

Crown Minerals (Decommissioning and Other Matters) Amendment Bill

Government Bill

Explanatory note

General policy statement

Decommissioning is the process of taking petroleum infrastructure and wells out of service, which may include removing the infrastructure, plugging and abandoning wells, and undertaking necessary site restoration activities.

New Zealand's petroleum sector is maturing and an increasing number of petroleum fields are nearing the end of their economic lives and will soon require decommissioning. The costs of decommissioning activities are substantial and the environmental effects and health and safety risks of failing to decommission can be significant.

In the event of a petroleum company's financial default, there is a risk that the Crown or other third parties will have to carry out and fund decommissioning.

The Crown Minerals Act 1991 (**CMA**) does not currently explicitly provide for petroleum permit and licence holders' decommissioning responsibilities, the length of time for which they are responsible, and the consequences for failing to carry out decommissioning. Existing requirements for decommissioning under the CMA have largely evolved on a case-by-case basis, and are defined in individual permit conditions. Reliance on permit conditions to establish legal and financial responsibility for decommissioning means that the requirements may not necessarily be worded and applied consistently across permit and licence holders and time.

In June 2020, the Government announced proposals to strengthen the petroleum sector's financial and legal responsibility for decommissioning activities, as part of Tranche Two of the Review of the Crown Minerals Act 1991. In April 2021, Cabinet approved additional proposals to further strengthen the provisions.

This Bill introduces a number of new provisions to mitigate the risk to the Crown and other third parties of having to carry out and fund decommissioning.

These new provisions include—

- introducing an explicit statutory obligation for all current and future petroleum permit and licence holders to carry out decommissioning activities in accordance with relevant requirements set under other legislation, standard-setting processes, or consents, or, if those requirements do not exist, ensure all wells are plugged and abandoned, and infrastructure is completely removed. The obligation will require all current and future petroleum permit and licence holders to meet the full financial costs of the decommissioning activities; and
- introducing a civil pecuniary penalty and criminal penalty for failing to meet this obligation. The criminal offence will run in parallel with the civil regime and is reserved for the most egregious breaches where the party “knowingly” breached the decommissioning obligation. Penalties reflect the high level of public interest in permit and licence holders fulfilling their explicit duty to decommission given the potential for significant environmental and health and safety harm of failing to decommission, and the substantial cost to the Crown or third parties, or both, if left to pay for and carry out decommissioning, particularly for offshore fields; and
- holding permit and licence holders liable for meeting the costs of decommissioning even if they transfer out of a permit, in the event that the new permit holder fails to carry out and fund decommissioning. This is designed to incentivise permit and licence holders to carry out sufficient due diligence to ensure the transferee has financial capacity to carry out and fund decommissioning; and
- empowering the Minister to carry out more effective monitoring of a permit or licence holder’s financial position and plans for field development on a regular basis, and to carry out assessments of a permit or licence holder’s financial capability to complete decommissioning when needed; and
- requiring permit and licence holders to establish and maintain adequate financial security for the purposes of funding and carrying out decommissioning activities, to minimise the risk of decommissioning liabilities being transferred to the Crown or third parties or both; and
- requiring permit and licence holders to make payments towards the cost of any post-decommissioning work. This includes activities carried out in relation to the remediation of wells that have been plugged and abandoned, or any infrastructure left in place after decommissioning has been completed. The financial responsibility for this work could otherwise be left in full to the Crown or third parties, or both.

The provisions in the Bill will apply equally to holders of petroleum permits under the CMA and holders of licences granted under the Petroleum Act 1937.

The Bill also includes changes that are not specific to decommissioning and will apply across the whole of the CMA. These include—

- amending the permit acquisition provisions (sections 29A, 41, 41AE, and 41C) to require the decision-maker to have a higher level of confidence that the pro-

posed permit holder will comply with the work programmes or permit conditions, health and safety and environmental requirements, and obligations relating to fees and royalties. In a recent High Court decision *Greymouth Gas Turangi Ltd v Minister of Energy and Resources* [2020] NZHC 2712, the High Court interpreted “likely” in the context of ascertaining whether an applicant is “likely” to comply with and give proper effect to the proposed work programme (section 29A(2)(b)) as an “outcome that is reasonably in prospect, that being an outcome that is a distinct possibility”. The intent of these amendments is to shift the threshold higher than set by the court in the Greymouth judgment, to a level of confidence that is broadly midway between “more likely than not” and “certainty”. The intent is that the threshold is set so that the Minister can exercise greater control over who receives a permit, but not so high as to practically prevent the grant of all permits. This is intended to reduce the likelihood of persons that do not have sufficient technical and financial capability, or that have a poor history of compliance, being awarded a permit; and

- providing the chief executive or an enforcement officer with the power to impose enforceable undertakings and issue compliance notices and infringement notices. This expands the regulator’s existing toolbox and provides effective and proportionate responses to potential breaches across the whole of the CMA; and
- making amendments to improve the administration of the CMA, including—
 - creating a new offence and penalty for non-permit holders who do not provide information as required under the CMA; and
 - clarifying the scope of existing record-keeping requirements; and
 - enabling the proactive release of reports once the relevant non-disclosure periods have passed to improve transparency; and
 - removing the requirement for annual reassessments of the tier status of mineral permits, which currently places a disproportionate administrative burden on the regulator for a relatively low-risk activity; and
 - reclassifying all minerals prospecting permits as Tier 2 permits to improve administrative efficiency.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=47>

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced 1 regulatory impact assessment in June 2020, 1 regulatory impact analysis in April 2021, and 1 regulatory impact summary in April 2021 to help inform the main policy decisions taken by the Government relating to the contents of the Bill.

Copies of these regulatory impact assessments can be found at—

- <https://www.mbie.govt.nz/dmsdocument/11619-regulation-governing-legal-and-financial-responsibility-for-decommissioning-petroleum-infrastructure-and-enforcement-tools-under-the-crown-minerals-act-1991-proactiverelease-pdf>
- <https://www.mbie.govt.nz/dmsdocument/14681-residual-liability-for-petroleum-wells-and-infrastructure-following-decommissioning>
- <https://www.mbie.govt.nz/dmsdocument/14678-impact-summary-additional-options-to-address-limitations-with-petroleum-infrastructure-decommissioning-regime-under-the-crown-minerals-act-1991>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for when the Bill comes into force. *Clauses 1 to 17 and 18 to 27 and Schedules 1 and 2* of the Bill come into force on the day after the date of Royal assent. *Clause 15* also comes into force on the day after the date of Royal assent, to the extent that it relates to *new sections 89A to 89ZC, 89ZE to 89ZK, and 89ZV to 89ZZU*. The rest of the Bill comes into force on 1 or more dates set by Order in Council. However, if any provision of the Bill is not brought into force earlier, it comes into force 24 months after the date of Royal assent. The reason for the commencement of certain provisions by Order in Council is that administrative systems will need to be put in place and regulations made in order to give effect to the new provisions of the principal Act dealing with decommissioning of petroleum infrastructure and wells and post-decommissioning requirements. It is not possible at this point in time to identify when all these necessary steps will be completed.

Clause 3 provides that the Crown Minerals Act 1991 is the principal Act.

Part 1

Amendments to Part 1

Clause 4 amends section 2 (which relates to Interpretation) by inserting definitions of decommissioning and petroleum infrastructure, replacing the definition of participat- ing interest, and making other consequential amendments.

Clause 5 amends section 2B to provide that all prospecting permits that relate to min- erals (other than petroleum) are Tier 2 permits.

Clause 6 amends section 2C to remove the requirement that the Minister must reassess the tier status of certain permits each year. The affected permits are those specified in section 2C(1).

Clause 7 amends section 5 to update the functions of the Minister in light of changes made by the Bill.

Part 2

Amendments to other Parts of principal Act

Clause 8 amends section 29A, which describes the process for dealing with applications for permits. The amendment requires the Minister to be satisfied that compliance with certain conditions is “highly likely”.

Clause 9 consequentially amends section 32 to take account of the new provisions relating to decommissioning inserted by later provisions in the Bill.

Clauses 10 to 12 amend sections 41, 41AE, and 41C, which relate to transferring all or part of a participating interest in a permit, obtaining consent for the change of control of a corporate body that is a Tier 1 permit operator, and obtaining consent for a change of permit operator respectively. The amendments require the Minister to be satisfied that compliance with certain conditions is “highly likely”.

Clause 13 consequentially amends section 41D to take account of the new provisions relating to decommissioning inserted by later provisions in the Bill.

Clause 14 inserts a new *subpart 1* heading in Part 1B after the Part 1B heading.

Clause 15 inserts a new cross-heading above section 42.

Clause 16 inserts *new sections 42B and 42C* to require a holder of a petroleum mining permit or licence to submit field development plans to the chief executive, and to notify the chief executive of when they expect the field to permanently cease production.

