

House of Representatives  
Supplementary Order Paper

Tuesday, 9 April 2013

Crown Minerals (Permitting and Crown Land) Bill

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*Proposed amendments*

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

*New clause 46A*

After *clause 46* (after line 29 on page 86), insert:

**46A New sections 101A to 101C inserted**

After section 101, insert:

**“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 within the territorial sea or exclusive economic zone that is 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.

“**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 summary 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 summary 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.

“**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)**.”

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### Explanatory note

This Supplementary Order Paper amends the Crown Minerals (Permitting and Crown Land) Bill. It inserts a *new clause 46A* that establishes 5 new offences against the Crown Minerals Act 1991 as follows:

- damaging or interfering with a structure or ship that is in an offshore area and that is used or is to be used in mining operations or for the processing, storing, preparing for transporting, or transporting of minerals:
- damaging or interfering with any equipment on, or attached to, such a structure or ship:
- interfering 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:
- being a master of a ship entering an area specified by notice published in a fortnightly edition of the *New Zealand Notices to Mariners* as an area into which a ship must not enter without reasonable excuse:
- leaving a ship and entering such an area without reasonable excuse.

The last 2 offences listed are strict liability offences (a strict liability offence being one where it is not necessary for the prosecution to prove that the person concerned intended to commit the offence).

Section 603 of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Australia) contains an offence provision that covers both fixed platforms and mobile exploration facilities (for example, survey vessels and drilling rigs). This provision has been used as a basis for the new offences.