9(1)(c) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(3): amended, on 21 August 2003, by section 9(2) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(4): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 46(4): amended, on 21 August 2003, by section 9(3) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 46(5): replaced, on 24 May 2013, by section 37(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 46(6): inserted, on 24 May 2013, by section 37(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 46(7): inserted, on 24 May 2013, by section 37(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 46(8): inserted, on 24 May 2013, by section 37(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Access to land*

#### **47 Permit does not give right of access to land**

Subject to section 49, the granting of a permit under this Part does not confer on the permit holder a right of access to any land.

#### **48 Cancellation of any Crown right of entry that is reserved by statute**

No right reserved to the Crown, by virtue of any enactment, to enter any land for any purpose in connection with prospecting or exploring for, or mining, any mineral, shall have any effect.

### *Access to land for minimum impact activity*

#### **49 Entry on land for minimum impact activity**

- (1) Notwithstanding section 8, but subject to sections 50, 51, and 62, any person employed by the Crown and authorised either specially or generally for that

purpose, and any person authorised specifically in writing by the Minister for that purpose, may during the daytime enter on any land, with such assistance as he or she thinks fit, and carry out minimum impact activity.

- (2) Subject to sections 8, 50, 51, and 62, a permit holder (and employees, agents, and contractors of a permit holder authorised for that purpose) may enter land to which the permit relates and carry out minimum impact activity.
- (3) Notwithstanding subsections (1) and (2), no person may enter on land under either of those subsections without the written consent of each owner and occupier, and any customary marine title group unless at least 10 working days' notice has been given to each person or group whose consent is required of—
  - (a) the date of intended entry; and
  - (b) the type and duration of work to be carried out; and
  - (c) a telephone number in New Zealand of the person who intends to enter the land.
- (4) Every person who enters land under this section shall, if required by any owner or occupier or customary marine title group to do so, produce a copy of the authorisation or permit which gives the right of entry under this section.
- (5) A person who enters land under this section shall not carry out any activity other than a minimum impact activity.

Section 49(3): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 49(4): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## **50 Entry on special classes of land for minimum impact activity**

- (1) No person may, without the consent of the owner or occupier of the land, enter land of a class to which any of paragraphs (a) to (g) of section 55(2) relate for the purpose of carrying out a minimum impact activity.
- (2) This section does not apply in the case of entry onto land that is in the common marine and coastal area.

Section 50(2): added, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## **50A Restricted access to Taranaki conservation land**

- (1) No permit holder (or employee, agent, or contractor of a permit holder) may enter Taranaki conservation land for a purpose in connection with a permit for petroleum other than as set out in sections 49 and 50 (carrying out a minimum impact activity).
- (2) Subsection (1) applies despite anything to the contrary in this Act (including sections 1A and 53 to 80).



- (3) However, this section does not prevent prospecting, exploration, or mining carried out below the surface of Taranaki conservation land in accordance with section 57.
- (4) In this section, **Taranaki conservation land** means land in the onshore Taranaki region that is held or managed—
- (a) under the Conservation Act 1987; or
  - (b) under an Act listed in Schedule 1 of that Act.

Section 50A: inserted, on 13 November 2018, by section 9 of the Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49).

### 51 Entry on Maori land for minimum impact activity

- (1) Where a permit holder or any person authorised under section 49, as the case may be, seeks to enter any Maori land for the purpose of carrying out any minimum impact activity, the permit holder or that person, shall, in addition to complying with section 49 and before any such entry is made—
- (a) ensure that reasonable efforts have been made to consult with those owners of the land able to be identified by the Registrar of the Maori Land Court; and
  - (b) give not less than 10 working days' notice to the local iwi authority of the land to be entered and the matters referred to in section 49(3).
- (2) No person may, without the consent of the owners of the land, enter Maori land for the purpose of carrying out a minimum impact activity where the land is regarded as waahi tapu by the tangata whenua.
- (3) No person may, without the consent of the land holding trustee (as defined in section 7 of the Waikato Raupatu Claims Settlement Act 1995), enter on any land that is both—
- (a) registered in the name of Pootatau Te Wherowhero under section 19 of that Act; and
  - (b) regarded as waahi tapu by the land holding trustee within the meaning of that Act—
- for the purpose of carrying out a minimum impact activity.
- (4) Subsection (1)(b) shall apply in relation to land registered in the name of Pootatau Te Wherowhero under section 19 of the Waikato Raupatu Claims Settlement Act 1995 as if that land were Maori land and as if the land holding trustee were the local iwi authority of that land.
- (5) No person may, for the purpose of carrying out a minimum impact activity, enter on any land without the consent of the Ngāti Awa governance entity (as defined in section 12 of the Ngāti Awa Claims Settlement Act 2005), if the land is—
- (a) registered in the name of Awanuiārangi II as protected land under section 157 of that Act; and

- (b) regarded as wāhi tapu by the Ngāti Awa governance entity.
- (6) Subsection (1)(b) applies in relation to land registered in the name of Awanuiārangi II as protected land under section 157 of the Ngāti Awa Claims Settlement Act 2005 as if—
- (a) the land were Maori land; and
- (b) the Ngāti Awa governance entity were the local iwi authority of the land.
- (7) No person may, for the purpose of carrying out a minimum impact activity, enter on any land without the consent of the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa (as those terms are defined in section 10 of the Ngāti Whare Claims Settlement Act 2012 and section 10 of the Ngāti Manawa Claims Settlement Act 2012), if the land is registered in the names of Wharepakau and Tangiharuru as tenants in common.
- (8) Subsection (1)(b) applies in relation to land registered in the names of Wharepakau and Tangiharuru as tenants in common under section 104 of the Ngāti Whare Claims Settlement Act 2012 and section 88 of the Ngāti Manawa Claims Settlement Act 2012 as if that land were Māori land and as if the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa (as those terms are defined in section 10 of the Ngāti Whare Claims Settlement Act 2012 and section 10 of the Ngāti Manawa Claims Settlement Act 2012) were jointly the local iwi authority of that land.
- (9) No person may, for the purpose of carrying out a minimum impact activity enter on any land without the consent of the trustees of Te Rūnanga o Ngāti Whare (as defined in section 10 of the Ngāti Whare Claims Settlement Act 2012), if the land is—
- (a) registered in the name of Wharepakau as protected land under section 104 of that Act; and
- (b) regarded as wāhi tapu by the trustees.
- (10) Subsection (1)(b) applies in relation to land registered in the name of Wharepakau as protected land under section 104 of the Ngāti Whare Claims Settlement Act 2012 as if that land were Māori land and as if the trustees were the local iwi authority of that land.

Section 51(3): added, on 15 November 1995, by section 35 of the Waikato Raupatu Claims Settlement Act 1995 (1995 No 58).

Section 51(4): added, on 15 November 1995, by section 35 of the Waikato Raupatu Claims Settlement Act 1995 (1995 No 58).

Section 51(5): added, on 25 March 2005, by section 160 of the Ngāti Awa Claims Settlement Act 2005 (2005 No 28).

Section 51(6): added, on 25 March 2005, by section 160 of the Ngāti Awa Claims Settlement Act 2005 (2005 No 28).

Section 51(7): inserted, on 6 April 2012, by section 90(5) of the Ngāti Whare Claims Settlement Act 2012 (2012 No 28).

Section 51(8): inserted, on 6 April 2012, by section 90(5) of the Ngāti Whare Claims Settlement Act 2012 (2012 No 28).

Section 51(9): inserted, on 6 April 2012, by section 105(6) of the Ngāti Whare Claims Settlement Act 2012 (2012 No 28).

Section 51(10): inserted, on 6 April 2012, by section 105(6) of the Ngāti Whare Claims Settlement Act 2012 (2012 No 28).

## **52 Permit holder may obtain order**

Where a permit holder or other person authorised to enter on land under section 49 has complied with the requirements of that section and, in the exercise of his or her rights under that section, is obstructed, hindered, or interfered with by an owner or occupier of the land, or any other person, the permit holder or person so authorised may apply to the District Court for an order directing that he or she or any other person having rights under section 49 be permitted to exercise those rights.

Section 52: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### *Access to land other than for minimum impact activity*

## **53 Access to land for petroleum**

- (1) This section shall not apply to minimum impact activities.
- (2) The holder of a permit in respect of petroleum shall not prospect, explore, or mine on or in land to which his or her permit relates otherwise than in accordance with an access arrangement—
  - (a) agreed in writing between the permit holder and each owner and occupier of the land; or
  - (b) determined by an arbitrator in accordance with this Act.
- (3) Subsection (2) does not apply if the permit relates to—
  - (a) land in the continental shelf; or
  - (b) land in the common marine and coastal area, but if the permit relates to land described in Schedule 4, the permit holder may exercise the permit only—
    - (i) in respect of land that is not subject to a customary marine title order or agreement; and
    - (ii) in accordance with an access arrangement agreed in writing between the permit holder, the Minister, and the appropriate Minister in relation to an activity set out in section 61(1A)(a) to (e).

Section 53(3): replaced, on 24 May 2013, by section 38 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **54 Access to land for minerals other than petroleum**

- (1) This section shall not apply to minimum impact activities.
- (2) The holder of a permit in respect of a mineral (other than petroleum) shall not prospect, explore, or mine in land to which his or her permit relates otherwise than in accordance with an access arrangement—

- (a) agreed in writing between the permit holder and each owner and occupier of the land; or
  - (b) determined by an arbitrator in accordance with this Act.
- (3) Subsection (2) does not apply if the permit relates to—
- (a) land in the continental shelf; or
  - (b) land in the common marine and coastal area, but if the permit relates to land described in Schedule 4, the permit holder may exercise the permit only—
    - (i) in respect of land that is not subject to a customary marine title order or agreement; and
    - (ii) in accordance with an access arrangement agreed in writing between the permit holder and the appropriate Minister in relation to an activity set out in section 61(1A)(a) to (e).

Section 54(2)(a): substituted, on 28 September 1993, by section 10 of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 54(2)(b): substituted, on 28 September 1993, by section 10 of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 54(3): replaced, on 24 May 2013, by section 39 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **55 Restrictions on determination of access arrangements by arbitrators**

- (1) Subject to section 66, or to any agreement between each owner and occupier of the land and the person desiring access, an arbitrator shall not be entitled to determine an access arrangement in respect of prospecting or exploration for, or mining of, a mineral other than petroleum.
- (2) Unless otherwise agreed between each owner and occupier of the land and the person desiring access, an arbitrator shall not be entitled to determine an access arrangement to enable prospecting or exploration for, or mining of, petroleum in respect of the following classes of land:
  - (a) any land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of the Conservation Act 1987:
  - (b) land subject to an open space covenant in terms of the Queen Elizabeth the Second National Trust Act 1977:
  - (c) land subject to a covenant in terms of the Conservation Act 1987 or the Reserves Act 1977:
  - (d) land for the time being under crop:
  - (e) land used as or situated within 30 metres of a yard, stockyard, garden, orchard, vineyard, plant nursery, farm plantation, shelterbelt, airstrip, or indigenous forest:
  - (f) land which is the site of or situated within 30 metres of any building, cemetery, burial ground, waterworks, race, or dam:

- (g) land having an area of 4.05 hectares or less.
- (3) Land within the common marine and coastal area is deemed, for the purpose of subsection (2), not to be within any of the classes of land described in that subsection.

Section 55(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 55(1): amended, on 28 September 1993, by section 11(a) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 55(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 55(2): amended, on 28 September 1993, by section 11(b) of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 55(3): added, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

## **56 Provisions relating to access arrangements**

Where an owner or occupier has entered into an access arrangement, the arrangement shall be binding on the owner or occupier and, subject to the requirements of section 83 having been met, on all successors in title to the owner and occupier.

## **57 Meaning of entry on land**

For the purposes of sections 53 and 54, prospecting, exploration, or mining carried out below the surface of any land shall not constitute prospecting, exploration, or mining on or in land if it—

- (a) will not or is not likely to cause any damage to the surface of the land or any loss or damage to the owner or occupier of the land; or
- (b) will not or is not likely to have any prejudicial effect in respect of the use and enjoyment of the land by the owner or occupier of the land; or
- (c) will not or is not likely to have any prejudicial effect in respect of any possible future use of the surface of the land.

## **58 Disputes as to classification of land and activities**

- (1) If any dispute arises as to whether or not—
- (a) any land is included in a class of land referred to in section 55; or
  - (b) any activity is a minimum impact activity; or
  - (c) prospecting, exploration, or mining carried out below the surface of any land constitutes prospecting, exploration, or mining on or in land for the purposes of section 53 or section 54—
- a party to the dispute may apply to the District Court for that court to determine the matter.
- (2) At least 10 days' notice in writing of any such application shall be given by the applicant to every other party to the dispute.

- (3) On the receipt of any such application, the Registrar of the District Court shall give notice of the time and place fixed for the hearing of the application to the applicant and every other party to the dispute.
- (4) The applicant and every other party to the dispute shall be entitled to be present and to be heard at the hearing of the application.

Section 58(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **59 Notice of request for grant of right of access**

- (1) Every person wishing to obtain an access arrangement in order to prospect, explore, or mine on or in land shall serve on each owner and occupier of the relevant land a notice in writing of that person's intention to obtain an access arrangement.
- (2) Every notice under subsection (1) shall, in addition to matters required by regulations, specify—
  - (a) the land affected; and
  - (b) the purpose for which the right of access is required; and
  - (c) the proposed programme of work including the type and duration of work to be carried out and the likely adverse effect on the land or the owner or occupier of the land; and
  - (d) the compensation and safeguards against any likely adverse effects proposed; and
  - (e) the type of permit held or applied for by the person giving the notice; and
  - (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.
- (3) Where an access arrangement is obtained by way of agreement, and the requirements of this section were not complied with in a material way, then such agreement shall be of no force or effect unless the non-compliance is waived in writing by the owner or occupier affected.

Section 59(2)(e): amended, on 24 May 2013, by section 40(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 59(2)(f): inserted, on 24 May 2013, by section 40(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **60 Grant of right of access by access arrangement**

- (1) An access arrangement in relation to land may make provision for or with respect to the following matters:
  - (a) the periods during which the permit holder is to be permitted access to the land:

- (b) the parts of the land on or in which the permit holder may explore, prospect, or mine and the means by which the permit holder may gain access to those parts of the land:
  - (c) the kinds of prospecting, exploration, or mining operations that may be carried out on or in the land:
  - (d) the conditions to be observed by the permit holder in prospecting, exploring, or mining on or in the land:
  - (e) the things which the permit holder needs to do in order to protect the environment while having access to the land and prospecting, exploring, or mining on or in the land:
  - (f) the compensation to be paid to any owner or occupier of the land as a consequence of the permit holder prospecting, exploring, or mining on or in the land:
  - (g) the manner of resolving any dispute arising in connection with the arrangement:
  - (h) the manner of varying the arrangement:
  - (i) such other matters as the parties to the arrangement may agree to include in the arrangement.
- (2) In considering whether to agree to an access arrangement, an owner or occupier of land (other than Crown land) may have regard to such matters as he or she considers relevant.