Clause 17 inserts *new subparts 2 to 5* into Part 1B.

New subpart 2 deals with the decommissioning of petroleum infrastructure and wells.

New section 89A deals with the application of *new subpart 2*. The subpart applies to—

- a permit holder;
- any person who applies for a permit before the commencement of *new section 89A* if that application has not been determined on commencement;
- the holder of a licence granted under the Petroleum Act 1937;
- a person who transfers a permit or licence or all or part of a participating interest in a permit or licence on or after commencement, and a person to whom the permit or licence or all or part of a participating interest is transferred.

New section 89B describes the relationship between the requirements in *new subpart 2* and other enactments.

New section 89C describes the relationship between the requirements of *new sections 42B and 42C, new subpart 2*, and existing conditions in permits or licences.

New section 89D defines the terms commencement, licence, permit, petroleum infrastructure, plugging and abandonment (in relation to a well), and well.

New section 89E defines the term decommissioning and sets out some default rules about what is required when petroleum infrastructure is decommissioned, and allowing certain objects to be left on site when petroleum infrastructure or a well is decommissioned.

New section 89F defines the term petroleum infrastructure.

New section 89G sets out the powers of the Minister to set conditions relating to decommissioning petroleum infrastructure or a well on existing permit or licence holders, or when granting a new permit or on consenting to the transfer of a licence or a participating interest in a permit or licence.

New section 89H sets out criteria that must be considered by the Minister for setting time frames for decommissioning as a condition of a permit or licence. There are different criteria to be applied in relation to petroleum infrastructure or a well.

New section 89I defines the term relevant older petroleum infrastructure and *new section 89J* defines the term relevant older well. These 2 definitions are important because they define the liability of permit and licence holders to decommission petroleum infrastructure or wells put in place or drilled under the authority of previous permits or licences.

Decommissioning obligations for petroleum infrastructure

New section 89K sets out the core rules governing the obligations of permit holders, transferors, and transferees to decommission petroleum infrastructure. Permit holders must carry out, and meet the costs of, the decommissioning of—

- all petroleum infrastructure put in place for the purposes of carrying out, or otherwise related to, activities authorised by the current permit (whenever granted) and relevant older petroleum infrastructure; and
- all relevant older petroleum infrastructure.

A person who transfers all or part of a participating interest in a permit granted before, on, or after commencement, but before decommissioning is completed, must meet the costs of decommissioning all petroleum infrastructure—

- put in place for the purposes of carrying out, or otherwise related to, activities authorised by the current permit; and
- that is in place when consent to the transfer of that interest is given under section 41 of the Act.

New section 89L sets out obligations that are very similar to those in *new section 89K*, but in respect of holders of licences granted under the Petroleum Act 1937, and transferors and transferees of participating interests in those licences.

New section 89M sets out further obligations on transferors and transferees of participating interests in permits or licences when those transfers are made on or after the commencement of *new section 89M*.

It provides that the transferor continues to be liable for decommissioning costs after the transfer. If the transferee fails to enter into a required financial security, then—

- the transfer is void, and the transferor continues to be liable to meet the costs of decommissioning; and
- the transferor must be treated as continuing to be the holder of the licence or participating interest in the permit or licence that was the subject of the transfer.

New section 89N provides, in essence, that transferors are only liable to meet decommissioning costs if or to the extent that those costs are not met by permit holders or licence holders.

New section 89O specifies when the obligations of persons liable to carry out decommissioning or meet costs, or both, under *new section 89K, 89L, or 89M*, arise. Those obligations must be met by the earliest of—

- the expiry or surrender of the current permit or licence;
- any date or time or within any period specified by the Minister in conditions attached to the current permit or licence.

If a permit or licence is revoked, the person who held the permit or licence before it was revoked must carry out their decommissioning obligations under *new subpart 2*—

- within 2 years after being given notice of the revocation; or
- by a time agreed with the Minister.

New section 89P sets out rules about joint and several liability where a permit holder, former permit holder, licence holder, or former licence holder is 2 or more persons.

Plugging and abandonment of wells

New section 89Q describes what the plugging and abandonment of wells involves.

Decommissioning obligations in relation to wells

New sections 89R to 89W set out very similar rules about liability for plugging and abandoning wells as are set out in relation to the decommissioning of petroleum infrastructure under *new sections 89K to 89P*.

Exemptions and deferrals

New section 89X empowers the Minister to exempt a particular permit holder or licence holder from the requirement to decommission a particular thing that is petroleum infrastructure or to plug and abandon a well. Alternatively, the Minister may defer the time for complying with that obligation. Class exemptions or deferrals may be made by regulations made under section 105.

New section 89Y sets out the criteria for granting an exemption under *new section 89X*. In summary, the Minister must be satisfied that the requirements are unreasonable or inappropriate in the particular case or that events have occurred that make the requirements unreasonable or inappropriate in the particular case.

New section 89Z sets out the criteria for granting a deferral under *new section 89X*. In summary, the Minister must be satisfied that it is appropriate in the circumstances to defer the requirement to a later date in the particular case.

Information gathering

New section 89ZA sets out the Minister's power to monitor the financial position of persons liable to carry out and meet the costs of decommissioning. Information gathered for monitoring purposes may be used to inform the Minister's decision as to whether to carry out a financial capability assessment under *new section 89ZB*.

New sections 89ZB and 89ZC set out the Minister's power to assess the financial capability of persons liable to carry out and meet the costs of decommissioning. *New section 89ZC* requires those persons to provide the information necessary to enable the assessment.

New section 89ZD requires those same persons to provide an asset register that is a complete and accurate list of the petroleum infrastructure and wells they must decommission.

Financial securities

New section 89ZE requires a permit holder or a licence holder to obtain and maintain 1 or more financial securities to secure, or secure in part, the performance of their obligations under *new subpart 2*. The process begins by the Minister issuing a notice to the relevant permit holder or licence holder indicating the time by which the financial security must be obtained and asking the permit or licence holder for their views on the kind of security that should be obtained and the amount to be secured. The Minister then has regard to the matters set out in *new section 89ZF* (including any criteria set out in the regulations) and then decides on the kind of security that must be obtained and the amount to be secured (*see section 89ZG*). A notice must be sent by the Minister to the licence holder or permit holder setting out the kind of financial security to be obtained, the amount to be secured, and the time by which the security must be obtained.

New section 89ZH provides for the alteration of amounts required to be secured or the kind of security required by the Minister.

New section 89ZI requires the Minister to notify changes to the required kind of financial security or the amount to be secured, and *new section 89ZJ* gives the affected permit holder or licence holder a right of objection to both the original and any subsequent decision by the Minister.

New section 89ZK gives the objector a right to be heard and requires the Minister to determine the objection within a reasonable time.

New section 89ZL deals with the application of *new subpart 3*. The subpart applies to each permit holder and licence holder, but only in relation to—

- petroleum infrastructure that was decommissioned on or after the commencement of this section:
- a well that was plugged and abandoned on or after the commencement of this section.

New section 89ZM explains the relationship between this subpart and other enactments or conditions of permits or licences.

New section 89ZN defines terms used in this subpart, frequently by reference to their defined meaning in *new subpart 2*. An important new term is post-decommissioning work, which means activities carried out in relation to the remediation of—

- petroleum infrastructure that has been decommissioned but not removed:
- a well that has been plugged and abandoned.

New section 89ZO sets out the obligations of any permit holder or licence holder who is obliged under *new subpart 2* to carry out and meet the costs of decommissioning. Those persons must also pay an amount to the chief executive to meet the costs of post-decommissioning work on petroleum infrastructure and wells decommissioned earlier under *new subpart 2*.

New section 89ZP requires the Minister to set the amount the permit holder or licence holder is liable to pay under *new section 89ZO*.

New section 89ZQ requires the Minister to direct that a payment be made either in 1 lump sum or by instalments. It also provides that the regulations may prescribe criteria to guide the Minister in making their decision, and provides for related matters such as notice.

New section 89ZR sets out other duties of the chief executive.

New section 89ZS sets out other duties of the Minister.

Exemptions

New section 89ZT empowers the Minister to exempt a permit holder or a licence holder from the obligation to pay all or part of the amount set by the Minister as a post-decommissioning payment. Class exemptions may be made by regulations made under section 105.

New section 89ZU sets out the criteria the Minister must apply before granting an exemption. The Minister must be satisfied that the (payment) requirement is unreasonable or inappropriate in the particular case or that events have occurred that make the requirement unnecessary or inappropriate in the particular case.

New section 89ZV provides that the provisions of *new subpart 4* apply in relation to the contravention or alleged contravention of the principal Act or the regulations.

New sections 89ZW to 89ZZC provide for the giving, acceptance, and enforcement of enforceable undertakings. These provisions are based on comparable provisions in the Health and Safety at Work Act 2015.