**61 Access arrangements in respect of Crown land and land in common marine and coastal area**

- (1) The appropriate Minister may, by agreement with the permit holder concerned, enter into the following arrangements in respect of Crown land or, subject to sections 53(3) and 54(3), the common marine and coastal area:
- (a) an initial access arrangement in relation to a Tier 2 permit:
  - (b) a variation to an existing access arrangement in relation to a Tier 2 permit:
  - (c) a variation to an existing access arrangement in relation to a Tier 1 permit, except if the variation is to allow access for the purpose of significant exploration or mining activities.
- (1AA) The Minister and the appropriate Minister may, by agreement with the permit holder concerned, enter into the following arrangements in respect of Crown land or, subject to sections 53(3) and 54(3), the common marine and coastal area:
- (a) an initial access arrangement in relation to a Tier 1 permit:

- (b) a variation to an existing access arrangement in relation to a Tier 1 permit if the variation is to allow access for the purpose of significant exploration or mining activities.
- (1AAB) The appropriate Minister must determine whether or not activities are significant exploration or mining activities for the purposes of this section and, in doing so, must have regard to—
- (a) the effects the activities are likely to have on conservation values for the land concerned; and
  - (b) the effects the activities are likely to have on other activities on the land; and
  - (c) the activities' net impact on the land, either while the activities are taking place or after their completion; and
  - (d) any other matters that the appropriate Minister considers relevant to achieving the purpose of this Act.
- (1A) The Minister of Conservation or the Minister and the Minister of Conservation, as the case may be, must not accept any application for an access arrangement, or variation to an access arrangement, or enter into any access arrangement, or variation to an access arrangement, relating to any Crown owned mineral in any Crown owned land or internal waters or land of the common marine and coastal area described in Schedule 4, except in relation to any activities as follows:
- (a) that are necessary for the construction, use, maintenance, or rehabilitation, of an emergency exit or service shaft for an underground mining operation, where these cannot safely be located elsewhere, provided that it does not result in—
    - (i) any complete stripping of vegetation over an area exceeding 100 square metres; or
    - (ii) any permanent adverse impact on the profile or surface of the land which is not a necessary part of any such activity:
  - (b) that do not result in—
    - (i) any complete stripping of vegetation over an area exceeding 16 square metres; or
    - (ii) any permanent adverse impact on the profile or surface of the land that is not a necessary part of any activity specified in paragraph (a):
  - (c) a minimum impact activity:
  - (d) gold fossicking carried out in an area designated as a gold fossicking area under section 98 or 98A:
  - (e) any special purpose mining activity carried out in accordance with a mining permit.



- (2) In considering whether to agree to an access arrangement, or variation to an access arrangement, in respect of Crown land, the appropriate Minister, or the Minister and the appropriate Minister, as the case may be, shall have regard to—
  - (a) the objectives of any Act under which the land is administered; and
  - (b) any purpose for which the land is held by the Crown; and
  - (c) any policy statement or management plan of the Crown in relation to the land; and
  - (d) the safeguards against any potential adverse effects of carrying out the proposed programme of work; and
  - (da) the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and
  - (db) if section 61C(3) applies, the recommendation of the Director-General of Conservation and summary referred to in that subsection; and
  - (e) such other matters as the appropriate Minister considers, or the Minister and the appropriate Minister, as the case may be, consider relevant.
- (3) Where a permit holder has secured the right, under the Resource Management Act 1991, to exclusive occupation of Crown land in the coastal marine area (as defined in section 2(1) of that Act), it shall not be necessary for the permit holder to enter into an access arrangement in respect of that land.
- (4) Subject to subsections (6) to (9), the Governor-General may from time to time, by Order in Council made on the recommendation of the Minister and the Minister of Conservation, amend Schedule 4.
- (5) Before making any recommendation for the purposes of subsection (4), the Minister and the Minister of Conservation must consult to the extent that is reasonably practicable, having regard to all the circumstances of the particular case, those persons the Ministers have reason to believe are representative of interests likely to be substantially affected by the Order in Council or representative of some aspect of the public interest.
- (6) No Order in Council may be made under subsection (4) in respect of any land held under the Conservation Act 1987 for conservation purposes that is declared an ecological area under section 18(1) of the Conservation Act 1987 unless the Minister and the Minister of Conservation make a recommendation to the Governor-General after making an assessment of—
  - (a) the particular scientific value for which the land is held; and
  - (b) the value of any Crown owned minerals in the land.
- (7) Notwithstanding subsection (6), no Order in Council may be made under subsection (4) in respect of any ecological area to the extent that the ecological area includes land subject to Schedule 4 of the Conservation Act 1987.
- (8) No Order in Council may be made under subsection (4) in respect of—

- (a) Red Mercury Island (Whakau); or
  - (b) Green Island; or
  - (c) Atiu or Middle Island; or
  - (d) Korapuki Island,—  
all situated in the Mercury Islands.
- (9) No Order in Council may be made under subsection (4) that results in land within a category of land described in clauses 1 to 8 of Schedule 4 of this Act being excluded from that schedule.
- (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.

Section 61 heading: amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 61(1): replaced, on 24 May 2013, by section 41(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(1AA): inserted, on 24 May 2013, by section 41(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(1AAB): inserted, on 24 May 2013, by section 41(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(1A): inserted, on 26 November 1997, by section 2(1) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 61(1A): amended, on 24 May 2013, by section 41(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(1A): amended, on 24 May 2013, by section 41(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(1A): amended, on 24 May 2013, by section 41(4) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(1A): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 61(1A)(d): amended, on 24 May 2013, by section 41(5) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(1A)(e): replaced, on 24 May 2013, by section 41(6) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(2): amended, on 24 May 2013, by section 41(7) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(2): amended, on 24 May 2013, by section 41(8) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(2)(da): inserted, on 24 May 2013, by section 41(9) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(2)(db): inserted, on 24 May 2013, by section 41(9) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(2)(e): amended, on 24 May 2013, by section 41(10) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(3): added, on 28 September 1993, by section 12 of the Crown Minerals Amendment Act 1993 (1993 No 139).

Section 61(4): added, on 26 November 1997, by section 2(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 61(4): amended, on 24 May 2013, by section 41(11) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(5): added, on 26 November 1997, by section 2(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 61(6): added, on 26 November 1997, by section 2(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 61(6)(b): amended, on 24 May 2013, by section 41(12) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(7): added, on 26 November 1997, by section 2(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 61(7): amended, on 21 October 2000, by section 22 of the Forests (West Coast Accord) Act 2000 (2000 No 45).

Section 61(8): added, on 26 November 1997, by section 2(2) of the Crown Minerals Amendment Act (No 2) 1997 (1997 No 91).

Section 61(9): inserted, on 24 May 2013, by section 41(13) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61(10): inserted, on 24 May 2013, by section 41(13) of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **61A Access to Crown land where mineral not property of the Crown**

- (1) A person must not prospect, explore, or mine in any Crown land in respect of any mineral that is not the property of the Crown otherwise than in accordance with an access arrangement entered into under section 61B.
- (2) Nothing in sections 54 to 59, 61, 62 to 75, 78 to 82, and 89 applies in respect of any such access arrangement.
- (3) For the purposes of section 61B, in sections 60, 76, and 83 to 88,—
  - (a) the term **permit** includes any form of authorisation by the owner of the mineral to prospect, explore, or mine any mineral that is not the property of the Crown:
  - (b) the term **permit holder** includes the holder of an authorisation under paragraph (a).

Section 61A: inserted, on 29 October 1997, by section 3 of the Crown Minerals Amendment Act 1997 (1997 No 82).

### **61B Access arrangements in respect of Crown land where mineral not property of the Crown**

- (1) The appropriate Minister may, by agreement, enter into an access arrangement in respect of Crown land for the purpose of granting access to any mineral that is not the property of the Crown.

- (2) In considering whether to agree to an access arrangement in respect of Crown land for that purpose, the appropriate Minister must have regard to—
- (a) the objectives of any Act under which the land is administered; and
  - (b) any purpose for which the land is held by the Crown; and
  - (c) any policy statement or management plan of the Crown in relation to the land; and
  - (d) the safeguards against any potential adverse effects of carrying out the proposed programme of work in relation to the mineral; and
  - (e) the interests of the owner of the mineral, or of any person to whom the owner of the mineral has granted any rights in relation to the mineral, in obtaining access to that mineral; and
  - (f) such other matters as the appropriate Minister considers relevant.
- (3) Where the owner of the mineral or any person to whom the owner of the mineral has granted any rights in relation to the mineral, as the case may be, has secured the right, under the Resource Management Act 1991, to exclusive occupation of Crown land in the coastal marine area (as defined in section 2(1) of that Act), it is not necessary for the owner of the mineral or that person to enter into an access arrangement in respect of that land.

Section 61B: inserted, on 29 October 1997, by section 3 of the Crown Minerals Amendment Act 1997 (1997 No 82).

### **61C Public notification of certain access arrangements**

- (1) This section applies if an application under section 61 is made for an access arrangement in respect of Crown land for which the Minister of Conservation is the appropriate Minister and the purpose of access is to allow mining activities.
- (2) The Minister of Conservation must determine whether or not the proposed activities are significant mining activities and, in doing so, must have regard to—
- (a) the effects the activities are likely to have on conservation values for the land concerned; and
  - (b) the effects the activities are likely to have on other activities on the land; and
  - (c) the activities' net impact on the land, either while the activities are taking place or after their completion; and
  - (d) any other matters that the Minister considers relevant to achieving the purpose of this Act.
- (3) If the Minister of Conservation determines the proposed mining activities to be significant mining activities,—
- (a) he or she must ensure that the application is publicly notified in accordance with section 49 of the Conservation Act 1987 as if the application

were an application for a concession that is required to be publicly notified under that Act; and

- (b) section 49 of that Act applies with the necessary modifications; and
  - (c) the Director-General of Conservation must perform the duties required by that section as if the application were a proposal, including sending a recommendation and summary of objections and comments received to the Minister of Conservation and, if the application relates to a matter to which section 61(1AA) applies, to the Minister.
- (4) The public notification of an application in accordance with subsection (3) may (without limitation) be conducted in conjunction with the public notification of any related concession application under the Conservation Act 1987.

Section 61C: inserted, on 24 May 2013, by section 42 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 61C(3)(a): amended, on 18 October 2017, by section 206(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).

## **62 Prohibition of access in respect of Crown land**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister and the Minister administering the land concerned, prohibit access in respect of any Crown land.
- (2) No minimum impact activities shall be carried out on land subject to an Order in Council under subsection (1).
- (3) No access arrangement shall be made in respect of any land subject to an Order in Council under subsection (1).
- (4) An Order in Council made under subsection (1) shall not affect—
  - (a) any access arrangement entered into before the date of the Order in Council or any rights granted under such an arrangement; or
  - (b) the rights of the holder of an existing privilege under Schedule 1.

Section 62(4)(b): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **63 Request for appointment of arbitrator**

- (1) If, by the end of 60 days (or, in the case of access required for a geophysical survey, 30 days) after a person serves notice in writing under section 59 on each owner and occupier of land to which the person desires access, that person has been unable to agree on an access arrangement with each owner and occupier, that person may, by further notice in writing served on each owner and occupier, request them to agree to the appointment of an arbitrator.
- (2) The person desiring access, and each owner and occupier of the land concerned, may agree to the appointment of any person as arbitrator.

**64 Appointment of arbitrator in default of agreement**

- (1) If, by the end of 30 days after a person desiring access serves notice in accordance with section 63, that person and each owner and occupier of the land concerned have been unable to agree on the appointment of an arbitrator, then any one of them may apply to the chief executive for the appointment of an arbitrator.
- (2) Every such application shall be accompanied by the prescribed fee.
- (3) On receipt of such an application the chief executive shall as soon as practicable appoint an arbitrator.

Section 64(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 64(3): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**65 Fixing time and place for conducting hearing**

- (1) As soon as practicable after having been appointed, an arbitrator shall—
  - (a) fix a time and place for conducting a hearing into the question of access to the land concerned; and
  - (b) cause notice of his or her appointment, and of the time and place fixed for conducting the hearing, to be given to the person desiring access and to each of the owners and occupiers of that land.
- (2) The arbitrator may, by a further notice served on the person desiring access and on each of the owners and occupiers of the land concerned (whether on the application of the person desiring access or of any owner or occupier of that land or otherwise), vary the time or place fixed for conducting the hearing.
- (3) The arbitrator shall, at the time and place fixed under this section, conduct a hearing into the question of access to the land concerned.

Section 65(1)(b): amended, on 28 September 1993, by section 13 of the Crown Minerals Amendment Act 1993 (1993 No 139).

**66 Declaration by Order in Council that access arrangement may be determined by arbitrator**

- (1) If—
  - (a) the owner or occupier of any land which is subject to a permit fails or refuses to enter into an access arrangement with the holder of the permit in respect of such land by the end of 60 days after the holder has served on the owner or occupier a notice of intention to obtain an access arrangement as specified in section 59; and
  - (b) the land is not Maori land, or land registered in the name of Pootatau Te Wherowhero under section 19 of the Waikato Raupatu Claims Settlement Act 1995, or land defined as private land by section 5(1) of the

Mining Act 1971, or a class of land to which any of paragraphs (a) to (g) of section 55(2) relate—

the permit holder may apply to the chief executive for a declaration by the Governor-General that an arbitrator may proceed to determine an access arrangement between the permit holder and owner or occupier in respect of the land concerned, on the grounds of the public interest.

- (2) On receiving an application under subsection (1), the chief executive shall report on it to the Minister.
- (3) If the Minister, after considering the application and the chief executive's report, considers that there are sufficient public interest grounds to support the application, the Minister shall cause to be served on the owner and occupier of the land a notice in writing of the application, and of the Minister's preliminary views, and stating that the owner and occupier have a period of 3 months, after the date on which the notice was served, to either—
  - (a) enter into an access arrangement with the permit holder; or
  - (b) consent in writing to an arbitrator determining an access arrangement; or
  - (c) make representations to the Minister as to why a declaration should not be made under this section.
- (4) A notice under subsection (3) shall specify the land to which it relates and the public interest grounds which the Minister considers support the application, and shall have attached to it a copy of the application.
- (5) If, within the period of 3 months referred to in subsection (3),—
  - (a) an access arrangement between the permit holder and the owner and occupier is not entered into; or
  - (b) the owner and occupier do not consent to an arbitrator determining an access arrangement—

the Governor-General, within 3 months after the expiry of that period, may by Order in Council on the joint advice of the Minister and the Minister for the Environment (if the Governor-General on such advice considers it to be in the public interest to do so) declare that an arbitrator may proceed to determine an access arrangement between the permit holder and owner and occupier in respect of the land specified in the notice, or any part of it.

- (6) A consent given or declaration made under this section shall entitle an arbitrator to proceed to determine an access arrangement between the applicant under this section and the owner and occupier of the land concerned; and any such arrangement shall be effective in respect of the land to which it relates.

Section 66(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 66(1)(b): amended, on 15 November 1995, by section 36 of the Waikato Raupatu Claims Settlement Act 1995 (1995 No 58).

Section 66(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 66(3): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 66(5): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **67 Right of appearance**

- (1) At any hearing by an arbitrator into the question of access, a person desiring access to the land concerned, and each of the owners and occupiers of the land, are entitled to appear and be heard.
- (2) A party to a hearing may be represented by counsel or otherwise.

## **68 Conciliation**

- (1) An arbitrator shall not make a determination until the arbitrator has brought, or has used his or her best endeavours to bring, the parties to a settlement acceptable to all of them.
- (2) If the parties come to such a settlement, the arbitrator shall make a determination which gives effect to the terms of the settlement.

## **69 Procedure**

- (1) Except as otherwise provided by this Act, the procedure at a hearing shall be as determined by the arbitrator.
- (2) An arbitrator shall act according to equity, good conscience, and the substantial merits of the case without regard for technicalities or legal forms.
- (3) An arbitrator may conduct a hearing even though 1 or more of the parties to the hearing fails to attend the hearing.

## **70 Determination of access arrangement, etc**

- (1) As soon as practicable after conducting a hearing, the arbitrator shall determine an access arrangement in respect of the land concerned giving the person desiring access access to the land on reasonable conditions, and serve a copy of the arrangement on each of the parties to the hearing.
- (2) An access arrangement that is determined by an arbitrator shall specify the compensation, as assessed by the arbitrator, to which each owner or occupier of the land is entitled under section 76.
- (3) Where the person desiring access has not obtained the required permit under this Act at the time of the determination of an access arrangement, the arbitrator shall specify the compensation, as assessed by the arbitrator, to which each owner and occupier would be entitled under section 76 if the person desiring access had obtained the required permit; and in any such case the obligation to pay compensation shall be conditional upon the person desiring access obtaining the required permit.



**71 Effect of access arrangement, etc**

An access arrangement determined by an arbitrator—

- (a) takes effect when a copy of the arrangement has been served on each of the parties to the hearing and the person desiring access has complied with the requirements of section 83, if that section is applicable; and
- (b) has effect as if its terms were embodied in a deed that had been duly executed by each of the parties; and
- (c) runs with the land and binds all subsequent owners and occupiers.

**72 Variation of access arrangements**

An access arrangement determined by an arbitrator may, subject to the terms of the arrangement, be varied by the arbitrator with the consent of all of the parties to the arrangement, or their successors.

**73 Costs**

Each party's costs, and the arbitrator's costs, in relation to the hearing shall be borne by the person desiring access.

**74 Withdrawal from arbitration**

- (1) The parties to a hearing may, at any time before the conclusion of the hearing, terminate the hearing by notice in writing, signed by all of the parties, served on the arbitrator.
- (2) This section does not limit the liability of the person desiring access to bear the arbitrator's costs in relation to the hearing.

**75 Liability**

Subject to section 76(4), no proceedings lie against an arbitrator for or with respect to—

- (a) any determination made by the arbitrator; or
- (b) any publication made by the arbitrator; or
- (c) any other act, matter, or thing done by the arbitrator—

for the purposes of a hearing, as long as the determination, publication, act, matter, or thing was made or done in good faith.

**76 Compensation for owners and occupiers**

- (1) Where a person is authorised to prospect, explore, or mine on or in land by a permit granted under this Act and by an access arrangement in respect of that land, the owner and occupier of the land are entitled to compensation from the permit holder for injurious affection and all other loss or damage suffered, or likely to be suffered, by them as a result of the grant of the permit or the exercise of the rights conferred by this Act, or by the permit, or by an access arrangement; and such compensation shall include all of the following:

- (a) reimbursement of all reasonable costs and expenses incurred by the owner or occupier in respect of negotiations with the permit holder and all reasonable legal and valuation fees in respect of the determination of an access arrangement:
  - (b) reimbursement for loss of income:
  - (c) a sum by way of solatium for loss of privacy and amenities:
  - (d) reimbursement of all reasonable costs incurred in ensuring compliance with, and monitoring of, the access arrangement.
- (2) In assessing the amount of compensation to which an owner or occupier is entitled under subsection (1), an arbitrator shall assess it in accordance with the provisions of the Public Works Act 1981, as if the commencement of activities on land under a permit were the taking of land within the meaning of that Act, except that—
  - (a) where any land damaged is flat land the use of which is necessary for the proper working of hill land, the extent to which the value of the hill land is affected shall, in addition, be taken into account; and
  - (b) where an Order in Council has been made under section 66 declaring that an arbitrator may determine an access arrangement, once the amount has been assessed in accordance with that Act and this section, the arbitrator shall also assess it in the light of any consideration agreed to be paid by the person desiring access, or any other person, to an owner or occupier in any comparable situation in respect of the same or a similar prospecting, exploration, or mining proposal, and shall then determine that the amount to be paid is to be the higher of the amounts so assessed.
- (3) For the purposes of subsection (2)(b)—
  - (a) the owner and occupier and any other person may give such information to the arbitrator as they possess:
  - (b) the arbitrator may require the person desiring access to give such information to the arbitrator as the arbitrator determines regarding the consideration agreed to be paid by that person for an access arrangement entered into with any other owner and occupier in any comparable situation.
- (4) Any information provided by a person to an arbitrator pursuant to subsection (3)(b) shall be treated as confidential by the arbitrator, and section 75 shall not apply in respect of any breach of such confidentiality by the arbitrator.
- (5) If a person desiring access fails or refuses to give any information pursuant to subsection (3)(b) to the arbitrator's satisfaction, within such reasonable period as is specified by the arbitrator, the arbitrator shall refuse to determine an access arrangement.

- (6) In considering the provision of compensation as part of an access arrangement, an arbitrator shall have regard to any monetary or non-monetary compensation offered to the owner or occupier by a person desiring access.
- (7) Where an owner or occupier suffers loss, injury, or damage due to the activities of a permit holder or of a person authorised under section 49(1) carried out on the owner's or occupier's land, and the permit holder entered the land under the authority of an access arrangement or of section 49, the owner or occupier shall be entitled to and may claim full compensation against the permit holder or person authorised for all loss, injury, or damage suffered by him or her as a consequence of such activities to the extent that compensation for such activities has not already been provided for in an access arrangement.
- (8) In default of agreement between the parties, compensation payable under subsection (7) shall be assessed and determined by an arbitrator appointed in the same manner as for the determination of an access arrangement; and the provisions of this Act relating to the determination of an access arrangement shall, with all necessary modifications, apply accordingly.

#### **77 Compliance with access conditions**

No person entitled to exercise a right of access by virtue of an access arrangement shall contravene the conditions of the arrangement.

#### **78 Absentee or unknown owner of land**

- (1) Where an owner or occupier of land with whom it is desired to enter into an access arrangement under this Part is—
  - (a) of unknown whereabouts and has no known agent; or
  - (b) unknown,—the person seeking the right of access may, after notifying Public Trust, apply to the District Court for an order authorising Public Trust to act as if it were the agent of the owner or occupier; and that court may make such an order.
- (2) On the making of such an order, Public Trust shall, for the purposes of this Part, be deemed to be the agent of the owner or occupier in respect of whom the order was made, and notwithstanding the provisions of any Act, rule of law, deed, or instrument, may enter into an access arrangement on behalf of the owner or occupier.
- (3) Any compensation payable under an access arrangement to an owner or occupier to which an order under subsection (1) applies shall be paid to Public Trust who shall hold such compensation on behalf of the owner or occupier concerned.
- (4) Where any doubt or dispute arises as to the right of any person to receive compensation held by Public Trust under subsection (3), the High Court may, upon the application of any of the parties interested, make such order in relation to

the compensation as it thinks fit, and Public Trust shall pay any such compensation in accordance with that order.

Section 78(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(1): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 78(2): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 78(3): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 78(4): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

## **79 Absentee or unknown owner of minerals**

- (1) If any person desires to enter into an agreement with the owner of a mineral estate for the purpose of acquiring title to or any interest in the mineral estate, and if the owner is—
  - (a) unknown; or
  - (b) of unknown whereabouts and has no known agent; or
  - (c) an infant, a mentally disordered person, or a person under some other legal disability,—

then in the absence of steps taken to appoint a person to represent the owner and after notifying Public Trust, the person desiring to acquire the title or interest may apply to the High Court for an order authorising Public Trust to act as if it were the agent of the mineral owner.

- (2) On the making of such an order, Public Trust may enter into an agreement with the applicant for the purchase at fair market value of the title to or any interest in the mineral estate.
- (3) Public Trust shall not enter into an agreement with the applicant for the purchase of the title to or any interest in the mineral estate if he or she considers an offer at fair market value has not been made.
- (4) Any money payable pursuant to any such agreement shall be paid to Public Trust, and Public Trust, after deducting any fair and reasonable costs incurred by it in relation to the agreement, shall hold the remaining money on behalf of the person represented by it.
- (5) If any doubt or dispute arises as to the rights of any person to receive the money held by Public Trust under this section, Public Trust may apply to the High Court for an order instructing Public Trust how to deal with and apply any such money.

Section 79(1): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 79(2): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 79(3): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 79(4): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 79(5): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

## **80 Access arrangements in respect of Maori land**

- (1) Except where the land is owned by a single owner in severalty or is vested in trust in a body corporate or a trustee (other than the Māori Trustee), any arrangement for the purposes of section 50 or section 60 with any person having a freehold interest in Maori land or any claim for compensation under section 76 shall be entered into or made by the Māori Trustee on behalf of that person.
- (2) If any Maori land is owned by a single owner in severalty or is vested in trust in a body corporate or a trustee (other than the Māori Trustee), the owner or the body corporate or the trustee, as the case may be, may appoint the Māori Trustee as his, her, or its agent to act in respect of any arrangement for the purposes of section 50 or section 60 or any claim for compensation under section 76; and in any such case the Māori Trustee, if he or she accepts the appointment, shall have all the powers and discretions of the person appointing him or her in respect of such an arrangement.
- (3) Any compensation agreed upon in any case where the Māori Trustee is acting for the person entitled to it shall be paid to the Māori Trustee; and, subject to subsection (4), the Māori Trustee shall distribute the compensation money, after making any proper deductions, to the persons entitled to it.
- (4) If he or she thinks fit to do so, the Māori Trustee may apply to the Maori Land Court to determine to whom, and in what proportions, any compensation money paid to him or her under this section should, according to what the court considers just and equitable in the circumstances, be distributed; and the compensation money shall be distributed in accordance with any order made by the court in that behalf.
- (5) Any action or decision of the Māori Trustee under this section shall be binding on all persons whom he or she represents, and anything done or omitted to be done by the Māori Trustee in the exercise of his or her rights and powers under this section shall not be actionable at the suit of any person.

Section 80(1): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 80(2): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 80(3): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 80(4): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 80(5): amended, on 1 July 2009, pursuant to section 30(2)(a) of the Māori Trustee Amendment Act 2009 (2009 No 12).

### *Notation on land titles*

#### **81 Lodging and notation of permits**

*[Repealed]*

Section 81: repealed, on 21 August 2003, by section 10 of the Crown Minerals Amendment Act 2003 (2003 No 45).

#### **82 Lodging of certificates of extension**

*[Repealed]*

Section 82: repealed, on 21 August 2003, by section 11 of the Crown Minerals Amendment Act 2003 (2003 No 45).

#### **83 Notation of access rights on land titles**

- (1) On entering into an access arrangement that is of more than 6 months' duration from its date of commencement, the permit holder or applicant for a permit who entered into the arrangement must as soon as practicable lodge with the Registrar-General of Land a notice of the particulars of the arrangement with a copy of the arrangement attached, and any fee prescribed by regulations under the Land Transfer Act 2017.
- (2) A copy of an arrangement lodged under subsection (1) may have excluded from it any monetary sums paid or agreed to be paid under it.
- (3) On receipt of a notice under subsection (1) and of the prescribed fee, the Registrar-General of Land must, if everything is in order, note the notice by recording it on the relevant record of title.

Section 83: replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

#### **84 Entry of permit and access particulars acts as notice only**

- (1) The notation on a record of title by the Registrar-General of Land of the particulars of a permit or access arrangement operates only as notice of the existence of the permit or access arrangement and does not create any estate or interest under the Land Transfer Act 2017.
- (2) This section does not apply to particulars of a permit granted after 21 August 2003.

Section 84(1): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 84(2): added, on 21 August 2003, by section 12 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 84(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**85 Land Transfer Act 2017 not to limit or affect rights under permits or rights of access**

(1) Nothing in the Land Transfer Act 2017 shall be construed to in any way limit or affect any right, title, or interest held under a permit that has been recorded by the Registrar-General of Land under section 81 or in any way limit or affect any access arrangement which has been recorded by the Registrar-General of Land under section 83.

(2) This section does not apply to particulars of a permit granted after 21 August 2003.

Section 85(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 85(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 85(2): added, on 21 August 2003, by section 13 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 85(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**86 Notation of mineral ownership on land titles**

(1) Any person may apply to the Registrar-General of Land to have entered on any record of title registered or lodged in the office of the Registrar-General of Land for an estate in fee simple, the particulars of the ownership of all or any of the minerals in the land to which the estate in fee simple relates.

(2) Every application under subsection (1) shall be in the form prescribed under the Land Transfer Act 2017 and shall be lodged with the Registrar-General of Land together with any fee prescribed by regulations under the Land Transfer Act 2017.

(3) On the lodging with the Registrar-General of Land of—

(a) an application under subsection (1); or

(b) *[Repealed]*

(c) an instrument evidencing a transfer of or dealing with the ownership of a mineral; or

(d) an instrument having the effect of alienating land from the Crown,—

the Registrar-General of Land shall ensure, to the extent he or she is able, that the particulars of the ownership of the minerals in the land concerned are entered on every record of title for an estate in fee simple in that land.

(4) Where the Registrar-General of Land considers that he or she does not have available to him or her sufficient information on the ownership of the minerals in any land to carry out his or her duty under subsection (3), he or she may require the deposit of such plans or the supply of such information as he or she considers reasonably necessary, together with such further fees as may be prescribed by regulations under the Land Transfer Act 2017. Unless the Registrar-

General of Land otherwise directs in any particular case, such plans or information shall not be accepted by the Registrar-General of Land until they have been certified as correct by the Surveyor-General.

(5) *[Repealed]*

Section 86(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 86(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 86(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 86(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 86(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 86(3): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 86(3)(b): repealed, on 21 August 2003, by section 14(1) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 86(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 86(4): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 86(5): repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

**87 Certified copies of documents to be evidence**

(1) The Registrar-General of Land shall, on payment of any fee prescribed by regulations under the Land Transfer Act 2017, provide to any person so applying a certified copy of any document that has been lodged with and recorded by the Registrar-General of Land under this Part.

(2) Any such certified copy that is signed by the Registrar-General of Land and sealed with his or her seal shall be received in evidence for all purposes for which the document might be put in evidence.

Section 87 heading: amended, on 21 August 2003, by section 15(1) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 87(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 87(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 87(1): amended, on 21 August 2003, by section 15(2) of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 87(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 87(2): amended, on 21 August 2003, by section 15(3) of the Crown Minerals Amendment Act 2003 (2003 No 45).



## **88 Recorded documents to be open for search**

*[Repealed]*

Section 88: repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## **89 Revision of records**

- (1) On the receipt by the Registrar-General of Land of any notice of revocation of or surrender of a permit, the Registrar-General of Land shall, without payment of a fee, sign and seal on the notice a statement of the time and date of receipt, note the particulars on his or her record copy of the permit affected, and attach the notice to that record copy.
- (2) This section applies only to permits lodged before 21 August 2003.

Section 89(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 89(2): added, on 21 August 2003, by section 17 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 89(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Registers, records, and use of information*

Heading: replaced, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **90 Permit holder records and reports**

- (1) Each permit holder must keep detailed records and reports in respect of all prospecting, exploration, and mining activities conducted by or on behalf of the permit holder—
  - (a) in accordance with the conditions of the permit and the regulations; and
  - (b) in a form that is readily accessible at all reasonable times by the chief executive or any person authorised in writing by the chief executive.
- (2) Each permit holder must provide to the chief executive, in accordance with the conditions of the permit and the regulations, a copy of the records and reports required to be kept under subsection (1) and, on the expiry of whichever of the periods referred to in subsection (6) first occurs, the chief executive must send a copy of those records and reports to the person designated by the Minister for the purposes of this subsection.
- (3) If requested by the chief executive to do so, a permit holder must provide to the chief executive—
  - (a) a copy of any report made by or for the permit holder in respect of any activities under the permit;
  - (b) a report on any specified aspect of the permit holder's activities under the permit.

- (4) When part of a permit is relinquished under section 35B or 35C or surrendered under section 40, the permit holder must provide to the chief executive separate copies of all geological, geophysical, and other reports previously provided to, or requested by, the chief executive under subsections (1) to (3), showing, separately, details in respect of the area of land in respect of which the relinquishment or surrender occurred.
- (5) If a permit is revoked or transferred to the Minister under section 39, the person who (immediately before the permit was revoked or transferred) was the permit holder must provide to the chief executive any report, document, or other information as required by the regulations.
- (6) The information supplied by a permit holder under subsections (1) to (3), other than information in relation to permits specified in subsection (7), must be made available by the chief executive to any person who requests it, on the payment of a reasonable charge for the costs incurred in making the information available, on and from the earliest of the following events:
  - (a) the expiry of 5 years from the date on which the information was obtained by the permit holder:
  - (b) the expiry of the permit and every subsequent permit in respect of that permit (in so far as the information relates to land covered by both the initial and any subsequent permit):
  - (c) if the permit holder surrenders the permit and is concurrently granted (under section 36(2)(b)) an extension of land for an equivalent permit and the extension includes land to which the surrendered permit applied, the expiry of the extended permit and every subsequent permit in respect of the extended permit (in so far as the information relates to land covered by the surrendered permit, the extended permit, and any subsequent permit in respect of the extended permit).
- (7) The information supplied by a permit holder under subsections (1) to (3) in respect of a prospecting permit for petroleum, or a non-exclusive prospecting permit for a mineral other than petroleum, must be made available by the chief executive to any person who requests it, on the payment of a reasonable charge for the costs incurred in making the information available, on and from the earlier of the following events:
  - (a) the expiry of 15 years from the date on which the information was obtained by the permit holder:
  - (b) the conclusion of a public tender process for exploration permits to the extent that the information relates to land to which the public tender relates, except if the public tender process concludes earlier than 5 years from the date on which the information was obtained by the permit holder, in which case, the expiry of the 5 years.
- (8) Despite subsection (7), all information provided under subsections (1) to (3) to the chief executive by a non-exclusive petroleum prospecting permit holder

who is determined to be a speculative prospector under section 90C must be made available by the chief executive to any person who requests it on or after the expiry of 15 years after the date on which the information was obtained by the permit holder.