New section 89ZW enables the chief executive or an enforcement officer to accept an enforceable undertaking from a person in connection with a matter in relation to a contravention or alleged contravention of the Act or the regulations.

New section 89ZX requires the chief executive to give notice of a decision to accept or not accept an enforceable undertaking and to provide reasons for that decision.

New section 89ZY specifies when an undertaking becomes enforceable.

New section 89ZZ prohibits the contravention of an enforceable undertaking and makes such contravention an offence punishable on conviction by a fine not exceeding \$200,000.

New section 89ZZA empowers the chief executive or an enforcement officer to apply to the District Court for one of 2 orders if a person contravenes an enforceable undertaking (an order directing the person to comply with the undertaking or an order discharging the undertaking). The court may order the person to pay the department responsible for administering the principal Act the costs of the proceedings and the reasonable costs of monitoring the persons ongoing compliance with the enforceable undertaking in the future.

New section 89ZZB provides for the withdrawal or variation of an enforceable undertaking.

New section 89ZZC prohibits the taking of civil or criminal proceedings in respect of a contravention or alleged contravention of the principal Act or the regulations while an enforceable undertaking is in force.

Compliance notices

New section 89ZZD enables the chief executive or an enforcement officer who reasonably believes that a person is contravening, or is likely to contravene, the principal Act or the regulations to issue a compliance order in circumstances where 1 or more of the criteria in *new section 89ZZD(3)* are satisfied. The compliance order may require the person to—

- remedy the contravention; or
- prevent a likely contravention from occurring; or
- remedy the things or activities causing the contravention or likely to cause a contravention.

New section 89ZZE sets out the required contents of compliance notices.

New section 89ZZF requires a person to whom a compliance notice is issued to comply with it within the period specified in the notice. Contravention of that requirement is an offence punishable on conviction by a fine not exceeding \$200,000. A person charged with this offence has a defence if they prove that they had a reasonable excuse for not complying with the notice within the period specified in the notice.

New section 89ZZG enables the chief executive or an enforcement officer to extend the compliance period for the compliance notice.

General provisions

New section 89ZZH sets out general provisions relating to compliance notices.

New section 89ZZI enables the chief executive or a compliance officer to make certain minor changes to a compliance notice.

New section 89ZZJ enables the chief executive or an enforcement officer to vary or cancel a compliance notice.

New section 89ZZK provides that formal irregularities or defects do not invalidate a compliance notice.

New section 89ZZL sets out formal rules about how a person must be given notice of a compliance order.

Civil proceedings for non-compliance with compliance notices

New section 89ZZM enables the chief executive or an enforcement officer to bring civil proceedings in the District Court seeking an order—

- compelling a person to comply with a compliance notice; or
- restraining a person from contravening a compliance notice.

Pecuniary penalties and criminal liability

New sections 89ZZN sets out defences to proceedings for pecuniary penalties under *new section 89ZZO*. There is a defence if—

- the breach was due to a reasonable mistake or due to events outside of the person's control; and
- the breach was remedied (to the extent that it could be remedied) as soon as practicable after the breach was discovered by the person or brought to the person's notice; and
- the person has compensated or offered to compensate any person who has suffered loss or damage by that breach.

New section 89ZZO sets out a pecuniary penalty regime for contravention of *new sections 89K, 89L, 89R, 89S, and 89ZE*, and for the taking of related actions. The maximum penalty that may be imposed by the court is—

- in the case of an individual, \$500,000; or
- in the case of a body corporate, \$10,000,000.

New section 89ZZP deals with the standard of proof in proceedings for a pecuniary penalty (which is the standard of proof that applies in civil proceedings).

New section 89ZZQ creates a criminal offence in relation to a person who is liable for carrying out or meeting the costs (or both) of the decommissioning of petroleum infrastructure or wells. If a body corporate commits an offence under *new section*

89ZZQ, a person who was a director of that body corporate at the specified times also commits an offence.

New section 89ZZR creates a defence to criminal liability for directors.

Relationship between pecuniary penalties and criminal liability

New section 89ZZS sets out rules about the relationship between pecuniary penalties and criminal liability.

Restrictions on indemnities and insurance

New section 89ZZT prohibits bodies corporate from indemnifying directors, employees, and agents, or persons who formerly held those positions, from pecuniary penalties or costs.

New section 89ZZU similarly prohibits contracts of insurance that indemnify persons from pecuniary penalties or related costs.

Clause 18 inserts a *new subpart 5 heading* in Part 1B, before section 90.

Records and reports

Clause 19 amends section 90, which relates to the records and reports that a permit holder must keep. First, the amendment extends the types of activities the records and reports must cover to include decommissioning activities, and provides some examples of the records and reports that must be kept. Second, the amendment allows the chief executive to publish information supplied under section 90 after the relevant non-disclosure period has expired. Third, the amendment extends the application of *new section 90(11)* to financial records, including information gathered for the purposes of carrying out a financial capability assessment under *new section 89ZB*. Despite anything to the contrary in section 90, the chief executive does not have to send or make available any records, reports, information, or returns protected under *new section 90(11)*.

Clause 20 amends section 90A, which specifies conditions that relevant decision-makers must satisfy when disclosing certain information. The amendment extends the application of section 90A to cover *new sections 89ZA, 89ZC, 89ZE, 89ZF, 89ZR, and 89ZS*, which relate to information provided for the purposes of monitoring a person's financial position and to enable the Minister to carry out a financial capability assessment of that person.

Clause 21 amends section 99C to allow enforcement officers to apply for search warrants to enter structures and ships as well as places and vehicles.

Offences

Clause 22 amends section 100 (which deals with offences). A new offence relating to the failure to provide certain information is created. Also, section 100 is amended to provide for a limitation period for bringing proceedings for offences in relation to enforceable undertakings.

Clause 23 amends section 101A (which relates to interpretation).

Clause 24 inserts *new sections 104A to 104J* into the Act. These provisions are largely machinery provisions necessary for the establishment of an infringement offence regime under *new section 104A*. An infringement offence means an offence against the Act or an offence prescribed as an infringement offence in the regulations. However, because of their serious nature, offences against *new section 89ZZQ* (which relates to a failure to carry out certain obligations) and section 100(3) and (3A) (which require proof of intention or knowledge) cannot be infringement offences.

Under *new section 104J*, the maximum infringement fee for an offence is prescribed in the regulations but cannot exceed \$3,000 in the case of a body corporate or \$1,000 in the case of an individual.

Regulations

Clause 25 makes extensive amendments to section 105 (which deals with regulations) primarily in order to make provision for new regulations to be made in relation to matters required to be prescribed for the purposes of *new subparts 2 to 5* of Part 1B.

Savings and transitional provisions

Clause 26 and Schedule 1 insert a *new Part 4* into Schedule 1 of the principal Act, which prescribes savings and transitional provisions in relation to this Bill.

Clause 27 and Schedule 2 consequentially amend other Acts.

Hon Dr Megan Woods

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Crown Minerals (Decommissioning and Other Matters) Amendment Act **2021**.

2 Commencement 5

(1) **Sections 1 to 15 and 18 to 27 and Schedules 1 and 2** come into force on the day after the date of Royal assent.

(2) **Section 17** also comes into force on the day after the date on which this Act receives the Royal assent, but only to the extent that it relates to—

(a) **sections 89A to 89ZC** of the principal Act: 10

(b) **sections 89ZE to 89ZK** of the principal Act:

(c) **sections 89ZV to 89ZZU** of the principal Act.

(3) The rest of this Act comes into force—

(a) on 1 or more dates set by Order in Council; or

(b) 24 months after the date of Royal assent, for any provision in this Act 15
that has not come into force by then.

3 Principal Act

This Act amends the Crown Minerals Act 1991.

Part 1**Amendments to Part 1** 20**4 Section 2 amended (Interpretation)**

(1) In section 2(1), insert in their appropriate alphabetical order:

decommissioning has the meaning set out in **section 89E**

petroleum infrastructure has the meaning set out in **section 89F**

ship has the same meaning as in section 2(1) of the Maritime Transport Act 1993 25

(2) In section 2(1), replace the definition of **participating interest** with:

participating interest,—

(a) in relation to a permit, means an individual share of the permit that is expressed as a percentage recorded on the permit: 30

(b) in relation to a licence granted under Part 1 of the Petroleum Act 1937, means an individual share of the licence that is recorded on the licence

(3) In section 2(1), definition of **permit**, after “these permits”, insert “, except in **subparts 2 and 3** of Part 1B”.