- (9) The Minister, the chief executive, or an enforcement officer may use information supplied under this section at any time before or after the information is required to be made available under any of subsections (6) to (8) for the purpose of exercising any power or performing any function conferred on the person by or under this Act.
- (10) Section 90A applies to any information that, because of its use in accordance with subsection (9), is disclosed.
- (11) Nothing in this section requires the chief executive to send or make available any records, reports, information, or returns relating to the calculation and payment of royalties by permit holders.

Section 90: replaced, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **90A Disclosure of information**

- (1) The Minister, an appropriate Minister, the chief executive, or any enforcement officer must not disclose any information provided under or for the purposes of any of sections 23A, 24, 32, 33A to 33D, 35, 35A, 36 to 38, 41 to 41C, 42, 42A, 46, 61, 61B, 61C, 90, 99E, and 99F unless—
  - (a) the disclosure is for the purposes of, or in connection with, the performance or exercise of any function, duty, or power conferred or imposed by or under this Act on the Minister, the chief executive, or any enforcement officer; or
  - (b) the information is publicly available; or
  - (c) the disclosure is with the consent of the person to whom the information relates, or to whom the information is confidential; or
  - (d) the disclosure is in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other enactment; or
  - (e) disclosure is required by another enactment; or
  - (f) disclosure is required by a court of competent jurisdiction; or
  - (g) the information is disclosed to a regulatory agency under section 90E.
- (2) Any information that is disclosed under subsection (1)(a) for the purposes of, or in connection with, the Minister's function of attracting permit applications under section 5(a) must be disclosed only to external advisers to the Minister.
- (3) All disclosures that are made under subsection (1)(a) to an external adviser to the Minister must be made on a confidential basis.

Section 90A: replaced, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **90B Disclosure and publication of mineral resources and mineral production information**

- (1) Every holder of a permit must provide to the chief executive all information in connection with mineral resources and mineral production that is prescribed as information that must be provided under this section.
- (2) The information must be provided in accordance with the regulations.
- (3) The chief executive may, in accordance with the regulations, publish all, or any part, of the information provided under this section.
- (4) For the purposes of this section, **holder of a permit** includes every person who is the holder of an existing privilege.

Section 90B: inserted, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **90C Provisions relating to speculative prospectors**

- (1) A non-exclusive petroleum prospecting permit holder may apply to the Minister for a determination that the holder is a speculative prospector and, if the Minister is satisfied that the holder is a speculative prospector, the Minister must confer that status on the permit holder effective from the date of conferal.
- (2) An applicant for a non-exclusive petroleum prospecting permit may, at the same time as applying for the permit, apply to the Minister for a determination that, if granted a permit, the applicant will be a speculative prospector and, if the Minister is satisfied that the applicant will be a speculative prospector, the Minister must confer that status on the applicant, effective from the date the permit is granted, if the Minister grants the permit application.
- (3) If a permit holder with speculative prospector status subsequently becomes aware that the holder no longer falls within the definition of a speculative prospector, the holder must notify the Minister as soon as practicable and in any case not later than 10 working days after the date on which the holder becomes aware of that fact.
- (4) If the Minister, having previously determined that a permit holder is a speculative prospector, subsequently considers that the permit holder's business activities are not consistent with those of a speculative prospector (for example, because the holder is providing or selling data on an exclusive basis to 1 petroleum explorer), the Minister may, by notice in writing to the permit holder, remove the permit holder's status as a speculative prospector.
- (5) Before removing a permit holder's status under subsection (4), the Minister must—
  - (a) inform the permit holder of his or her intention and provide an opportunity for the permit holder to comment; and

- (b) consider any representations made by the permit holder.
- (6) If a permit holder notifies the Minister under subsection (3) or the Minister removes a permit holder's status as a speculative prospector under subsection (4), section 90(7) applies in relation to all records and reports provided by the permit holder to the chief executive, irrespective of whether the records and reports were obtained before or after the loss or removal of status.
- (7) In this Act, **speculative prospector** means a non-exclusive petroleum prospecting permit holder who carries out activities under the permit for the sole purpose of on-selling the information obtained on a non-exclusive basis to petroleum explorers and producers.

Section 90C: inserted, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**90D Treatment of speculative prospecting information purchased or licensed by permit holder**

- (1) If a permit holder purchases or licenses information that relates to the permit from a speculative prospector, for the purposes of section 90, the information must be treated as records or reports in respect of activities conducted by or on behalf of the permit holder.
- (2) However, when providing the information to the chief executive under section 90(2), the permit holder must clearly identify that the information was obtained by a speculative prospector.
- (3) Despite section 90(6) and (7), information to which this section applies must be made available by the chief executive to any person who requests it on or after the expiry of 15 years after the date on which the information was obtained by the speculative prospector.
- (4) A permit holder must, if requested to do so, provide evidence to satisfy the chief executive that any information supplied to him or her by the permit holder under section 90 was purchased or licensed information from a speculative prospector.

Section 90D: inserted, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**90E Providing information to regulatory agencies**

- (1) The Minister, an appropriate Minister, or the chief executive may provide to the health and safety regulator any information, or a copy of any document, that he or she—
- (a) holds in relation to the performance or exercise of his or her functions, duties, or powers under this Act that relate to a permit or an application for a permit; and
- (b) considers may assist the health and safety regulator in the performance or exercise of the regulator's functions, duties, or powers under any rele-

- vant health and safety legislation (as defined in section 16 of the Health and Safety at Work Act 2015).
- (2) The Minister, an appropriate Minister, or the chief executive may provide to Maritime New Zealand any information, or a copy of any document, that he or she—
    - (a) holds in relation to the performance or exercise of his or her functions, duties, or powers under this Act that relate to a permit or an application for a permit; and
    - (b) considers may assist the Director of Maritime New Zealand in the performance or exercise of his or her or Maritime New Zealand's functions, duties, or powers under the Maritime Transport Act 1994.
  - (3) The Minister may provide to the Environmental Protection Authority (established by section 7 of the Environmental Protection Authority Act 2011) and to any consent authority any information, or a copy of any document, that the Minister—
    - (a) holds in relation to the matters referred to in section 29A(2)(d) (whether obtained under section 24, 29A, or 29B); and
    - (b) considers may assist—
      - (i) the Environmental Protection Authority in the performance or exercise of its functions, duties, or powers under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Resource Management Act 1991; or
      - (ii) a consent authority in the performance or exercise of its functions, duties, or powers under the Resource Management Act 1991.
  - (4) However, subsections (1) to (3) do not apply to any information obtained under section 90 relating to the calculation and payment of royalties by permit holders.
  - (5) A regulatory agency must not disclose any information provided to it under this section to any other person or organisation unless—
    - (a) the disclosure is for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed by a specified Act on the regulatory agency; or
    - (b) the information is publicly available; or
    - (c) the disclosure is with the consent of the person to whom the information relates, or to whom the information is confidential; or
    - (d) the disclosure is in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other enactment; or
    - (e) disclosure is required by another enactment; or
    - (f) disclosure is required by a court of competent jurisdiction.

Section 90E: inserted, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 90E(1): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

**90F Conditions that may be imposed on providing information or documents under section 90E**

- (1) A person providing information or documents under section 90E(1), (2), or (3) may impose any conditions in relation to the provision of the information or documents, whether in compliance with a request or otherwise.
- (2) The conditions imposed under this section may include (without limitation) conditions relating to—
  - (a) the storing of, use of, or access to anything provided:
  - (b) the copying, returning, or disposing of copies of documents provided.

Section 90F: inserted, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**90G Regulatory agency may provide information for purposes of this Act**

- (1) A regulatory agency may provide to a 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 performance or exercise of its functions, duties, or powers under a specified Act that relate to activities under or associated with a permit.
- (4) A person or an 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.

Section 90G: inserted, on 24 May 2013, by section 43 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **91 Chief executive to keep registers**

- (1) The chief executive must keep a register of permits in the form that he or she thinks fit on which is entered brief particulars of all permits, including, in respect of each permit, the name and contact details of the permit participants, the name and contact details of the permit operator, and any changes, transfers, or leases of the permit.
- (2) The chief executive must ensure that the following information is available for public inspection on an Internet site maintained by or on behalf of the chief executive:
  - (a) a copy of every permit granted under this Act and all changes to a permit; and
  - (b) the register (or a copy of the register) kept under subsection (1); and
  - (c) any other prescribed documents.
- (3) The chief executive shall keep such other registers as may be prescribed or as he or she considers necessary.
- (4) The contents of any register kept by the chief executive may be evidenced in any proceedings by a certificate under the hand of the chief executive, and every such certificate shall, in the absence of proof to the contrary, be sufficient evidence of the matters stated therein.
- (5) A certificate under the hand of the chief executive that on a date specified in the certificate the name of any person did not appear in any register as the holder of a permit shall, in the absence of proof to the contrary, be sufficient evidence that the person was not the holder of such a permit on that date.

Section 91 heading: amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 91(1): replaced, on 24 May 2013, by section 44 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 91(2): replaced, on 24 May 2013, by section 44 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 91(3): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 91(4): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 91(5): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).



## **91A Correction of errors or omissions**

The chief executive may correct any clerical error or omission in a permit document that was made by the department of State that is for the time being responsible for the administration of this Act.

Section 91A: inserted, on 21 August 2003, by section 19 of the Crown Minerals Amendment Act 2003 (2003 No 45).

Section 91A: amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Miscellaneous provisions*

## **92 Permits are not real or personal property**

- (1) A permit is neither real nor personal property.
- (2) Except as expressly provided otherwise in the conditions of a permit,—
  - (a) on the death of a permit participant, his or her participating interest vests in the personal representative of the permit participant as if the participating interest were personal property, and the personal representative may deal with the participating interest to the same extent as the permit participant would have been able to; and
  - (b) on the bankruptcy of an individual who is the holder of a permit, the permit vests in the Official Assignee as if it were personal property, and he or she may deal with the permit to the same extent as the holder would have been able to do so; and
  - (c) a permit shall be treated as property for the purposes of the Protection of Personal and Property Rights Act 1988; and
  - (d) a permit is personal property for the purposes of the Personal Property Securities Act 1999.
- (3) The holder of a permit may grant a charge over that permit as if it were personal property, but the permit may only be transferred to the chargee, or by or on behalf of the chargee, to the same extent as it could be so transferred by the holder.
- (4) In the case of a participating interest to which subsection (2)(a) applies, the participating interest must be treated as property for the purposes of the distribution of the permit participant's estate and the permit participant's personal representative may transfer the participating interest to a beneficiary of the permit participant's estate without obtaining consent under section 41.

Section 92(2)(a): replaced, on 24 May 2013, by section 45(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 92(2)(c): amended, on 24 May 2013, by section 45(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 92(2)(d): inserted, on 24 May 2013, by section 45(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 92(4): inserted, on 24 May 2013, by section 45(4) of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **92A Effect of liquidation or loss of registration of company**

- (1) On the liquidation of a permit participant, its participating interest vests in the liquidator as if it were personal property, and the liquidator may deal with the participating interest to the same extent as the permit participant would have been able to.
- (2) On the removal of a permit participant from the New Zealand register under the Companies Act 1993, all participating interests held by the permit participant company vest in the Crown as if they were personal property.

Section 92A: inserted, on 24 May 2013, by section 46 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **93 Access arrangement does not confer interest**

- (1) An access arrangement does not transfer to, or confer on, the permit holder or applicant for a permit an estate or interest in the land to which it relates.
- (2) A right of access obtained by the holder of a permit may, subject to the conditions of the relevant access arrangement, be enjoyed by the holder for the time being of that permit.

### **94 Officers not to have personal interest**

Except as otherwise provided in this Act or in regulations, no person holding any office under, or employed by, the Crown in any capacity in the administration of this Act shall hold, directly or indirectly, any pecuniary interest whatever in any permit.

### **95 Address for service**

- (1) Every permit holder shall give written notification to the chief executive of a physical address in New Zealand to which any notice required to be served on the permit holder under this Part may be sent. A permit holder may change that address to a different physical address in New Zealand at any time by giving written notification to the chief executive of the change.
- (2) Without limiting sections 352 and 353 of the Resource Management Act 1991 (as applied by section 96 of this Act), any notice which is required to be served on a permit holder under this Act may be served by sending the notice by post to the last address notified under subsection (1).
- (3) Every permit participant must give written notice to the chief executive of an address (which may be an email address) and telephone number at which the permit participant can be contacted.
- (4) A permit participant must give written notice to the chief executive of any change to the address or telephone number provided under subsection (3) as soon as reasonably practicable, but no later than 10 working days after the change takes effect.

Section 95(1): amended, on 24 May 2013, by section 47(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 95(1): amended, on 24 May 2013, by section 47(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 95(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 95(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 95(3): inserted, on 24 May 2013, by section 47(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 95(4): inserted, on 24 May 2013, by section 47(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

## **96 Service of documents, etc**

Sections 352 and 353 of the Resource Management Act 1991, with the necessary modifications, shall apply in respect of the service of documents and of notices and consents in relation to Maori land under this Act.

## **97 Application of monetary deposits**

- (1) Subject to subsections (2) and (4), Part 7 of the Public Finance Act 1989 shall apply in respect of all money paid to the chief executive in respect of any monetary deposit or bond required or permitted under this Part.
- (2) Any money paid to the chief executive by a person in accordance with this section, together with any accrued interest thereon, may be applied by the Minister, as he or she thinks fit, in or towards the payment of any money payable by the person to the Crown in relation to the permit concerned or in relation to any other permit held by that person.
- (3) Subject to subsection (2), a permit holder shall, during the currency of a permit in respect of which money is held by the chief executive, be entitled to receive all interest from time to time earned on the money while it is held by the chief executive.
- (4) On the termination or transfer of any permit in respect of which money is held by the chief executive the following provisions shall apply:
  - (a) if the permit holder has substantially complied with the conditions of the permit throughout its currency, he or she shall be entitled to a refund of the deposit, together with all accrued interest thereon, less any amount that has been applied by the Minister in accordance with subsection (2):
  - (b) if, in the opinion of the Minister, the permit holder has failed to comply substantially with the conditions of his or her permit, the Minister may direct that the full deposit or such part of it as he or she thinks fit shall be paid into the Departmental Bank Account in respect of outstanding fees, or into a Crown Bank Account in respect of other payments outstanding (including interest payable under section 99J); and in any such case the balance (if any) of the deposit shall be refunded to the permit holder.

Section 97(1): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 97(2): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 97(3): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 97(4): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 97(4)(b): amended, on 24 May 2013, by section 48 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 97(4)(b): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

### **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.

Section 97A: inserted, on 24 May 2013, by section 49 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **98 Gold fossicking areas (Crown land)**

- (1) The appropriate Minister and the Minister may, by notice in the *Gazette*, jointly designate any area of Crown land as a gold fossicking area, which shall then be open for public fossicking in respect of gold.
- (2) The area and location of every gold fossicking area declared under subsection (1) shall be defined in the notice under that subsection.

- (3) Every person shall have the right to mine for gold in a gold fossicking area by means only of non-motorised hand held tools.
- (4) The designation of an area of land as a gold fossicking area does not prevent or restrict the granting of any permit in respect of that area.
- (5) The Minister may, by notice in the *Gazette*, revoke any designation of a gold fossicking area.

Section 98 heading: amended, on 24 May 2013, by section 50 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **98A Gold fossicking areas (other land)**

- (1) The Minister may, by notice in the *Gazette* given on the request of a local authority, designate any land owned by the authority as a gold fossicking area.
- (2) The notice must—
  - (a) state that the area is open for public fossicking in respect of gold; and
  - (b) specify the area and its general location; and
  - (c) state that a person has the right to mine for gold in the area by means only of non-motorised hand held tools; and
  - (d) state any other terms or conditions that apply when a person is fossicking in the area (as agreed between the Minister and the owner of the land).