- 5 Section 2B amended (Meaning of Tier 1 permit and Tier 2 permit)**
- (1) Repeal section 2B(1)(b).
 - (2) In section 2B(1)(e), replace “a permit” with “an exploration or mining permit”.
- 6 Section 2C amended (Determination of permit tier status)**
- (1) In section 2C(2)(a), delete “and then once in each permit year”. 5
 - (2) In section 2C(2)(b), delete “and then once in each permit year”.
 - (3) Repeal section 2C(4).
- 7 Section 5 amended (Functions of Minister)**
- In section 5, after paragraph (c), insert:
- (ca) to make decisions on decommissioning petroleum infrastructure and wells, requirements for financial securities, payments for post-decommissioning work, and related matters: 10

Part 2

Amendments to other Parts of principal Act

- 8 Section 29A amended (Process for considering application)** 15
- (1) In section 29A(2)(b) and (c), replace “likely” with “highly likely”.
 - (2) In section 29A(2)(d), replace “is likely” with “is highly likely”.
- 9 Section 32 amended (Right of permit holder to subsequent permits)**
- In section 32(5A), after “otherwise agree, and”, insert “, subject to **subpart 2** of Part 1B,”. 20
- 10 Section 41 amended (Transfer of interest in permit)**
- In section 41(6), replace “likely” with “highly likely”.
- 11 Section 41AE amended (When Minister may consent to change of control of permit operator)**
- (1) In section 41AE(1)(a)(ii) and (iii), replace “likely” with “highly likely”. 25
 - (2) In section 41AE(1)(b), replace “is likely” with “is highly likely”.
- 12 Section 41C amended (Change of permit operator)**
- In section 41C(3)(a) and (b)(i), replace “likely” with “highly likely”.
- 13 Section 41D amended (General provisions relating to transfers, dealings, and changes of permit operator)** 30
- After section 41D(4)(b), insert:
- (c) **subpart 2 of Part 1B.**

14 New subpart 1 heading in Part 1B inserted

After the Part 1B heading, insert:

Subpart 1—Permits, access to land, and title notations

15 New cross-heading above section 42 inserted

After section 41D, insert:

5

Surveys

16 New sections 42B and 42C and cross-headings inserted

After section 42A, insert:

Field development plans in respect of petroleum mining permits and licences

42B Field development plans to be submitted to chief executive

10

(1) The holder of a petroleum mining permit granted under this Act or a petroleum mining licence granted under the Petroleum Act 1937 (A) must submit a field development plan to the chief executive at the prescribed time or on the occurrence of the prescribed event.

(2) The field development plan must—

15

(a) detail the planned development of the field over its anticipated productive life, including all anticipated decommissioning work; and

(b) estimate the cost of planned work, if regulations made under this Act prescribe that a cost estimate is required for that work; and

(c) be accurate as at the date of submission to the chief executive; and

20

(d) contain the prescribed information (if any); and

(e) be in the prescribed form (if any); and

(f) meet any further prescribed requirements.

(3) If a cost estimate is required under **subsection (2)(b)**, the estimate must comply with the standards prescribed (if any) for developing that estimate.

25

(4) The chief executive may require A to submit an updated field development plan at the prescribed times, on the occurrence of the prescribed events, or at regular intervals prescribed by regulations.

Notice of expected cessation and notice of cessation of petroleum fields

42C Notice of expected cessation and notice of cessation

30

(1) The holder of a petroleum mining permit granted under this Act or a petroleum mining licence granted under the Petroleum Act 1937 (A) must submit a notice of expected cessation to the chief executive at the prescribed times, on the

- occurrence of the prescribed events, or at regular intervals prescribed by regulations.
- (2) The notice of expected cessation must—
- (a) specify when A currently expects the field to permanently cease production; and 5
 - (b) contain the prescribed information (if any); and
 - (c) be in the prescribed form (if any); and
 - (d) meet any further prescribed requirements.
- (3) If the field permanently ceases production, A must give the chief executive notice of that cessation as soon as practicable and not later than 20 working days after cessation. 10

17 New subparts 2 to 5 of Part 1B inserted

After section 89, insert:

Subpart 2—Decommissioning of petroleum infrastructure and wells

89A Application of this subpart 15

This subpart applies to—

- (a) a permit holder;
- (b) any person who applies for a permit before commencement if the application has not been determined on commencement;
- (c) a licence holder: 20
- (d) a person who transfers a permit or licence or all or part of a participating interest in a permit or licence on or after commencement, and a person to whom the permit or licence or all or part of a participating interest is transferred.

89B Relationship between this subpart and other enactments 25

- (1) This subpart does not limit or affect any person’s obligations under another enactment.
- (2) Any requirement under this subpart for a person to supply information does not replace or limit any requirement for that person to supply information under other provisions in this Act or another enactment. 30
- (3) An exemption granted under this subpart from complying with a decommissioning requirement under this subpart does not exempt the person from complying with another enactment.

89C Relationship between new sections 42B and 42C, this subpart and existing conditions of permits and licences

If the requirements of **sections 42B and 42C** and this subpart (**the provisions**) duplicate or overlap with those conditions of a permit or licence imposed before commencement, the provisions prevail, in the event and to the extent of any inconsistency between the provisions and those conditions.

5

89D Interpretation

In this subpart, unless the context otherwise requires,—

commencement, in relation to any provision in this subpart, means the day on which that provision commences

10

licence means a prospecting licence or a mining licence granted under Part 1 of the Petroleum Act 1937 to prospect or mine for petroleum

permit means a permit to explore for petroleum or a petroleum mining permit granted under this Act

petroleum infrastructure has the meaning set out in **section 89F**

15

plugging and abandonment, in relation to a well, has the meaning set out in **section 89Q**

well means the holes drilled into the ground for the purpose of extracting or injecting fluids associated with petroleum mining, or for the purpose of obtaining exploration data, or production testing.

20

89E Decommissioning

(1) In this Act, unless the context otherwise requires, **decommissioning**, in relation to any petroleum infrastructure or a well—

(a) means an activity undertaken under any enactment, and in accordance with any requirements or standards set by or under that enactment or imposed by a regulatory agency, to take out of service permanently petroleum infrastructure or a well used for prospecting or exploring for, or mining of, petroleum; and

25

(b) includes (without limitation) and to the extent required by this Act or another enactment or by standards or by a regulatory agency—

30

(i) removing petroleum infrastructure; and

(ii) plugging and abandoning a well; and

(iii) undertaking site restoration when production of a well ceases (for whatever reason); and

(iv) any other prescribed activity in relation to any petroleum infrastructure or well drilled for the purposes of exploration or prospecting for, or mining of, petroleum.

35

- (2) To avoid doubt, an obligation to decommission any petroleum infrastructure or well does not prevent the person obliged to decommission from leaving specific objects on site, or carrying out decommissioning in a particular way,—
- (a) with the consent of the landowner; and
 - (b) if those actions are consistent with the requirements of this Act or any other relevant enactment or standard, or the requirements of a regulatory agency. 5
- (3) However, if in relation to petroleum infrastructure no other enactment, relevant standard, or requirement by a regulatory agency contains any requirements or standards relating to the method of decommissioning a particular item of petroleum infrastructure, that infrastructure must be decommissioned by totally removing it. 10

89F Petroleum infrastructure

In this Act, unless the context otherwise requires, **petroleum infrastructure**—

- (a) means— 15
 - (i) a structure used onshore or offshore for drilling for the purpose of exploring for, or mining of, petroleum:
 - (ii) any equipment attached to, or used in connection with a structure or well (for example platforms, cables, pipelines, and other facilities and structures that are used in connection with the exploration for petroleum or mining of petroleum): 20
 - (iii) production, storage, and off-loading infrastructure and any attached equipment (for example, cables, risers, umbilical lines, gas lift lines, anchors, mooring lines, and flow lines):
 - (iv) any other prescribed thing or class of thing used in connection with, prospecting or exploring for, or mining of, petroleum; but 25
- (b) does not include—
 - (i) a well:
 - (ii) any unmoored ship:
 - (iii) any vehicle: 30
 - (iv) any other prescribed thing or class of thing.