- (3) The Minister must revoke a designation made under subsection (1) if requested to do so by the authority.

Section 98A: inserted, on 24 May 2013, by section 51 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99 Arbitration**

- (1) A reference of a matter to arbitration under section 44 shall be deemed to be a submission within the meaning of the Arbitration Act 1908 and that Act shall apply accordingly.
- (2) Where a dispute is referred to arbitration under this Part, the decision of the arbitrator or arbitrators or umpire shall be final and binding on the parties to the arbitration and the Minister shall take such steps as may be necessary to ensure that effect is given to the decision.

#### *Provisions relating to enforcement officers, auditing, and requiring information*

Heading: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99A Appointment of enforcement officers**

- (1) The chief executive may appoint 1 or more persons who are employees of a government department, a Crown entity, or a local authority to exercise 1 or

more of the powers and perform the functions conferred on enforcement officers under this Act.

- (2) The chief executive must supply each enforcement officer with a warrant of authorisation that clearly states the powers and functions of the officer.
- (3) An enforcement officer who exercises, or purports to exercise, a power conferred on the enforcement officer under this Act must carry and produce, if required to do so,—
  - (a) his or her warrant of authorisation; and
  - (b) evidence of his or her identity.
- (4) An enforcement officer must, on the termination of the enforcement officer's appointment, surrender his or her warrant to the chief executive.

Section 99A: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99B Powers of enforcement officers**

- (1) Any enforcement officer, specifically authorised in writing by the Minister to do so, may at all reasonable times go on, into, under, or over any place or structure, except a dwellinghouse or marae, for the purpose of determining whether a permit, this Act, or the regulations are being complied with.
- (2) If the owner or occupier of a place subject to inspection is not present at the time of the inspection, the enforcement officer must leave in a prominent position at the place, or attached to a structure on the place, a written notice showing the date and time of the inspection and the name of the officer carrying out the inspection.
- (3) An enforcement officer may not enter, unless the permission of the landowner is obtained, any land that any other Act states may not be entered without that permission.
- (4) An enforcement officer who exercises the power of inspection under this section may be accompanied by any person or persons reasonably necessary to assist the enforcement officer with the inspection.
- (5) A person who provides assistance under subsection (4) may exercise the powers provided to enforcement officers under subsection (1).

Section 99B: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99C Application for warrant for entry to search**

- (1) An issuing officer (within the meaning of section 3(1) of the Search and Surveillance Act 2012) may issue a warrant authorising the entry and search of any place or vehicle if, on an application made in the manner provided in subpart 3 of Part 4 of that Act, he or she is satisfied that there are reasonable grounds for believing that there is in, on, under, or over any place or vehicle anything—

- (a) in respect of which an offence has been or is suspected of having been committed against this Act or the regulations; or
  - (b) that will be evidence of an offence against this Act or the regulations; or
  - (c) that is intended to be used for the purpose of committing an offence against this Act or the regulations.
- (2) An application may be made under subsection (1) by—
- (a) a constable; or
  - (b) an enforcement officer specifically authorised in writing by the Minister to apply for search warrants.

Section 99C: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99D Application of Part 4 of Search and Surveillance Act 2012**

Part 4 of the Search and Surveillance Act 2012 (other than sections 118 and 119) applies, with any necessary modifications, in respect of inspections or searches undertaken under this Act by enforcement officers.

Section 99D: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99E Auditing**

- (1) A person referred to in subsection (2) may carry out an audit of records, kept by or on behalf of the chief executive or a permit holder, for the purpose of obtaining information about the following matters and reporting that information to the chief executive:
- (a) the calculation of mineral resources by a permit holder undertaking mining activities;
  - (b) the calculation and payment of the correct amount of royalties due by a permit holder;
  - (c) the calculation and payment of any other money payable to the Crown;
  - (d) compliance with any prescribed requirement to keep or provide records or other information.
- (2) The following persons may carry out an audit if directed by the chief executive:
- (a) an enforcement officer;
  - (b) an independent auditor appointed by the chief executive.
- (3) If the chief executive requires an independent auditor to be appointed, the permit holder must pay the independent auditor's costs if required to do so by the chief executive.
- (4) However, the chief executive may require the payment of those costs only if the auditor has found material failures in relation to any calculations or pay-

ments or the keeping or providing of records or other information by the permit holder.

Section 99E: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99F Power to require information**

- (1) The Minister, the chief executive, or any enforcement officer may, by written notice, require any person to provide any information that the person giving the notice considers is necessary for any purpose relating to that person's functions, duties, or powers under this Act or for the administration or enforcement of this Act.
- (2) The information specified in the notice may relate to—
  - (a) any aspect of the operation of a permit;
  - (b) any commercial agreements or arrangements to which a permit participant is a party.
- (3) Information may be disclosed to the Minister, the chief executive, or an enforcement officer in confidence if—
  - (a) a person who is required to provide information under subsection (1) so requests; and
  - (b) the Minister, chief executive, or enforcement officer agrees to that request in writing.
- (4) A person required to provide any information under this section must provide the information—
  - (a) in the form and in the manner set out in the notice; and
  - (b) within any reasonable time specified in the notice requiring the information; and
  - (c) free of charge; and
  - (d) regardless of whether the Minister, chief executive, or enforcement officer agrees to the information being disclosed in confidence.

Section 99F: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99G Protection of persons acting under authority of this Act**

- (1) No enforcement officer or person called upon to assist an enforcement officer who does an act, or omits to do an act, when performing a function or exercising a power conferred on that person by or under this Act (other than when exercising powers of inspection or search under sections 99B and 99C) is under any civil or criminal liability in respect of the act or omission, unless the person has acted, or omitted to act, in bad faith.



- (2) Sections 166 and 167 of the Search and Surveillance Act 2012 apply in relation to persons exercising powers of inspection or search under sections 99B and 99C.

Section 99G: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Royalties and interest*

Heading: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99H Royalties**

Every permit holder must—

- (a) submit royalty returns in accordance with the relevant permit, this Act, and the regulations; and
- (b) pay royalties in accordance with the relevant permit, this Act, and the regulations.

Section 99H: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99I Power to amend royalty returns or make default assessment**

- (1) If the chief executive is satisfied that the information contained in a royalty return is incorrect, he or she may, at any time, amend the return and any assessment of the permit holder's liability to pay money to the Crown (an **amendment**) as he or she thinks fit.
- (2) If a permit holder fails to submit a royalty return when required to do so under this Act, the regulations, or a permit, the chief executive may make an assessment (a **default assessment**) of the matters that should have been in the permit holder's royalty return.
- (3) As soon as practicable after making an amendment or a default assessment, the chief executive must notify the permit holder of—
  - (a) the particulars of the amendment or default assessment; and
  - (b) any grounds or information upon which the amendment or default assessment was based; and
  - (c) the right of the permit holder to object (as set out in section 99K).
- (4) If an amendment or a default assessment results in the permit holder owing money to the Crown, the permit holder must pay the amount due within 20 working days after the date on which the permit holder is notified under subsection (3).
- (5) If an amendment shows that a permit holder has overpaid the amount of royalties due, the chief executive must, within 20 working days after the date of the amendment, arrange for a refund to be paid to the permit holder.

- (6) Interest calculated at the Commissioner's paying rate, as defined in section 120C of the Tax Administration Act 1994, is payable on any amount refunded.
- (7) 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.

Section 99I: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### **99J Interest on unpaid money**

- (1) If a permit holder does not fully pay, by the due date, all fees and other money payable by the holder to the Crown under this Act or the regulations (the **original amount**), the chief executive may make a written demand for the payment of interest on the part of the original amount that remains unpaid.
- (2) The permit holder is liable for the interest payable and the interest must be calculated for every month or part of a month after the due date during which the original amount remains unpaid in full.
- (3) Interest must be calculated in accordance with the following formula:

$$a = \frac{b \times c}{12}$$

where—

- a is the interest payable
  - b is any part of the original amount that remains unpaid at the end of the month for which the interest is calculated
  - c is the taxpayer's paying rate, as defined in section 120C of the Tax Administration Act 1994.
- (4) In the case of royalties where the amount payable was assessed or amended under section 99I, interest must be calculated from the date on which the amount of royalties was originally due.
  - (5) Any payment the chief executive receives or applies on account of a permit holder's liability to pay an original amount must first be applied towards payment of the interest.

Section 99J: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**99K Right to object to amendment or default assessment**

- (1) A permit holder may object to an amendment or a default assessment under section 99I.
- (2) An objection must be in writing and received by the chief executive not later than 40 working days after the date on which the permit holder is notified of the amendment or default assessment under section 99I(3).
- (3) The objection must set out the reasons for the objection.
- (4) The chief executive must—
  - (a) give the permit holder an opportunity to be heard; and
  - (b) consider and determine the objection within 40 working days after its receipt.
- (5) The chief executive must—
  - (a) dismiss the objection; or
  - (b) uphold the objection in whole or in part.
- (6) Not later than 20 working days after deciding an objection, the chief executive must send to the permit holder—
  - (a) a copy of the decision, which must include the reasons for the decision; and
  - (b) any amended royalty return or default assessment; and
  - (c) notice of the right of the permit holder to appeal (as set out in section 99L).

Section 99K: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**99L Right of appeal**

- (1) A permit holder who has made an objection under section 99K may, in accordance with the rules of court, appeal to the District Court against the chief executive's determination of the objection.
- (2) An appeal must be made not later than 20 working days after the date on which the permit holder is notified of the chief executive's decision under section 99K(6).
- (3) The District Court may confirm, reverse, or modify the decision and, if applicable,—
  - (a) amend the relevant royalty return or default assessment; and
  - (b) specify the amount of any money to be paid by the permit holder to the Crown or to be refunded to the permit holder, as the case may be.
- (4) A decision of the District Court under subsection (3) may be appealed to the High Court, but only if—

- (a) the ground of the appeal is that the decision is erroneous in point of law; or
  - (b) the District Court has determined that an amount of money is payable to the Crown and the amount is more than \$2,000.
- (5) To avoid doubt, an appeal may be taken under subsection (4) by the permit holder or the chief executive (on behalf of the Crown).

Section 99L: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 99L(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 99L(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **99M Status of original amendment or default assessment**

- (1) This section applies to an amendment or a default assessment made by the chief executive under section 99I if the permit holder concerned—
- (a) objects to the amendment or default assessment under section 99K; or
  - (b) having made an objection, exercises 1 or more of the appeal rights under section 99L in respect of the determination of the objection.
- (2) If the amendment or default assessment results in the permit holder owing money to the Crown,—
- (a) the amendment or default assessment must be treated as correct and final until the permit holder has exhausted those rights or the time period by which the rights must be exercised has expired and a final decision has been given by the chief executive or a court, as the case may be (**final decision**); and
  - (b) the permit holder must pay the money owing in accordance with section 99I(4).
- (3) If the final decision differs from the amendment or default assessment and—
- (a) a refund is required to be paid to the permit holder, section 99I(5) and (6) apply, with any necessary modifications;
  - (b) a further amount is required to be paid by the permit holder, the permit holder must pay the amount to the chief executive within 20 working days after the date on which the final decision is made, including any interest calculated in accordance with section 99J.

Section 99M: inserted, on 24 May 2013, by section 52 of the Crown Minerals Amendment Act 2013 (2013 No 14).

*Offences and legal proceedings*

**100 Offences**

- (1) Every person commits an offence against this Act who contravenes, or permits a contravention of, section 8 (which imposes duties and restrictions in relation to minerals).
- (2) Every person commits an offence against this Act who contravenes, or permits a contravention of, any of the following:
  - (a) section 33, which relates to compliance with permit holder responsibilities:
  - (b) section 49(5), which relates to entering land and carrying out an activity other than minimum impact activity:
  - (c) section 77, which relates to contravening the conditions of a right of access:
  - (d) section 94, which relates to persons administering this Act holding a pecuniary interest in a mining permit.
- (3) Every person commits an offence against this Act who wilfully obstructs, hinders, resists, or deceives any person in the execution of any powers conferred on that person by or under this Act.
- (3A) Every person commits an offence against this Act who knowingly provides altered, false, incomplete, or misleading information (including royalty returns) to the chief executive or any other person in respect of a matter or thing under this Act or the regulations.
- (4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against subsection (1) ends on the date that is 12 months after the date on which the contravention giving rise to the charge first became known, or should have become known, to the Secretary.

Section 100(2)(a): amended, on 24 May 2013, by section 53(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 100(3A): inserted, on 24 May 2013, by section 53(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 100(4): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**101 Penalties**

- (1) Every person who commits an offence against section 100(1) is liable on conviction to imprisonment for a term not exceeding 2 years or a fine not exceeding \$400,000, and, if the offence is a continuing one, to a further fine not exceeding \$20,000 for every day or part of a day during which the offence continues.

- (2) Every person who commits an offence against section 100(2) is liable on conviction to a fine not exceeding \$20,000, and, if the offence is a continuing one, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence continues.
- (3) Every person who commits an offence against section 100(3) is liable on conviction to a fine not exceeding \$3,000.
- (3A) Every person who commits an offence against section 100(3A) is liable on conviction to a fine not exceeding \$800,000.
- (4) A court may sentence any person who commits an offence against this Act to a sentence of community work, and the provisions of Part 2 of the Sentencing Act 2002, with all necessary modifications, apply accordingly.
- (5) Where a person is convicted of an offence against section 77, the court may, instead of, or in addition to, imposing a fine, cancel or revoke the right of access or impose additional conditions on the right where it considers it is appropriate to do so in the circumstances.
- (6) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act shall be deemed to be a continuing offence.

Section 101(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 101(1): amended, on 24 May 2013, by section 54(1)(a) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 101(1): amended, on 24 May 2013, by section 54(1)(b) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 101(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 101(2): amended, on 24 May 2013, by section 54(2)(a) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 101(2): amended, on 24 May 2013, by section 54(2)(b) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 101(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 101(3): amended, on 24 May 2013, by section 54(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 101(3A): inserted, on 24 May 2013, by section 54(4) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 101(3A): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

Section 101(4): substituted, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

## 101A Interpretation

In sections 101B and 101C,—

**exclusive economic zone** has the same meaning as in section 2(1) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

**foreign ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994

**master** has the same meaning as in section 2(1) of the Maritime Transport Act 1994

**offshore area** means any area that is—

- (a) within the territorial sea; or
- (b) within the exclusive economic zone; or
- (c) on or above the continental shelf

**permitted prospecting, exploration, or mining activity** means an activity authorised under a prospecting, exploration, or mining permit

**ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994

**specified non-interference zone** means a zone specified by the chief executive in accordance with section 101B(6) to (8)

**structure**—

- (a) means any fixed, moveable, or floating structure or installation; and
- (b) includes a petroleum pipeline, petroleum pumping station, petroleum tank station, or petroleum valve station.

Section 101A: inserted, on 24 May 2013, by section 55 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **101B Interfering with structure or operation in offshore area**

- (1) A person commits an offence if the person intentionally engages in conduct that results in—
  - (a) damage to, or interference with, any structure or ship that is in an offshore area and that is, or is to be, used in mining operations or for the processing, storing, preparing for transporting, or transporting of minerals; or
  - (b) damage to, or interference with, any equipment on, or attached to, such a structure or ship; or
  - (c) interference with any operations or activities being carried out, or any works being executed, on, by means of, or in connection with such a structure or ship.
- (2) A person commits an offence if—
  - (a) the person is the master of a ship that, without reasonable excuse, enters a specified non-interference zone for a permitted prospecting, exploration, or mining activity; or

- (b) the person leaves a ship and, without reasonable excuse, enters a specified non-interference zone for a permitted prospecting, exploration, or mining activity.
- (3) In prosecuting an offence against subsection (2), it is not necessary for the prosecution to prove that the person intended to commit the offence.
- (4) A person who commits an offence against subsection (1) is liable on conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$50,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$100,000.
- (5) A person who commits an offence against subsection (2) is liable on conviction to a fine not exceeding \$10,000.
- (6) For the purposes of subsection (2), the chief executive may specify a non-interference zone by notice published in a fortnightly edition of the *New Zealand Notices to Mariners* (under Part 25 of the Maritime Rules).
- (7) A notice must specify—
  - (a) the permitted prospecting, mining, or exploration activity to which the non-interference zone relates; and
  - (b) the locality of the activity; and
  - (c) the area of the non-interference zone to which the activity relates (which may be up to 500 metres from any point on the outer edge of the structure or ship to which the activity relates or, if there is any equipment attached to the structure or ship, 500 metres from any point on the outer edge of the equipment); and
  - (d) the period (which may be up to 3 months) for which the notice has effect.
- (8) The chief executive, when determining the area of a non-interference zone for the purposes of a notice, must take into account the nature of the activity, including the size of any structure or ship to which the activity relates and any equipment attached to the structure or ship necessary for the carrying out of the activity.
- (9) No proceedings for an offence against this section may be brought in a New Zealand court in respect of a contravention of this section on board, or by a person leaving, a foreign ship without the consent of the Attorney-General.