89G Conditions relating to decommissioning

- (1) This section applies—
- (a) if the Minister, on or after commencement, grants a permit:
 - (b) if the Minister, on or after commencement, consents to the transfer of all or part of a participating interest in a permit under section 41 of this Act or consents to the transfer of a licence or all or part of a participating 35

interest in a licence under the Petroleum Act 1937 (as preserved by clause 12(1)(a) of Schedule 1 of this Act), as the case requires:	
(c) at any time on or after commencement while a permit or licence (whenever granted) is in force.	
(2) The Minister may (on the grant of a permit, or on giving consent to the transfer of a licence or all or part of a participating interest in a permit or licence, or at any other time while the permit or licence is in force) impose conditions on the permit or licence holder in relation to the decommissioning of petroleum infrastructure or a well.	5
(3) Examples of conditions that may be set under subsection (2) include—	10
(a) a condition that the decommissioning of a specified thing start on a specified date, continue after that date, and be completed by a specified date or within a specified period; or	
(b) a condition that the decommissioning of a specified thing must be completed by a date that is before the expiry or surrender of a permit, or before the expiry of the periods referred to in section 890(2)(a) or 89V(2)(a) .	15
89H Criteria for setting time frames for decommissioning as condition of permit or licence	
When considering what dates, times, or periods for decommissioning to be completed should be set as a condition under section 89G(2) , the Minister must consider,—	20
(a) in relation to petroleum infrastructure,—	
(i) when economic production under the relevant permit or licence is expected to cease:	25
(ii) any plans for field development (including the length of time before decommissioning of the whole field is expected to be undertaken and any plans for reuse of the infrastructure):	
(iii) when decommissioning needs to be completed:	
(iv) when decommissioning needs to start if it is to be completed on time:	30
(v) the time required to comply with requirements under other enactments before decommissioning can commence or be completed:	
(vi) any other matters the Minister considers relevant:	
(b) in relation to a well,—	35
(i) the amount of time during which the well has been inactive:	
(ii) the integrity of the well:	

(iii)	any plans for field development (including the length of time before decommissioning of the whole field is expected to be undertaken and any plans for reuse of the well):	
(iv)	when decommissioning needs to be completed:	
(v)	when decommissioning needs to start if it is to be completed on time:	5
(vi)	the time required to comply with requirements under other enactments before decommissioning can commence or be completed:	
(vii)	any other matters the Minister considers relevant.	
89I	Meaning of relevant older petroleum infrastructure	10
	In this subpart, relevant older petroleum infrastructure —	
(a)	means,—	
(i)	in relation to a current permit holder, petroleum infrastructure—	
(A)	put in place by a permit holder (whether the current permit holder or a different permit holder) under a permit that was exchanged for the current permit under section 32 of this Act; and	15
(B)	that was in place at the time the exchange occurred:	
(ii)	in relation to a current licence holder, petroleum infrastructure—	
(A)	put in place by a licence holder (whether the current licence holder or a different licence holder) under a licence that was exchanged for the current licence under section 9(3) or sections 11 and 12, or any other relevant provisions, of the Petroleum Act 1937 (as they read at the time of the exchange); and	20
(B)	that was in place at the time the exchange occurred:	25
(iii)	any class of petroleum infrastructure declared by the regulations, in relation to a class of permit or licence holders, to be relevant older petroleum infrastructure; but	
(b)	excludes any class of petroleum infrastructure declared by the regulations, in relation to a class of current permit or licence holders, not to be relevant older petroleum infrastructure.	30
89J	Meaning of relevant older well	
	In this subpart, relevant older well —	
(a)	means,—	35
(i)	in relation to a current permit holder, a well—	
(A)	drilled or operated by a permit holder (whether the current permit holder or a different permit holder) under a permit	

- that was exchanged for the current permit under section 32 of this Act; and
- (B) that was in place at the time the exchange occurred:
- (ii) in relation to a current licence holder, a well—
- (A) drilled or operated by a licence holder (whether the current licence holder or a different licence holder) under a licence that was exchanged for the current licence under section 9(3) or sections 11 and 12, or any other relevant provisions, of the Petroleum Act 1937 (as they read at the time of the exchange); and
- (B) that was in place at the time the exchange occurred:
- (iii) any class of well declared in the regulations, in relation to a class of permit or licence holders, to be a relevant older well; but
- (b) excludes any class of well declared by the regulations, in relation to a class of current permit or licence holders, not to be a relevant older well.

Decommissioning obligations for petroleum infrastructure

89K Obligations of permit holders, transferors, and transferees: decommissioning of petroleum infrastructure

- (1) A person who holds or will hold a permit at the time the obligation to decommission is required to be completed must carry out, and meet the costs of, the decommissioning of all petroleum infrastructure put in place for the purposes of carrying out, or otherwise related to, activities authorised by the current permit (whenever granted), and all relevant older petroleum infrastructure.
- (2) A person with a participating interest in a permit (whenever granted) who transfers all or any part of their participating interest in the permit on or after commencement, but before decommissioning is completed, must meet the costs of decommissioning all petroleum infrastructure—
- (a) that is—
- (i) put in place for the purposes of carrying out, or otherwise related to, activities authorised by the current permit;
- (ii) relevant older petroleum infrastructure; and
- (b) that is in place when consent to the transfer is given under section 41.
- (3) **Subsection (2)** does not apply in respect of all or any part of a participating interest in a permit that is transferred to the Minister.
- (4) A transfer of a participating interest in a permit is effective on and after the date of the Minister's consent to that transfer under section 41.
- (5) **Subsections (1), (2), and (4)** are subject to **sections 89M and 89N**.

**89L Obligations of licence holders, transferors, and transferees:
decommissioning of petroleum infrastructure**

- (1) A person who holds or will hold a licence at the time the obligation to decommission is required to be completed, must carry out and meet the costs of, the decommissioning of all petroleum infrastructure put in place for the purpose of carrying out, or otherwise related to, activities authorised by the current licence (whenever granted) and all relevant older petroleum infrastructure. 5
- (2) A licence holder or any person with a participating interest in a licence who transfers the licence, or all or any part of their participating interest in the licence, on or after commencement but before decommissioning is completed must meet the costs of decommissioning all petroleum infrastructure— 10
- (a) that is—
- (i) put in place for the purposes of carrying out, or otherwise related to, activities authorised by the licence: 15
- (ii) relevant older petroleum infrastructure; and
- (b) that is in place when consent to the transfer is given under the Petroleum Act 1937 (as preserved by clause 12(1)(a) of Schedule 1 of this Act).
- (3) **Subsection (2)** does not apply in respect of a licence, or all or any part of a participating interest in a licence, that is transferred to the Minister.
- (4) A transfer of a licence or a participating interest in a licence is effective on settlement of the agreement to transfer the licence or the interest in the licence. 20
- (5) **Subsections (1), (2), and (4)** are subject to **sections 89M and 89N**.

89M Further obligations on transferors and transferees

- (1) This section applies to—
- (a) a person (**person A**) who, on or after commencement, transfers a licence or all or any part of a participating interest in a permit or a licence; and 25
- (b) a person (**person B**) who acquires, on or after commencement from person A, a licence or all or any part of a participating interest in a permit or licence.
- (2) Person A continues (subject to **section 89N**) to be liable for meeting the costs of decommissioning any petroleum infrastructure— 30
- (a) that is—
- (i) put in place for the purpose of carrying out, or otherwise related to, activities authorised by the permit or licence: 35
- (ii) relevant older petroleum infrastructure; and
- (b) that is in place when consent to the transfer is given under section 41 of this Act or under the Petroleum Act 1937 (as preserved by clause 12(1)(a) of Schedule 1 of this Act), as the case requires.

- (3) It is a condition of transfer, deemed to have been imposed under **section 89G**, that person B must, in accordance with the directions of the Minister, enter into a financial security that a permit holder or licence holder is required to obtain and maintain in accordance with **sections 89ZE to 89ZK** or become a party to an existing financial security that was entered into previously in accordance with those sections, and within the time specified by the Minister. 5
- (4) A financial security referred to in **subsection (3)** may also be designed and operate to satisfy the requirements of **section 89T(3)**.
- (5) If person B fails to comply with **subsection (3)**,— 10
- (a) the transfer is void; and
 - (b) subject to **section 89N**, person A continues to be liable to meet the costs incurred in meeting person A's and person B's decommissioning obligations under this subpart; and
 - (c) person A must be treated as continuing to be the holder of the licence or the participating interest in the permit or licence that was the subject of the transfer. 15
- 89N Exceptions to sections 89K and 89L**
- One or more persons who are liable to meet the costs of decommissioning under **section 89K(2) or 89L(2)** are only liable to meet those costs if, or to the extent that, those costs are not met by the persons referred to in **section 89K(1) or 89L(1)**. 20
- 89O When decommissioning obligations of persons under section 89K, 89L, or 89M arise**
- (1) Any person liable to carry out, or meet the costs of, decommissioning petroleum infrastructure, or both, under **section 89K, 89L, or 89M**, must carry out their obligations by the earliest of the following: 25
- (a) the expiry or surrender of the current permit or licence;
 - (b) the date or time or within the period specified for the purpose by the Minister in conditions attached to the current permit or licence.
- (2) However, if a permit or licence is revoked, the person who held the permit or licence immediately before it was revoked must carry out their decommissioning obligations under this subpart— 30
- (a) within 2 years after being given notice of the revocation; or
 - (b) by a time agreed with the Minister.
- (3) To avoid doubt, the obligations imposed by **subsections (1) and (2)** continue in force even if— 35
- (a) the relevant permit or licence has expired or has been surrendered or revoked:

- (b) the relevant person has ceased to be a permit or licence holder or the holder of any participating interest in a licence or permit.
- (4) Any person referred to in **subsection (1) or (2)** must also meet the obligations set out in any conditions imposed under **section 89G** as to the start date set for, and continuing work on, and completing decommissioning. 5
- 89P Joint and several liability**
- (1) **Subsection (2)** applies if **section 89K** applies and—
- (a) the permit holder is 2 or more persons; or
- (b) the former permit holder is 2 or more persons.
- (2) Each person to whom this subsection applies is,— 10
- (a) if a permit holder, jointly and severally liable to perform the obligations of the permit holder in carrying out, and meeting the costs of, decommissioning petroleum infrastructure:
- (b) if a former permit holder, jointly and severally liable to perform the obligations of the former permit holder to meet the costs of decommissioning petroleum infrastructure that are not met by the persons referred to in **paragraph (a)**. 15
- (3) For the purposes of **subsections (1) and (2)**, a **former permit holder** is a person who previously held a permit and continues to have obligations under **section 89K, 89M, or 89O(1) or (2)** to meet the costs of decommissioning petroleum infrastructure. 20
- (4) **Subsection (5)** applies if **section 89L** applies and—
- (a) the licence holder is 2 or more persons; or
- (b) the former licence holder is 2 or more persons.
- (5) Each person to whom this subsection applies is— 25
- (a) if a licence holder, jointly and severally liable to perform the obligations of the licence holder in relation to carrying out, and meeting the costs of, decommissioning petroleum infrastructure:
- (b) if a former licence holder, jointly and severally liable to perform the obligations of the former licence holder to meet those costs of decommissioning petroleum infrastructure that are not met by the persons referred to in **paragraph (a) or subsection (2)(a)**. 30
- (6) For the purposes of **subsections (4) and (5)**, a **former licence holder** is a person who previously held a licence and continues to have obligations under **section 89L, 89M, or 89O(1) or (2)** to meet the costs of decommissioning petroleum infrastructure. 35

*Plugging and abandonment of wells***89Q What is plugging and abandonment of well**

A well is **plugged and abandoned** when—

- (a) the well is sealed in order to make it permanently inoperable; and
- (b) the sealing is conducted in accordance with any relevant enactment or standard, and the requirements of any regulatory authority.

*Decommissioning obligations in relation to wells***89R Obligations of permit holders, transferors, and transferees: decommissioning of wells**

- (1) A person who holds or will hold a permit at the time the obligation to plug and abandon 1 or more wells is required to be completed must carry out, and meet the costs of, the plugging and abandoning of all wells drilled or operated for the purposes of carrying out, or otherwise related to, activities authorised by a current permit (whenever granted) and all relevant older wells. 10
- (2) A person with a participating interest in a permit (whenever granted) who transfers all or any part of their interest in the permit on or after commencement, but before decommissioning is completed, must meet the costs of plugging and abandoning all wells— 15
 - (a) that are—
 - (i) drilled or operated for the purposes of carrying out, or otherwise related to, activities authorised by the current permit: 20
 - (ii) relevant older wells; and
 - (b) that are in place when consent to the transfer is given under section 41.
- (3) **Subsection (2)** does not apply in respect of all or any part of a participating interest in a permit that is transferred to the Minister. 25
- (4) A transfer of a participating interest in a permit is effective on and after the date of the Minister's consent to that transfer under section 41.
- (5) **Subsections (1) and (2)** are subject to **sections 89T and 89U**.

89S Obligations of licence holders, transferors, and transferees: decommissioning of wells

- (1) A person who holds or will hold a licence at the time the obligation to plug and abandon 1 or more wells is required to be completed must carry out, and meet the costs of, plugging and abandoning all wells drilled or operated for the purposes of, or otherwise related to, activities authorised by the current licence and all relevant older wells. 30
- (2) A licence holder or person with a participating interest in a licence who transfers the licence, or all or any part of their participating interest in the licence, 35

- on or after commencement but before decommissioning is completed must meet the costs of plugging and abandoning all wells—
- (a) that are—
 - (i) drilled or operated for the purposes of carrying out activities authorised by, or otherwise related to, the licence: 5
 - (ii) relevant older wells; and
 - (b) that are in place when consent to the transfer is given under the Petroleum Act 1937 (as preserved by clause 12(1)(a) of Schedule 1 of this Act).
- (3) **Subsection (2)** does not apply in respect of any licence or all or part of a participating interest in a licence that is transferred to the Minister. 10
- (4) A transfer of a licence or a participating interest in a licence is effective on settlement of the agreement to transfer the licence or the interest in the licence.
- (5) **Subsections (1) and (2)** are subject to **sections 89T and 89U**.
- 89T Further obligations on transferors and transferees** 15
- (1) This section applies to—
 - (a) a person (**person A**) who, on or after commencement, transfers a licence or all or any part of a participating interest in a permit or a licence; and
 - (b) a person (**person B**) who acquires, on or after commencement, from person A a licence or all or part of a participating interest in a permit or licence. 20
 - (2) Person A continues to be liable for meeting the costs of plugging and abandoning a well—
 - (a) that is—
 - (i) put in place for the purposes of carrying out, or otherwise related to, activities authorised by the permit or licence: 25
 - (ii) a relevant older well; and
 - (b) that is in place when the transfer is consented to under section 41 of this Act or under the Petroleum Act 1937 (as preserved by clause 12(1)(a) of Schedule 1 of this Act), as the case requires. 30
 - (3) It is a condition of transfer, deemed to have been imposed under **section 89G**, that person B must, in accordance with the directions of the Minister, enter into a financial security that a permit holder or licence holder is required to obtain and maintain in accordance with **sections 89ZE to 89ZK** or become a party to an existing financial security that was entered into in accordance with those sections, and within the time set by the Minister. 35
 - (4) A financial security referred to in **subsection (3)** may also be designed and operate to satisfy the requirements of **section 89M(3)**.
 - (5) If person B fails to comply with **subsection (3)**,—

(a)	the transfer is void; and	
(b)	subject to section 89U , person A continues to be liable to meet the costs incurred in meeting person A's and person B's decommissioning obligations under this subpart; and	
(c)	person A must be treated as continuing to be the holder of the licence or the participating interest in the permit or licence that was the subject of the transfer.	5
89U	Exceptions to sections 89R and 89S	
	One or more persons who are liable to meet the costs of plugging and abandonment under section 89R(2) or 89S(2) are only liable to meet those costs if, or to the extent that, those costs are not met by the persons referred to in section 89R(1) or 89S(1) .	10
89V	When decommissioning obligations of permit holders, licence holders, and other persons under section 89R, 89S, or 89T arise	
(1)	A person liable to carry out, or meet costs of, plugging and abandoning wells, or both, under section 89R, 89S, or 89T must carry out their obligations by the earliest of the following:	15
(a)	the expiry or surrender of the current permit or licence:	
(b)	the date or time, or within the period, specified for the purpose by the Minister in conditions attached to the current permit or licence.	20
(2)	However, if a permit or licence is revoked, the person who held the permit or licence immediately before it was revoked must carry out their decommissioning obligations under this subpart—	
(a)	within 1 year after being given notice of the revocation; or	
(b)	by a time agreed with the Minister.	25
(3)	To avoid doubt, the obligations imposed by subsections (1) and (2) continue in force even if—	
(a)	the relevant permit or licence has expired or has been surrendered or revoked:	
(b)	the relevant person has ceased to be a permit or licence holder or the holder of any participating interest in a licence or permit.	30
(4)	Any person referred to in subsection (1) or (2) must also meet the obligations set out in any conditions imposed under section 89G as to the start date set for, and continuing work on, and completing decommissioning.	
89W	Joint and several liability	35
(1)	Subsection (2) applies if section 89R applies and—	
(a)	the permit holder is 2 or more persons; or	
(b)	the former permit holder is 2 or more persons.	