Section 101B: inserted, on 24 May 2013, by section 55 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 101B(4): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

Section 101B(5): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).



### **101C Powers of enforcement officers**

- (1) An enforcement officer who has reasonable cause to suspect that a person is committing, has committed, or is attempting to commit an offence against section 101B may do 1 or more of the following things:
  - (a) stop a ship within a specified non-interference zone and detain the ship:
  - (b) remove any person or ship from a specified non-interference zone:
  - (c) prevent any person or ship from entering a specified non-interference zone:
  - (d) board a ship (whether within a specified non-interference zone or otherwise), give directions to the person appearing to be in charge, and require the person to give his or her name and address:
  - (e) without warrant, arrest a person.
- (2) If an enforcement officer described in subsection (6)(b) or (c) arrests a person under subsection (1)(e), the enforcement officer must cause the person to be delivered into the custody of a constable as soon as practicable.
- (3) An enforcement officer who exercises a power under this section may be accompanied by any person or persons reasonably necessary to assist the enforcement officer to exercise the power.
- (4) A person who provides assistance under subsection (3) may exercise the powers provided to an enforcement officer under subsection (1)(a) to (d).
- (5) No enforcement officer, or person called upon to assist an enforcement officer, who does an act, or omits to do an act, when exercising a power under this section is under any civil or criminal liability in respect of the act or omission, unless the person has acted, or omitted to act, in bad faith.
- (6) For the purposes of this section, the following persons are enforcement officers:
  - (a) every constable:
  - (b) every person in command of a ship of the New Zealand Defence Force:
  - (c) every person acting under the command of a person described in paragraph (b).

Section 101C: inserted, on 24 May 2013, by section 55 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **102 Liability of principal for acts of agents**

- (1) Where an offence is committed against this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he, she, or it had personally committed the offence.

- (2) Notwithstanding anything in subsection (1), where any proceedings are brought by virtue of that subsection, it shall be a good defence if the defendant proves—
- (a) in the case of a natural person (including a partner in a firm) that—
    - (i) he or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or
    - (ii) he or she took all reasonable steps to prevent the commission of the offence;
  - (b) in the case of a body corporate that—
    - (i) neither the directors nor any person involved in the management of the body corporate knew or could reasonably be expected to have known that the offence was to be or was being committed; or
    - (ii) the body corporate took all reasonable steps to prevent the commission of the offence; and
  - (c) in all cases, that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.
- (3) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of the like offence if it is proved—
- (a) that the act that constituted the offence took place with his or her authority, permission, or consent; and
  - (b) that he or she knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

### **103 Strict liability**

- (1) In any prosecution for an offence of contravening or permitting a contravention of section 8, it is not necessary to prove that the defendant intended to commit the offence.
- (2) Subject to subsection (3), it is a defence to prosecution of the kind referred to in subsection (1), if the defendant proves—
- (a) that—
    - (i) the action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and
    - (ii) the conduct of the defendant was reasonable in the circumstances; and
    - (iii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or

- (b) that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case either—
  - (i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and
  - (ii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.
- (3) Except with the leave of the court, subsection (2) does not apply unless, within 7 days after the service of the summons or within such further time as the court may allow, the defendant delivers to the prosecutor a written notice—
  - (a) stating that he or she intends to rely on subsection (2); and
  - (b) specifying the facts that support his or her reliance on subsection (2).

#### **104 Recovery of fees and other money**

- (1) All fees and other money payable to the Crown under this Act or the regulations, or under any permit granted under this Act, is recoverable as money due to the Crown, and, without limiting any other method of recovery, may be recovered in any court of competent jurisdiction as a debt due to the Crown.
- (2) All fees payable under this Act or the regulations must be paid into a Departmental Bank Account, and all other money payable to the Crown under this Act, or the regulations, or under any permit granted under this Act, must be paid into a Crown Bank Account.
- (3) To avoid doubt, any interest payable on fees must be paid into a Crown Bank Account.

Section 104(1): amended, on 24 May 2013, by section 56(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 104(1): amended, on 24 May 2013, by section 56(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 104(2): replaced, on 24 May 2013, by section 56(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 104(3): inserted, on 24 May 2013, by section 56(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

### *Regulations*

#### **105 Regulations**

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
  - (a) prescribing the form or content of applications, permits, notices, reports, or any other documentation or information required under this Act, and the manner in which such documentation or information is to be provided;
  - (b) prescribing the information to be provided with applications for permits:

- (c) prescribing conditions on which permits may be applied for, granted, changed, or extended:
- (ca) specifying for the purposes of section 33C the kind or class of permits for which an annual report of the permit holder's engagement with iwi affected by the permit must be provided to the Minister:
- (cb) prescribing, in relation to iwi engagement reports required under section 33C, the manner in which the reports are to be provided, the periods to which the reports must apply, and the time by which the reports must be provided:
- (d) prescribing the manner in which permits may be surrendered:
- (e) prescribing the manner in which persons wishing to apply for permits in respect of any land are to mark out or identify the land and prescribing a graticular system for the purpose of defining areas or parts of areas comprised in permits, applications for permits, or extensions of permits:
- (f) prescribing registers to be kept under this Act, the form of such registers, the matters to be entered therein, and the means by which entries shall be verified:
- (g) providing for the keeping and provision of records, reports, information, and returns by permit holders for any purpose under this Act, and prescribing the nature of the records, reports, information, and returns, and the form, manner, and times in or at which they shall be kept or provided:
- (ga) prescribing the information that must be provided under section 90B and the form, manner, and times in or at which that information must be provided:
- (gb) prescribing the form, manner, and times in or at which the chief executive may publish any or all of the information that must be provided under section 90B:
- (h) providing for the keeping by a holder of a permit of cores, specimens, or samples obtained in the course of activities carried out under the permit and for the examination, taking, and retention of such cores, specimens, or samples by authorised persons:
- (i) prescribing matters in respect of which fees are to be payable under this Act, the amount of the fees, the time and manner of their payment, and the persons liable to pay them, and providing for charges for late payment of fees:
- (j) authorising the refund or remission of any fees payable under this Act:
- (k) prescribing the amount of monetary deposits or bonds required with applications for permits:
- (l) prescribing the duties of permit holders and the activities to be carried out under permits:

- (m) prohibiting or regulating activities under a permit near the boundaries of the land comprised in the permit and on or near land comprised in other permits:
  - (n) for the purposes of the definition of minimum impact activity, prescribing impacts as prohibited impacts and land as prohibited land:
  - (o) generally regulating activities carried out under permits:
  - (p) providing for the exemption of permit holders, either wholly or partially, and either absolutely or conditionally, from any of the conditions of their permits or from the provisions of any regulations for the time being in force under this Act:
  - (q) the prevention of the waste or loss of petroleum:
  - (r) providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- (2) Any regulations made under this section may provide for different regulations to apply in respect of different classes of permits, permit holders, or activities or in respect of the same class of permits, permit holders, or activities, in different circumstances.
- (3) Any regulations made under this section may apply generally throughout New Zealand or within any specified part or parts thereof. All regulations made under this section shall, unless otherwise specified in the regulations, apply generally throughout New Zealand and the continental shelf.

Section 105(1)(a): replaced, on 24 May 2013, by section 57(1) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105(1)(ca): inserted, on 24 May 2013, by section 57(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105(1)(cb): inserted, on 24 May 2013, by section 57(2) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105(1)(f): amended, on 24 May 2013, by section 57(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105(1)(g): amended, on 24 May 2013, by section 57(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105(1)(ga): inserted, on 18 October 2004, by section 5 of the Crown Minerals Amendment Act 2004 (2004 No 84).

Section 105(1)(gb): inserted, on 18 October 2004, by section 5 of the Crown Minerals Amendment Act 2004 (2004 No 84).

Section 105(1)(gb): amended, on 24 May 2013, by section 64 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105(1)(p): amended, on 24 May 2013, by section 57(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105(1)(r): amended, on 24 May 2013, by section 57(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

**105A Regulations relating to royalties**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes:
  - (a) prescribing how royalties are to be calculated, or the rate or rates for royalties:
  - (b) prescribing thresholds that apply for the purpose of determining whether royalties are payable:
  - (c) prescribing the due dates for royalty payments and submitting royalty returns.
- (2) The regulations may make different provisions for—
  - (a) different minerals:
  - (b) a mineral that occurs in different specified states, places, phases, or strata:
  - (c) a mineral that is explored for or extracted by different specified methods.
- (3) If regulations made under this section are in force—
  - (a) when an initial permit is granted in respect of a mineral, royalties must be calculated in accordance with the regulations as they apply at the time the permit is granted:
  - (b) when a subsequent permit is granted in respect of the same mineral, royalties must also be calculated in accordance with the regulations as they applied at the time the initial permit was granted:
  - (c) when a permit is changed to cover a different mineral, royalties in respect of that mineral must be calculated in accordance with the regulations as they apply when the relevant change to the permit takes effect.
- (4) Despite subsection (3), the period in relation to which the royalty calculations are made must be that specified in the current regulations.

Section 105A: inserted, on 24 May 2013, by section 58 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**105B 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.

Section 105B: inserted, on 24 May 2013, by section 58 of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **105C Regulations may incorporate material by reference**

- (1) Regulations made under section 105 or 105A may incorporate by reference 1 or more of the following:
- (a) financial reporting standards in effect under the Financial Reporting Act 2013, as those standards are defined in section 5(1) of that Act (**financial reporting standards**);
  - (b) a standard, framework, code of practice, recommended practice, or requirement of an international organisation or a national organisation;
  - (c) a standard, framework, code of practice, recommended practice, or requirement prescribed in any country or jurisdiction, or by any group of countries;
  - (d) any other written material that deals with technical matters and that can reasonably be regarded as being too large or impractical to include in, or publish as part of, the regulations.
- (2) The material may be incorporated by reference in the regulations—
- (a) in whole or in part; and
  - (b) with modifications, additions, or variations specified in the regulations.
- (3) The incorporated material—
- (a) is as that exists at the time that the regulations are made; and
  - (b) forms part of the regulations for all purposes and has legal effect accordingly.
- (4) An amendment to, or replacement of, a financial reporting standard in regulations made under section 105 or 105A (the **initial regulations**) has legal effect as part of the initial regulations on and from the date on which the amendment or regulation takes effect and commences to apply under sections 27 and 28 of the Financial Reporting Act 2013, if—
- (a) the amendment or replacement is made by the External Reporting Board in accordance with that Act; and
  - (b) the amendment or replacement is of the same general character as the standard that is amended or replaced; and
  - (c) the initial regulations state that amendments or replacements have this effect.
- (5) An amendment to, or replacement of, any other material in the initial regulations referred to in subsection (1) has legal effect as part of the initial regula-

- tions only if it is specifically incorporated by amendment regulations to the initial regulations.
- (6) A copy of material incorporated by reference in regulations made under section 105 or 105A, including any amendment to, or replacement of, the material, must be—
    - (a) certified as a correct copy by the chief executive; and
    - (b) retained by the chief executive.
  - (7) The production in proceedings of a certified copy of the material incorporated by reference is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the regulations of the material.
  - (8) Material incorporated by reference in regulations made under section 105 or 105A that expire or that are revoked or that cease to have effect ceases to have legal effect as part of the regulations only if regulations made under that section state that the material ceases to have legal effect.
  - (9) The department responsible for the administration of this Act must—
    - (a) provide electronic access to any material incorporated by reference in regulations made under this section, unless doing so would infringe copyright; and
    - (b) make the material available for inspection during working hours, free of charge, at the department's head office and at any other place that the chief executive determines is appropriate.
  - (10) A failure to comply with subsection (9) does not invalidate regulations that incorporate any material incorporated by reference in regulations made under section 105 or 105A.
  - (11) Part 2 of the Legislation Act 2012 does not apply to—
    - (a) standards or terms incorporated by reference in regulations made under this section; or
    - (b) an amendment to or replacement of those standards or terms.
  - (12) Subpart 1 of Part 3 of the Legislation Act 2012 applies to regulations made under this section that incorporate standards or terms by reference.
  - (13) However, nothing in section 41 of the Legislation Act 2012 requires material that is incorporated by reference in regulations made under this section to be presented to the House of Representatives.

Section 105C: inserted, on 24 May 2013, by section 58 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105C(1)(a): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 105C(4): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 105C(11): replaced, on 5 August 2013, by section 63(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).



Section 105C(12): replaced, on 5 August 2013, by section 63(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 105C(13): replaced, on 5 August 2013, by section 63(3) of the Crown Minerals Amendment Act 2013 (2013 No 14).

### **105D Requirement to consult on proposal to incorporate material by reference**

- (1) Before regulations incorporating material by reference are made under section 105 or 105A, the chief executive must—
  - (a) make copies of the material proposed to be incorporated by reference (the **proposed material**) available for inspection during working hours for a reasonable period, free of charge, at the head office of the department responsible for the administration of this Act (the **administering department**) and at any other place that the chief executive determines is appropriate; and
  - (b) state where copies of the proposed material are available for purchase; and
  - (c) make copies of the proposed material available, free of charge, on an Internet site maintained by or on behalf of the administering department, unless doing so would infringe copyright; and
  - (d) give notice in the *Gazette* stating—
    - (i) that the proposed material is available for inspection during working hours, free of charge, and stating the places at which it can be inspected and the period during which it can be inspected; and
    - (ii) that copies of the proposed material can be purchased and stating the places at which they can be purchased; and
    - (iii) if applicable, that the proposed material is available on the Internet, free of charge, and stating the Internet site address; and
  - (e) allow a reasonable opportunity for persons to comment on the proposal to incorporate the proposed material by reference; and
  - (f) consider any comments made.
- (2) The chief executive—
  - (a) may make copies of the proposed material available in any other way that he or she considers appropriate in the circumstances; and
  - (b) must, if paragraph (a) applies, give notice in the *Gazette* stating that the proposed material is available in other ways and giving details of where or how it can be accessed or obtained.
- (3) The chief executive may comply with subsection (1)(c) (if applicable) by providing a hypertext link from an Internet site maintained by or on behalf of the administering department to a copy of the proposed material that is available, free of charge, on an Internet site that is maintained by or on behalf of someone else.

- (4) A failure to comply with this section does not invalidate an instrument that incorporates material by reference in reliance on section 105C.
- (5) For the purposes of subsection (1)(c), a chief executive may not rely on section 66 of the Copyright Act 1994 as authority to make the proposed material available on an Internet site.
- (6) Nothing in this section applies to material proposed to be incorporated by reference described in section 105C(1)(a).
- (7) In this section, **proposed material** means—
  - (a) the material itself;
  - (b) an accurate translation in an official New Zealand language of the material, if the material is not in an official New Zealand language.

Section 105D: inserted, on 24 May 2013, by section 58 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## Part 2

### Savings and transitional provisions

Part 2: replaced, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### 106 Savings and transitional provisions

The savings and transitional provisions set out in Schedule 1 have effect for the purposes of this Act.