- (2) Each person to whom this subsection applies is,—
- (a) if a permit holder, jointly and severally liable to comply with and perform the obligations of the permit holder in relation to carrying out and meeting the costs of, plugging and abandoning wells:
 - (b) if a former permit holder, jointly and severally liable to comply with and perform the obligations of the former permit holder to meet those costs of plugging and abandoning wells that are not met by the persons referred to in **paragraph (a)**. 5
- (3) For the purposes of **subsections (1) and (2)**, a **former permit holder** is a person who previously held a permit and continues to have obligations under **section 89R, 89T, or 89V(1) or (2)** to meet the costs of plugging and abandoning wells. 10
- (4) **Subsection (5)** applies if **section 89S** applies and—
- (a) the licence holder is 2 or more persons; or
 - (b) the former licence holder is 2 or more persons. 15
- (5) Each person to whom this subsection applies is,—
- (a) if a licence holder, jointly and severally liable to perform the obligations of the licence holder in relation to carrying out, and meeting the costs of, plugging and abandoning wells:
 - (b) if a former licence holder, jointly and severally liable to perform the obligations of the former permit holder to meet those costs of plugging and abandoning wells that are not met by the persons referred to in **paragraph (a)** or **subsection (2)(a)**. 20
- (6) For the purposes of **subsections (4) and (5)**, a **former licence holder** includes a person who previously held a licence and continues to have obligations under **section 89S, 89T, or 89V(1) or (2)** to meet the costs of plugging and abandoning a well. 25

Exemptions and deferrals

89X Exemption and deferral powers of Minister

- (1) The Minister may, on application or on their own initiative, and if they consider it appropriate,— 30
- (a) exempt a permit holder or licence holder from the requirements of this subpart to decommission a particular petroleum infrastructure or to plug and abandon a particular well; or
 - (b) defer the time for complying with an obligation to decommission a particular thing that is petroleum infrastructure or to plug and abandon a particular well. 35
- (2) The Minister may—

- (a) grant an exemption or deferral on any terms and conditions that they consider appropriate:
- (b) amend or revoke an exemption or deferral:
- (c) grant an exemption for an indefinite or a limited period:
- (d) replace an exemption or a deferral either before or when it expires. 5
- (3) An application under **subsection (1)** must be made in the prescribed manner (if any) and be accompanied by the prescribed fee (if any).
- (4) Class exemptions and class deferrals may be granted by regulations (*see section 105*).
- 89Y Criteria for granting exemption** 10
- (1) Before granting an exemption under **section 89X**, the Minister must be satisfied—
- (a) that the requirements are unreasonable or inappropriate in the particular case; or
- (b) that events have occurred that make the requirements unnecessary or inappropriate in the particular case. 15
- (2) For the purposes of applying **subsection (1)(a) and (b)**, the Minister must consider the following matters:
- (a) the ownership of the petroleum infrastructure or well in question:
- (b) whether the petroleum infrastructure or well in question is likely to be used for a purpose other than mining petroleum: 20
- (c) any other matter the Minister considers relevant.
- 89Z Criteria for grant of deferral**
- (1) Before granting a deferral under **section 89X**, the Minister must be satisfied that it is appropriate in the circumstances to defer the obligation to meet the requirements to a later date in the particular case. 25
- (2) For the purposes of applying **subsection (1)**, the Minister must consider—
- (a) whether there is economic value to the owners of the petroleum infrastructure or well in deferring the decommissioning of that petroleum infrastructure or plugging and abandoning that well: 30
- (b) the impact of failing to grant a deferral on the operation of associated petroleum infrastructure and wells:
- (c) any plans for field development:
- (d) the likelihood of an increase in the costs of decommissioning during any deferral period, and the extent of that increase, so far as it can be estimated: 35
- (e) any other matter the Minister considers relevant.

Ongoing monitoring of financial position

89ZA Minister may require information needed to monitor financial position of permit or licence holder

- (1) This section applies to a permit holder or licence holder (A) who is obliged, under this subpart, to carry out and meet the costs of decommissioning. 5
- (2) The Minister may, by written notice, require A to provide information—
 - (a) that the Minister considers necessary to monitor A's financial position (including in relation to financial securities); and
 - (b) that is of a prescribed kind.
- (3) A must provide the information to the Minister— 10
 - (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.
- (4) The Minister may use the information to inform their decision as to whether to carry out a financial capability assessment under **section 89ZB**. 15
- (5) To avoid doubt, information gathered under this section is subject to section 90 (permit holder records and reports) and section 90A (disclosure of information).

Financial capability assessments

89ZB Minister may assess financial capability to meet decommissioning obligations 20

- (1) This section applies to a permit holder or licence holder (A) who is obliged, under this subpart, to carry out and meet the costs of decommissioning.
- (2) The Minister may carry out an assessment to determine whether A is highly likely to have the financial capability to carry out and meet the costs of decommissioning (a **financial capability assessment**). 25
- (3) The Minister may carry out a financial capability assessment at any time while the relevant permit or licence is in force.
- (4) When carrying out a financial capability assessment, the Minister— 30
 - (a) may have regard to the following:
 - (i) any field development plans submitted by A under **section 42B**:
 - (ii) any notice of expected cessation submitted by A under **section 42C**:
 - (iii) any asset registers submitted by A under **section 89ZD**:
 - (iv) any information provided by A under **section 89ZA or 89ZC**: 35
 - (v) any other information the Minister considers relevant; and

- (b) must meet the prescribed requirements (if any).
- (5) As soon as practicable after a financial capability assessment is completed, the Minister must notify A of—
 - (a) the Minister’s conclusion as to whether A is highly likely to have the financial capability to carry out and meet the costs of decommissioning; and
 - (b) the reasons for that conclusion.
- (6) The Minister may appoint any suitably qualified person to carry out a financial capability assessment on their behalf.

89ZC Permit and licence holders to provide supporting information 10

- (1) This section applies to a permit holder or licence holder (A) who may be subject to a financial capability assessment under **section 89ZB**.
- (2) A must keep a record of any information prescribed by regulations as necessary to enable the Minister to carry out a financial capability assessment.
- (3) A must provide a copy of the information to the Minister— 15
 - (a) on or before the prescribed time (if any); or
 - (b) on request from the Minister, within any reasonable time specified in the request.
- (4) The Minister may, by written notice, require A to provide any further information that the Minister considers necessary to carry out the financial capability assessment. 20
- (5) A must provide a copy of the information to the Minister—
 - (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. 25
- (6) To avoid doubt, information gathered under this section is subject to section 90 (permit holder records and reports) and section 90A (disclosure of information).

Asset registers

89ZD Asset registers to be submitted to chief executive 30

- (1) A permit holder or licence holder who is obliged, under this subpart, to carry out and meet the costs of decommissioning (A) must submit an asset register to the chief executive at the prescribed time or on the occurrence of the prescribed event.
- (2) The asset register must— 35

- (a) be a complete and accurate list of the petroleum infrastructure and wells that A must decommission under **sections 89K, 89L, 89R, and 89S**; and
 - (b) contain the prescribed information (if any); and
 - (c) be in the prescribed form (if any); and
 - (d) meet any further prescribed requirements.
- (3) The chief executive may require A to submit an updated asset register at the prescribed times, on the occurrence of the prescribed events, or at regular intervals prescribed by regulations.

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Financial securities

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89ZE Permit and licence holders must hold 1 or more financial securities

- (1) A person who holds a permit or a licence, (whenever granted), must obtain and maintain 1 or more financial securities, of a kind, and in an amount, determined by the Minister under **section 89ZG(1)**, in order to secure, or secure in part, the performance of their obligations under this subpart.
- (2) The Minister must, as soon as practicable after commencement, give each permit holder or licence holder a notice—
- (a) specifying the time by which a financial security must be obtained;
 - (b) requiring the permit holder or licence holder to advise the chief executive in the prescribed manner (if any), by a specified date, of the kind of security, and the proposed amount to be secured, that the permit holder or licence holder considers appropriate and provide any information specified by the Minister to enable the Minister to make decisions on those matters.
- (3) The permit holder must provide the information—
- (a) in the form and manner set out in the notice; and
 - (b) within any reasonable time set out in the notice requiring the information.
- (4) To avoid doubt, information gathered under this section is subject to section 90 (permit holder records and reports) and section 90A (disclosure of information).

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89ZF Matters to which Minister must have regard in setting kind and amount of security

- (1) The Minister must, when determining the amount to be secured and the kind of security to be obtained by a permit holder or licence holder, take into account—
- (a) the information (if any) provided by the permit holder or licence holder under **section 89ZE(2)(b)** or under **subsection (2)**:

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- (b) the prescribed criteria (if any) relating to particular kinds of financial security (including any prescribed hierarchy of securities and whether there is a preferred kind of security in the particular situation):
- (c) after considering the matters in **paragraphs (a) and (b)**,—
- (i) the general need to ensure that the amount and kind of security required is sufficient to meet all or an approved proportion of the estimated costs of meeting the permit holder’s or licence holder’s decommissioning obligations under this subpart, in the event that the permit holder or licence holder fails to carry out, or separately meet, the costs of that decommissioning: 5
 - (ii) the circumstances of the particular permit holder or licence holder: 10
 - (iii) the time needed for the particular permit holder or licence holder to comply with their obligations under this subpart, and the time when work will need to start in order to achieve this: 15
 - (iv) the estimated cost of the work needed for the particular permit holder or licence holder to complete their obligations under this subpart:
 - (v) the estimated administration costs to the particular permit holder or licence holder of meeting and maintaining the security for the required period (including the costs of maintaining any possible increase in the amount required to be secured while the security is in place): 20
 - (vi) any information relating to current or emerging risks to the permit holder’s or licence holder’s ability to comply with their obligations under this subpart: 25
 - (vii) the conclusions of the most recent financial capability assessment (if any):
 - (viii) any other matters the Minister considers relevant.
- (2) The Minister may require a permit holder or licence holder to give the Minister any information that the Minister considers will assist them in determining what kind of financial security should be obtained and the amount to be secured. 30
- (3) The permit holder or licence holder must provide the information—
- (a) in the form and in the manner set out in the notice; and 35
 - (b) within any reasonable time specified in the notice requiring the information.
- 89ZG Decision of Minister**
- (1) The Minister, after following the processes set out in **sections 89ZE and 89ZF**, must determine— 40