Section 106: replaced, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### *Existing privileges*

*[Repealed]*

Heading: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### 107 Existing privileges to continue

*[Repealed]*

Section 107: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

#### 108 Administration of existing privileges

*[Repealed]*

Section 108: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**109 Bonds and monetary deposits**

*[Repealed]*

Section 109: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**110 Fees payable by holders of existing privileges**

*[Repealed]*

Section 110: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**110A Data lodgement requirements in respect of petroleum licences**

*[Repealed]*

Section 110A: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**110B Extension of term of petroleum prospecting licences**

*[Repealed]*

Section 110B: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**111 Right to new permits**

*[Repealed]*

Section 111: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**111A No application under section 103D of Mining Act 1971 for extension of duration of mining privilege**

*[Repealed]*

Section 111A: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

*Existing applications*

*[Repealed]*

Heading: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**112 Existing applications under Mining Act 1971**

*[Repealed]*

Section 112: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**113 Existing applications under Coal Mines Act 1979**

*[Repealed]*

Section 113: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**114 Existing applications under Petroleum Act 1937**

*[Repealed]*

Section 114: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**114A Priority of existing applications under Mining Act 1971, Coal Mines Act 1979, and Petroleum Act 1937**

*[Repealed]*

Section 114A: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

*Transitional arrangements regarding access to land*

*[Repealed]*

Heading: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**115 Existing agreements regarding land access not affected**

*[Repealed]*

Section 115: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

*Miscellaneous provisions*

*[Repealed]*

Heading: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**116 Notices under section 24 of Mining Act 1971**

*[Repealed]*

Section 116: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**117 Minister's obligations in respect of minerals programmes**

*[Repealed]*

Section 117: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**118 Granting of petroleum permits before minerals programme issued**

*[Repealed]*

Section 118: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**119 Restriction on granting of permits**

*[Repealed]*

Section 119: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**119A No compensation**

*[Repealed]*

Section 119A: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**120 Repeals and revocations**

*[Repealed]*

Section 120: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**121 Consequential amendments**

*[Repealed]*

Section 121: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**122 Savings as to compensation claims**

*[Repealed]*

Section 122: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

**123 Savings as to court proceedings**

*[Repealed]*

Section 123: repealed, on 24 May 2013, by section 59 of the Crown Minerals Amendment Act 2013 (2013 No 14).

## Schedule 1

### Savings and transitional provisions

ss 1B, 106

Schedule 1: replaced, on 24 May 2013, by section 60 of the Crown Minerals Amendment Act 2013 (2013 No 14).

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## Part 1

### Provisions relating to Crown Minerals Amendment Act 2013

#### 1 Interpretation

In Part 1 of this schedule,—

**Amendment Act** means the Crown Minerals Amendment Act 2013

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

**new section, new subsection, or new Schedule** means the specified section, subsection, or Schedule of the principal Act as amended, replaced, or inserted by the Amendment Act

**old Part, old section, or old subsection** means the specified Part, section, or subsection of the principal Act as it read immediately before the section was amended or replaced by the Amendment Act

**principal Act** means this Act (the Crown Minerals Act 1991).

#### Subpart 1—Provisions relating to permits and permit holders

#### 2 Permit holder must notify Minister of operator

- (1) This clause applies to a permit holder that, immediately before the commencement of the Amendment Act, comprises 2 or more permit participants.
- (2) No later than 5 December 2013, the permit holder must—
  - (a) notify the Minister of which permit participant is responsible, on behalf of the permit holder, for the day-to-day management of activities under the permit; and
  - (b) provide the chief executive with the name and contact details of that permit participant.

- (3) For the purposes of the principal Act, the permit participant notified to the Minister is, on and from the date of notification, the permit operator for the permit.

### 3 Provisions relating to minerals programmes

- (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).
- (2) An old minerals programme continues to apply to each relevant existing permit until the earliest of the following events occurs:
  - (a) the permit holder applies for a subsequent permit in accordance with new section 32:
  - (b) the permit holder applies to change the permit under or in accordance with new section 36:
  - (c) the permit holder applies to surrender part of the permit under new section 40:
  - (d) a permit participant applies for a consent to transfer some or all of its participating interest in the permit under new section 41:
  - (e) a permit participant notifies the Minister of a change of control within the scope of new section 41A:
  - (f) a permit participant applies for consent to a dealing within the scope of new section 41B:
  - (g) the permit holder applies for the permit operator to be changed under new section 41C:
  - (h) the permit holder opts into the current minerals programme in accordance with subclause (4).
- (3) Once the event occurs, the minerals programme referred to in new section 13 applies to the permit.
- (4) If a minerals programme is approved under new Part 1A in place of an old minerals programme, the holder of a relevant existing permit may opt into that minerals programme (the **current minerals programme**) by notice in writing to the Minister, and the current minerals programme applies to the permit from the date on which the Minister approves a revised work programme for the permit that is consistent with the current minerals programme.
- (5) 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.
- (6) 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.
- (7) 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.

#### **4 Provisions about royalties**

- (1) Despite anything in clause 3, new section 105A, or regulations made under new section 105A, any royalties to be calculated under a permit or a subsequent permit that is granted in exchange for an existing permit must continue to be calculated in accordance with the minerals programme that applied when the existing permit (or, if the existing permit is a subsequent permit, the initial permit to that subsequent permit) was granted.
- (2) Despite subclause (1), the period in relation to which the royalty calculations are made must be that specified in the current regulations made under new section 105A.
- (3) Subclause (1) applies even if the minerals programme that applied when the existing permit was granted is replaced.
- (4) However, if an existing permit is changed to cover a different mineral, royalties in respect of that mineral must be calculated in accordance with regulations made under new section 105A as those regulations apply when the change to the permit takes effect.

#### **5 Pending applications for permit or change to permit**

- (1) This clause applies to the following applications and notifications if a final decision in respect of the application or notification has not been made before the commencement of the Amendment Act:
  - (a) an application for a permit under old section 23 (other than an application to which clause 6 applies); and
  - (b) an application under old section 36, 37, or 41; and
  - (c) a notification under old section 40.
- (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).

## **6 Pending applications for petroleum exploration permit**

- (1) This clause applies to every application for a petroleum exploration permit under the principal Act—
  - (a) that was made before 30 August 2011 under the Minerals Programme for Petroleum (2005); and
  - (b) for which a final decision has not been made before the commencement of the Amendment Act.
- (2) An application must be dealt with under the principal Act (as it read immediately before the commencement of the Amendment Act) and the Minerals Programme for Petroleum (2005) (as it read immediately before being revised on 25 January 2012).
- (3) A permit granted in respect of an application to which this clause applies has effect as if granted under the principal Act (as amended by the Amendment Act).

**7 Petroleum exploration permit holders' rights to extension of duration of permit**

- (1) Despite new section 35(4), a specified permit may be extended—
  - (a) for a period not exceeding 15 years from the commencement date of the permit in accordance with new section 36(1) to (4); and
  - (b) under new section 35A.
- (2) In this clause, **specified permit** means—
  - (a) a permit granted in respect of an application to which clause 6 applies; and
  - (b) an existing exploration permit for petroleum.

**8 Relinquishment obligation**

- (1) This clause applies to every existing exploration permit in relation to which the permit holder has relinquished an area subject to the permit in order to obtain an extension of duration under old section 37.
- (2) The relinquishment is deemed to be a relinquishment obligation for the purposes of new section 35C.

**9 Pending applications for access arrangement for Crown land**

- (1) This clause applies to every application for an access arrangement under old section 61 in respect of Crown land for which a final decision has not been made before the commencement of the Amendment Act.
- (2) The principal Act (as amended by the Amendment Act) applies to the applications.
- (3) To avoid doubt, if, immediately before the commencement of the Amendment Act, a final decision has not been made about an access arrangement application made to the Minister of Conservation, the Minister of Conservation or the Minister and the Minister of Conservation, as the case may be, must consider the application in accordance with new Schedule 4.

**10 Provisions relating to speculative prospectors**

If the Minister determines, within 90 days after the date on which the Amendment Act comes into force, that an existing non-exclusive petroleum prospecting permit holder or an applicant for a petroleum prospecting permit for which the application is made but not determined before the commencement of the Amendment Act is or will be a speculative prospector (within the meaning of new section 90C(7)), new section 90(8) applies to all information provided by the speculative prospector under new section 90 on or after 1 October 2012.

## Subpart 2—Provisions relating to existing privileges

### 11 Application of this subpart

This subpart applies to existing privileges in replacement of all provisions contained in old Part 2.

### 12 Existing privileges continue

- (1) Except as otherwise provided in the rest of this clause and subpart, each existing privilege continues to have effect after the commencement of the Amendment Act as if—
  - (a) the Act that applied to the privilege before the commencement of the principal Act continues in force; and
  - (b) the holder of the privilege continues to have the same statutory rights as the holder would have had if the principal Act and the Resource Management Act 1991 had not been enacted (except that if any consent in respect of the privilege would, but for this subclause, be required and need to be sought under the Resource Management Act 1991, then the Resource Management Act 1991 does apply); and
  - (c) subject to clause 15, the holder of the privilege continues to have the same statutory obligations as the holder would have had if the principal Act had not been enacted; and
  - (d) every person having any function, power, or duty relating to the administration of the Act that applied to the privilege before that date continues to have those functions, powers, and duties; and
  - (e) the Environment Court and any other body having any function, power, or duty connected with the determination of any dispute under the Act which applied to the privilege before that date continued to have those functions, powers, and duties; and
  - (f) all persons continue to have the same rights to compensation, to make objections, and to appeal as they would have had if the principal Act had not been enacted.
- (2) Despite subclause (1), sections 63 and 64 of the Petroleum Act 1937 do not apply in respect of any pipeline to which an authorisation granted under Part 2 of that Act relates.
- (3) Despite subclause (1), if, after the commencement of the Amendment Act, a holder of an existing privilege makes an application to which section 77 of the Mining Act 1971 or section 48 of the Coal Mines Act 1979 would apply, then—
  - (a) the Act does not apply in respect of the application; and

- (b) the principal Act as amended by the Amendment Act applies instead in respect of the application as if the existing privilege were a prospecting permit, exploration permit, or mining permit, as the case may be.
- (4) Despite subclause (1), no extension of the duration of a mining privilege may be granted on an application for a variation of conditions under section 103D of the Mining Act 1971 made after 5 pm on 19 September 2002.
- (5) Despite subclause (1), a section of the principal Act (whether a new or an old section) applies to each existing privilege, in the manner provided in the section, if the section in whole or in part expressly relates to or provides for an existing privilege.

### **13 Operators for existing privileges**

- (1) New section 27 applies to each existing privilege as if the existing privilege were a permit and the holder or holders of the privilege were permit participants, except that the person designated by the existing privilege holder as the permit operator under that section may be someone other than a holder of the existing privilege.
- (2) No later than 5 December 2013, the existing privilege holder must—
  - (a) notify the Minister of which person is responsible, on behalf of the privilege holder, for the day-to-day management of activities under the privilege; and
  - (b) provide the chief executive with the name and contact details of that person.
- (3) For the purposes of the principal Act, the person notified to the Minister is, on and from the date of notification, the permit operator for the existing privilege, unless the permit operator is subsequently changed in accordance with new section 41C.
- (4) For the purposes of subclause (3), new section 41C applies to each existing privilege—
  - (a) as if the existing privilege were a permit and the holder of the privilege a permit holder and, for the purpose of that section, new sections 2B to 2D also apply;
  - (b) but the person proposed to become the new operator may be someone other than a holder of the existing privilege.

### **14 New sections apply to existing privileges**

- (1) New sections 33A, 33B, 90D, and 90E apply to each existing privilege as if the existing privilege were a permit and the holder of the privilege a permit holder.
- (2) New sections 33C, 33D, and 90 apply to each existing privilege as if the existing privilege were a permit and the holder of the privilege a permit holder and, for the purpose of those sections, new sections 2B to 2D also apply.

- (3) New sections 99B to 99G and 99I to 99M apply to each existing privilege as if the existing privilege were a permit and the holder of the privilege a permit holder, but the reference in new section 99C to an offence against the principal Act must be read as a reference to an offence against the relevant Act referred to in the definition of existing privilege in section 2.

**15 Administration of existing privileges in respect of Resource Management Act 1991 and Health and Safety at Work Act 2015 matters**

- (1) Subject to clause 16, the functions, powers, and duties—
- (a) that, before the commencement of the principal Act, would have been exercisable or performable by the Minister of Energy in respect of an existing privilege, or of any condition of an existing privilege, or of any provisions of an Act that relate to an existing privilege; and
  - (b) that concern matters that are within the functions of a local authority under section 30 or 31 of the Resource Management Act 1991—
- are exercisable or performable by the appropriate consent authority and the provisions of the Resource Management Act 1991 relating to the existing privilege, with all necessary modifications, apply accordingly.
- (2) Where there is doubt as to which person is responsible for exercising or performing a particular function, power, or duty, and that doubt cannot be resolved by agreement between those persons, any such person may apply to the Environment Court for an order determining the matter, and the court may grant such an order on such conditions as it thinks fit.
- (3) Before the Minister varies the terms and conditions of an existing privilege, or takes any enforcement action against the holder of an existing privilege in respect of the existing privilege, the Minister must give written notice to the consent authority that has any functions, powers, and duties in relation to the privilege under this clause, of the proposed action and the reasons for it.
- (4) Before a consent authority varies the terms and conditions of an existing privilege, or takes any enforcement action against the holder of an existing privilege in respect of the existing privilege, the consent authority must give written notice to the Minister of the proposed action and the reasons for it.
- (5) A failure to comply with subclause (3) or (4) does not invalidate any variation or enforcement action.
- (6) A local authority has, for the purposes of exercising or performing its functions, powers, and duties in relation to an existing privilege under this section, all of the powers conferred on an enforcement officer by section 332 of the Resource Management Act 1991.
- (7) Despite clause 12(1)(d) or section 4 of the Health and Safety in Employment Act 1992,—
- (a) the health and safety regulator or an inspector may exercise or perform the functions, powers, and duties—

- (i) that would have been exercisable or performable by any person in respect of an existing privilege before the commencement of the Health and Safety in Employment Act 1992; and
  - (ii) that concern matters that are within the functions, powers, and duties of the regulator or an inspector under the Health and Safety at Work Act 2015 or the WorkSafe New Zealand Act 2013; and
- (b) the Acts referred to in paragraph (a)(ii) apply accordingly with any necessary modifications.
- (8) Despite clause 12(1)(d), the functions, powers, and duties—
  - (a) that before the commencement of the principal Act would have been exercisable or performable by an Inspector and that would have arisen in respect of an existing privilege, or of any condition of an existing privilege, or of any provisions of an Act that relate to an existing privilege; and
  - (b) that concern matters that are not within the functions of a local authority under section 30 or 31 of the Resource Management Act 1991 or the regulator or an inspector under the Health and Safety at Work Act 2015 or the WorkSafe New Zealand Act 2013—

are exercisable or performable by the chief executive, and the provisions of the Act relating to the existing privilege apply accordingly, with any necessary modifications.

- (9) References in this section to the Minister include references to any statutory officer appointed under the Act under which the existing privilege was granted.

Schedule 1 clause 15 heading: amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Schedule 1 clause 15(7): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Schedule 1 clause 15(8)(b): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

## **16 Bonds and monetary deposits**

- (1) The administration of monetary deposits and bonds held under section 108A of the Mining Act 1971, section 71 of the Coal Mines Act 1979, or section 47H of the Petroleum Act 1937 must be carried out so that the chief executive holds the monetary deposit or bond, and any money recovered under a bond, but those sections must apply so that, during the duration of, and on the termination of, an existing privilege,—
  - (a) the appropriate consent authority is entitled to have first priority to one-half of the amount of any deposit or bond held by the chief executive for the purpose of restoring or protecting any property injuriously affected or endangered by reason of the failure of the holder of the existing privilege to comply with the terms and conditions of the privilege; and

- (b) the Minister is entitled to have first priority to the other half of the amount of any deposit or bond for the purpose of the payment of any money payable to the Crown by the holder of the existing privilege in respect of which the deposit or bond is held or in respect of any other existing privilege held by that holder; and
  - (c) the appropriate consent authority is entitled to the full amount of any increase in the deposit or bond under subclause (2).
- (2) Where the regional council for the region within which any land subject to a coal mining right is wholly or predominantly situated is satisfied, after consultation with the appropriate territorial authority, that the amount of the deposit or bond lodged in respect of that right pursuant to section 71(1) of the Coal Mines Act 1979 is insufficient to meet the amount that is or may become payable under section 71(3) of that Act, the regional council may, at intervals of not less than 3 years, require the holder of the coal mining right to increase the amount of the deposit or bond accordingly; and the holder of the coal mining right must comply with that requirement.
- (3) Within 15 working days after the date on which notice is given to the holder of the coal mining right that a regional council has increased the amount of deposit or bond pursuant to subclause (2), the holder of the coal mining right may appeal against the decision of the regional council by lodging a notice of appeal with the Environment Court.
- (4) A copy of the notice of appeal must be served on the regional council and on the chief executive either before or immediately after it is lodged with the Environment Court.
- (5) Subject to subclauses (6) and (7), for the purposes of an appeal under this clause, the Environment Court has all the powers, duties, functions, immunities, and discretions conferred on it under the Resource Management Act 1991.
- (6) In hearing an appeal under this clause, the Environment Court must have regard to—
  - (a) the purpose for which the deposit or bond is levied; and
  - (b) the reasonableness of the amount of the deposit or bond set by the regional council, given the purpose for which the deposit or bond is levied.
- (7) On completion of the hearing, the Environment Court must prepare a written decision, which must—
  - (a) uphold the decision of the regional council; or
  - (b) amend the amount of the increase in the deposit or bond set by the regional council, but such amendment shall not increase the amount originally fixed by the regional council; or
  - (c) revoke the decision of the regional council.



- (8) No appeal lies from any decision of the Environment Court under this clause.

**17 Fees payable by holders of existing privileges**

- (1) This clause applies despite clause 12(1).
- (2) The holders of coal mining rights under the Coal Mines Act 1979 are not liable for the payment of rental under that Act in respect of any period following the date of commencement of the principal Act.
- (3) The holders of mining privileges under the Mining Act 1971 are not liable for the payment of rental under that Act in respect of any period following the date of commencement of the principal Act.
- (4) Persons entitled to the payment of rental under the Coal Mines Act 1979 are not entitled to the payment of rental under that Act in respect of any period following the date of commencement of the principal Act.
- (5) Persons entitled to the payment of rental under the Mining Act 1971 are not entitled to the payment of rental under that Act in respect of any period following the date of commencement of the principal Act.
- (6) From the date of commencement of the principal Act, the holders of coal mining rights under the Coal Mines Act 1979 and the holders of mining privileges under the Mining Act 1971 are liable to pay to the chief executive the fees in respect of their coal mining right or mining privilege as they would be liable to pay if their coal mining right or mining privilege were the equivalent kind of prospecting permit, exploration permit, or mining permit, as the case may be.
- (7) Any ironsands export levy payable under an authorisation given or an agreement entered into under the Iron and Steel Industry Act 1959 must be paid 6-monthly within 30 days after 1 January and 1 July in each year.
- (8) Where the holder of an existing privilege fails to make payment to the Crown of an ironsands export levy or royalties payable under the existing privilege by the due date, a penalty of 10% of the amount due shall also become due and payable, by the holder of the existing privilege, to the Crown.
- (9) Every holder of a mining licence granted under the Petroleum Act 1937 is not liable to pay any fees provided for in that Act or in any regulations made under that Act, but must pay to the chief executive the fees in respect of the licence as the holder would be liable to pay if the licence were the equivalent kind of prospecting permit, exploration permit, or mining permit, as the case may be.

**18 Data lodgement requirements for certain existing privileges**

- (1) Subclause (2) applies in relation to the lodging of data and reports in respect of every existing privilege that is—
- (a) a prospecting licence or mining licence granted under the Petroleum Act 1937:
- (b) a licence granted under the Mining Act 1971 or the Coal Mines Act 1979:

- (c) an authorisation given, an agreement entered into, or a grant of rights under the Iron and Steel Industry Act 1959, or an existing right referred to in section 5 of that Act.
- (2) Despite clause 12(1), from the commencement of the Amendment Act, the holder of an existing privilege is only required to comply with the requirements of the principal Act (as amended by the Amendment Act) for the lodging of data and reports in respect of the licence that would apply if the licence were the equivalent kind of prospecting, mining, or exploration permit, as the case may be.

### **19 Notices under section 24 of Mining Act 1971**

- (1) Every notice issued under section 24 of the Mining Act 1971 before the date of commencement of the principal Act continues to have effect until it is revoked by the Minister, and—
  - (a) any land set apart by any such notice for mining purposes, or any specified mining purposes exclusively, is not available for any other purpose; and
  - (b) no minerals permit that is inconsistent with any such notice may be applied for or granted under new Part 1B.
- (2) The Minister may revoke—
  - (a) a notice issued under section 24(1)(aa) of the Mining Act 1971, only with the concurrence of the Minister of Conservation;
  - (b) a notice issued under section 24(1)(b) of that Act, only with the concurrence of the Minister of Lands.

### **20 Compensation claims**

- (1) If, immediately before the date of commencement of the principal Act, any claim for compensation under any enactment repealed by the principal Act has been or could be made, that claim may be made or continued and enforced in all respects as if the principal Act had not been enacted.
- (2) No person is entitled to compensation from the Crown in respect of any losses arising from—
  - (a) the loss of the right to apply for a new mining licence under section 77 of the Mining Act 1971;
  - (b) the loss of the right to apply for a new coal mining licence under section 48 of the Coal Mines Act 1979;
  - (c) the loss of the right to apply for an extension to the duration of a mining privilege under section 103D of the Mining Act 1971.

### Subpart 3—Other matters

#### 21 Existing reservations of land

- (1) This clause applies if, before the commencement of the Amendment Act,—
  - (a) the Minister has given notice that an area of land is reserved for possible allocation by public tender; and
  - (b) the notice has not been cancelled.
- (2) The notice must be treated as if it were a notice made—
  - (a) on the date of the commencement of the Amendment Act; and
  - (b) under and compliant with new section 28A.

### Part 2

#### Provisions relating to Crown Minerals (Petroleum) Amendment Act 2018

Schedule 1 Part 2: inserted, on 13 November 2018, by section 10 of the Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49).

#### 22 Interpretation

In Part 2 of this schedule,—

**Amendment Act** means the Crown Minerals (Petroleum) Amendment Act 2018

**application** means—

- (a) an application for a permit for petroleum lodged by a person under section 23A;
- (b) a tender for a permit for petroleum submitted in response to a public tender process under section 24

**existing permit** means a permit for petroleum that exists immediately before the commencement of the Amendment Act.

#### Subpart 1—Existing permits, subsequent permits, and existing applications for permits for petroleum

#### 23 Existing permits unaffected

- (1) This Act (including sections 32, 36, 39, and 40) continues to apply to existing permits as if the Amendment Act had not been enacted.
- (2) Existing permits (including any conditions to which the permits are subject immediately before the commencement of the Amendment Act) continue to have effect according to their terms (unless and until those conditions are amended, or those terms are changed, in accordance with this Act as if the Amendment Act had not been enacted).

**24 Applications for subsequent permits unaffected**

- (1) This Act (including sections 23A, 25, and 32) applies to the following applications for a subsequent permit as if the Amendment Act had not been enacted:
  - (a) an application for a subsequent permit for petroleum in exchange for an existing permit:
  - (b) an application for a subsequent permit for petroleum in exchange for a subsequent permit referred to in paragraph (a).
- (2) Subclause (1) applies to applications for a subsequent permit lodged before or after the commencement of the Amendment Act.
- (3) Clause 26 does not apply to those applications.

**25 Subsequent permits unaffected**

- (1) This Act (including sections 32, 36, 39, and 40) applies to the following subsequent permits as if the Amendment Act had not been enacted:
  - (a) a subsequent permit for petroleum that is granted in exchange for an existing permit:
  - (b) a subsequent permit for petroleum that is granted in exchange for a subsequent permit referred to in paragraph (a).
- (2) Subclause (1) applies to subsequent permits granted before or after the commencement of the Amendment Act.

**26 Existing applications for permits for petroleum determined in accordance with Act as amended**

- (1) Any application that was lodged or submitted, but not determined, before the commencement of the Amendment Act—
  - (a) is treated as having been withdrawn; and
  - (b) is treated as having been re-lodged or re-submitted (but only if, and to the extent that, the application is in respect of land in the onshore Taranaki region) immediately after the commencement of the Amendment Act; and
  - (c) must be determined in accordance with this Act as in force immediately after the commencement of the Amendment Act.
- (2) Subclause (1) applies despite anything to the contrary in this Act.

**Subpart 2—Other matters unaffected****27 Existing privileges unaffected**

- (1) The Amendment Act does not affect existing privileges (*see* section 2).
- (2) This Act continues to have effect for the purpose of subclause (1) as if it had not been amended by the Amendment Act.

**28 Specified proceedings unaffected**

The proceedings in the High Court between Greymouth Gas Turangi Limited and the Minister of Energy and Resources (CIV 2018-485-237) may be continued, heard, and determined, or settled, as if the Amendment Act (other than this clause) had not been enacted.

**Subpart 3—Changes to minerals programme**

**29 Changes to minerals programme**

Nothing in sections 17 and 18 applies to a change to a minerals programme if the change inserts information into the programme to explain the effect of the amendments made to this Act by the Amendment Act.

**Schedule 2**  
**Regulations revoked**

**Coal Mining (Licensing) Regulations 1980 (SR 1980/50)**

**Mining Regulations 1981 (SR 1981/347)**

*Amendment(s) incorporated in the regulations.*

**Mining Regulations 1981, Amendment No 3 (SR 1988/329)**

## Schedule 3 Enactments amended

### Part 1 Acts amended

**Conservation Act 1987 (1987 No 65)**

*Amendment(s) incorporated in the Act(s).*

**Conservation Law Reform Act 1990 (1990 No 31)**

*Amendment(s) incorporated in the Act(s).*

**Continental Shelf Act 1964 (1964 No 28) (RS Vol 16, p 83)**

*Amendment(s) incorporated in the Act(s).*

**Environment Act 1986 (1986 No 127)**

*Amendment(s) incorporated in the Act(s).*

**Marine Farming Act 1971 (1971 No 29) (RS Vol 22, p 695)**

*Amendment(s) incorporated in the Act(s).*

**Ministry of Energy (Abolition) Act 1989 (1989 No 140)**

*Amendment(s) incorporated in the Act(s).*

**National Parks Act 1980 (1980 No 66)**

*Amendment(s) incorporated in the Act(s).*

**Public Finance Act 1989 (1989 No 44)**

*Amendment(s) incorporated in the Act(s).*

**State-Owned Enterprises Act 1986 (1986 No 124)**

*Amendment(s) incorporated in the Act(s).*

**State-Owned Enterprises Amendment Act 1987 (1987 No 117)**

*Amendment(s) incorporated in the Act(s).*

**Survey Act 1986 (1986 No 123)**

*Amendment(s) incorporated in the Act(s).*

**Transit New Zealand Act 1989 (1989 No 75)**

*Amendment(s) incorporated in the Act(s).*

**Part 2**  
**Regulations amended**

**Petroleum Pipelines Regulations 1984 (SR 1984/114)**

*Amendment(s) incorporated in the regulations.*

**Petroleum Regulations 1978 (SR 1978/255)**

*Amendment(s) incorporated in the regulations.*



## Schedule 4

### Land to which access restrictions apply

ss 53(3), 54(3), 61, Schedule 1 cl 9

Schedule 4: replaced, on 24 May 2013, by section 61 of the Crown Minerals Amendment Act 2013 (2013 No 14).

- 1 Any national park (within the meaning of section 2 of the National Parks Act 1980).
- 2 Any reserve classified as a nature reserve under section 20 of the Reserves Act 1977.
- 3 Any reserve classified as a scientific reserve under section 21 of the Reserves Act 1977.
- 4 Any part of a reserve set apart as a wilderness area under section 47(1) of the Reserves Act 1977.
- 5 Any conservation area declared under section 18AA or 18(1) of the Conservation Act 1987 as—
  - (a) a wilderness area; or
  - (b) a sanctuary area.
- 6 Any area declared a wildlife sanctuary under section 9(1) of the Wildlife Act 1953.
- 7 Any area declared a marine reserve under section 4(1) of the Marine Reserves Act 1971.
- 8 Any land within a wetland and notified to the Ramsar Secretariat by the Minister for the time being responsible for the Ramsar Administrative Authority (as the terms Ramsar Secretariat and Ramsar Administrative Authority are defined in section 2(1) of the Conservation Act 1987).
- 9 The area described in the Otahu Dedicated Area Notice 1976 (*Gazette* 1976, p 654).
- 10 The area described in the Parakawai Geological Area Notice 1980 (*Gazette* 1980, p 2408).
- 11 All land—
  - (a) held, managed, or administered under the Conservation Act 1987, or under any enactment set out in Schedule 1 of that Act, as at 1 October 1991; and

- (b) situated on any island in the area bounded by latitude 35°50'S and latitude 37°10'S, and longitude 177°E and longitude 174°35'E, other than the following islands in the Mercury Islands group:
  - (i) Red Mercury Island (Whakau):
  - (ii) Atiu or Middle Island:
  - (iii) Green Island:
  - (iv) Korapuki Island.
- 12 All Crown land—
  - (a) held, as at 1 October 1991, under the Conservation Act 1987 or any enactment set out in Schedule 1 of that Act; and
  - (b) situated on the Coromandel Peninsula and lying north and north-west of State Highway 25A (Kopu–Hikuai road) and the road from Hikuai to Pauanui Beach known as the Hikuai Settlement Road.
- 13 The internal waters of the Coromandel Peninsula.
- 14 The following scenic reserves:
  - (a) Kaikoura Island Scenic Reserve in Auckland City (*Gazette* 2004, p 3688):
  - (b) Rakitu Island Scenic Reserve (*Gazette* 1995, p 4265).

## Schedule 5 Thresholds for Tier 1 and Tier 2 activities

s 2B

Schedule 5: inserted, on 24 May 2013, by section 62 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Mineral type	Exploration permit	Mining permit	
	<i>Estimated total work programme expenditure threshold amount</i>	<i>Estimated annual royalty threshold amount</i>	<i>Estimated annual production threshold amount</i>
Gold	\$1,250,000	\$50,000	—
Silver	\$1,250,000	\$50,000	—
Coal	\$1,250,000	—	200 000 tonnes
Ironsand	\$1,250,000	—	500 000 tonnes
Metallic mineral	\$1,250,000	—	500 000 tonnes of ore
Platinum group metals	\$1,250,000	\$50,000	—

In this schedule,—

**metallic mineral** does not include gold, silver, ironsand, or platinum group metals

**platinum group metals** means iridium, osmium, palladium, platinum, rhodium, and ruthenium.

## Reprints notes

### 1 *General*

This is a reprint of the Crown Minerals Act 1991 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Crown Minerals (Petroleum) Amendment Act 2018 (2018 No 49)  
Land Transfer Act 2017 (2017 No 30): section 250  
Resource Legislation Amendment Act 2017 (2017 No 15): section 206  
District Court Act 2016 (2016 No 49): section 261  
Health and Safety at Work Act 2015 (2015 No 70): section 232  
Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126  
WorkSafe New Zealand Act 2013 (2013 No 94): section 22  
Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)  
Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8  
Crown Minerals Amendment Act 2013 (2013 No 14)  
Ngāti Whare Claims Settlement Act 2012 (2012 No 28): sections 90(5), 105(6)  
Criminal Procedure Act 2011 (2011 No 81): section 413  
Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3): section 128  
Māori Trustee Amendment Act 2009 (2009 No 12): section 30(2)(a)  
Ngāti Awa Claims Settlement Act 2005 (2005 No 28): sections 87, 160  
Crown Minerals Amendment Act 2004 (2004 No 84)  
Crown Minerals Amendment Act 2003 (2003 No 45)  
Sentencing Act 2002 (2002 No 9): section 186  
Public Trust Act 2001 (2001 No 100): section 170(1)  
Forests (West Coast Accord) Act 2000 (2000 No 45): section 22  
Crown Minerals Amendment Act (No 2) 1997 (1997 No 91)

Crown Minerals Amendment Act 1997 (1997 No 82)

Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74): section 5(4)

Waikato Raupatu Claims Settlement Act 1995 (1995 No 58): sections 35, 36

Crown Minerals Amendment Act 1993 (1993 No 139)

Te Ture Whenua Maori Act 1993 (1993 No 4): section 362(2)

Public Finance Act 1989 (1989 No 44): section 65R(3)