- (a) the kind of security to be obtained, or entered into, by the permit holder or licence holder; and
- (b) the amount to be secured.
- (2) The Minister may also direct how the security must be held, in accordance with the prescribed requirements (if any). 5
- (3) The amount set under **subsection (1)(b)** must be sufficient to meet all or any proportion of the estimated costs, approved by the Minister, of meeting the decommissioning obligations under this subpart of the permit holder or licence holder, in the event that the permit holder or licence holder fails to carry out, or separately meet the costs of, that decommissioning. 10
- (4) The kind of financial security approved by the Minister must enable the Crown to obtain payment of the amount secured in the event that if the permit holder or licence holder fails to carry out, or separately meet the costs of, the decommissioning.
- (5) The Minister must give the permit holder or licence holder a notice of the Minister's decision specifying— 15
 - (a) the kind of financial security to be obtained:
 - (b) the amount to be secured:
 - (c) the time by which it must be obtained:
 - (d) if applicable, how it is to be held. 20

89ZH Alteration of amount secured or kind of security required

- (1) The Minister may, at any time,—
 - (a) require a permit holder or licence holder referred to in **section 89ZE(1)** to increase the amount for which security is held:
 - (b) allow a permit holder or licence holder referred to in **section 89ZE(1)** to reduce the amount for which security is held: 25
 - (c) require the permit holder or licence holder referred to in **section 89ZE(1)** to alter the kind of security that is held.
- (2) When exercising a power conferred by **subsection (1)**, the Minister must take into account the matters referred to in **section 89ZF(1)(b) and (c)(i) to (viii)**. 30

89ZI Minister must notify required changes in kind of security or amount secured

- (1) The Minister must, after exercising a power under **section 89ZH(1)(a), (b), or (c)**, give the affected permit holder or licence holder written notice of the required or permitted changes to the kind of security to be obtained and maintained or the amount secured and in a case where **section 89ZH(1)(a) or (c)** applies, the time by which the permit holder or licence holder must do this. 35

(2)	The notice must be accompanied by reasons for the required change.	
89ZJ Permit holder or licence holder may object to kind of security or amount set or required change to those matters		
(1)	A permit holder or licence holder who receives written notice under section 89ZG(4) or 89ZI(1) may within 30 working days of receiving that notice object to the required security or the required change, as the case requires, by notice in writing to the Minister.	5
(2)	A notice of objection under subsection (1) must be accompanied by reasons for, and evidence or other information supporting, the objection and refer to the criteria in section 89ZF that the objector considers relevant.	10
(3)	If a permit holder or licence holder makes an objection under subsection (1) , they cannot make any subsequent objection to the required security or required change described in the notice unless there is a change in circumstances.	
89ZK What happens if permit holder or licence holder makes objection		
(1)	If a permit holder or licence holder makes an objection under section 89ZJ , the Minister must—	15
	(a) give the permit holder or licence holder an opportunity to be heard; and	
	(b) consider and determine the objection within a reasonable time after its receipt.	
(2)	The Minister must—	20
	(a) dismiss the objection; or	
	(b) uphold the objection in whole or in part.	
(3)	Not later than 30 working days after deciding whether to uphold an objection, the Minister must send to the permit holder or licence holder—	
	(a) a copy of the decision, which must include the reasons for the decision; and	25
	(b) written notice of any required or permitted changes to the kind of security to be obtained and maintained or the amount secured, as the case requires; and	
	(c) if paragraph (b) applies, and the changes are required changes, the time by which the permit holder or licence holder must comply with the changes referred to in paragraph (b) .	30
Subpart 3—Post-decommissioning obligations		
89ZL Application of this subpart		
(1)	This subpart applies to—	35
	(a) each permit holder;	
	(b) each licence holder.	

- (2) This subpart applies only in relation to—
- (a) petroleum infrastructure that was decommissioned on or after commencement; or
 - (b) any well that was plugged and abandoned on or after commencement.

89ZM Relationship between this subpart and other enactments and permit or licence conditions 5

- (1) This subpart does not limit or affect any person’s obligations under another enactment or under the conditions of a current permit or licence.
- (2) Any requirement under this subpart for a person to supply information does not replace or limit any requirement for that person to supply information under any other provision of this Act or another enactment. 10

89ZN Interpretation

In this subpart, unless the context otherwise requires,—

commencement, in relation to any provision in this subpart, means the day on which that provision commences 15

licence has the same meaning as in **section 89D**

permit has the same meaning as in **section 89D**

petroleum infrastructure has the meaning set out in **section 89F**

post-decommissioning work means activities carried out in relation to the remediation of— 20

(a) petroleum infrastructure that has been decommissioned but not removed:

(b) a well that has been plugged and abandoned:

(c) environmental damage or health and safety risks caused by a failure of the decommissioning of petroleum infrastructure or a well referred to in **paragraph (a) or (b)** 25

well has the meaning set out in **section 89D**.

89ZO Post-decommissioning obligations

Any permit holder or licence holder who is obliged under **subpart 2** to carry out and meet the costs of decommissioning must pay the chief executive an amount to meet the cost of any post-decommissioning work required on petroleum infrastructure and 1 or more wells that have been decommissioned. 30

89ZP Minister to set amount

The Minister must set, in accordance with the prescribed criteria, the amount to be paid under this subpart by each permit holder or licence holder who is obliged to carry out and meet the costs of decommissioning petroleum infrastructure and 1 or more wells under **subpart 2**. 35

89ZQ When payment is due

- (1) The Minister must direct that a payment by a person to whom **section 89ZO** applies—
 - (a) be made in 1 lump sum to the chief executive by a prescribed time; or
 - (b) be made in 2 or more instalments on prescribed dates or at prescribed intervals. 5
- (2) In deciding whether to give a direction under **subsection (1)(a) or (b)** the Minister must take into account—
 - (a) the prescribed criteria (if any):
 - (b) the most recent report (if any) available on the person’s financial capability. 10
- (3) The Minister must give written notice of the matters in **subsection (1)** to the person or persons from whom payment is due.

89ZR Other duties of chief executive

- (1) The chief executive must ensure that— 15
 - (a) money received under **section 89ZO** is paid into 1 or more accounts in accordance with section 104 and is managed in accordance with the requirements (if any) in the regulations:
 - (b) money received under **section 89ZO** is used only to undertake, or reimburse the cost of, post-decommissioning work. 20
- (2) Any money referred to in **subsection (1)** may be invested by the chief executive, with the prior approval of the Minister.
- (3) The chief executive may refund all or any part of any money referred to in **subsection (1)**, in any circumstances where a refund is authorised by the regulations. 25
- (4) For the purposes of carrying out their duties under this subpart, the chief executive may—
 - (a) take account of any information supplied under **sections 89ZA and 89ZC**:
 - (b) require a permit holder or licence holder by written notice to supply any specified information. 30
- (5) The permit holder or licence holder 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. 35
- (6) To avoid doubt, information gathered under this section is subject to section 90 (permit holder records and reports) and section 90A (disclosure of information).

89ZS Other duties of Minister

- (1) The Minister may, in accordance with the prescribed requirements (if any), direct that money received under **section 89ZO** be given to a specified person within a prescribed class of persons or organisations for use in relation to a specified project (being a project for which expenditure or reimbursement is authorised under **section 89ZR(1)(b)**). 5
- (2) For the purposes of carrying out their duties under this subpart, the Minister may—
- (a) take into account any information supplied under **sections 89ZA and 89ZC**: 10
- (b) require a permit holder or licence holder by written notice to supply any specified information.
- (3) The permit holder or licence holder 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. 15
- (4) To avoid doubt, information gathered under this section is subject to section 90 (permit holder records and reports) and section 90A (disclosure of information). 20

Exemptions 20

89ZT Exemption powers of Minister

- (1) The Minister may, if they consider it appropriate, exempt a permit holder or a licence holder from the obligation to pay all or part of any amount the person would otherwise be required to pay under **section 89ZO**. 25
- (2) The Minister may—
- (a) grant an exemption on any terms and conditions that the Minister considers appropriate:
- (b) amend or revoke an exemption:
- (c) grant an exemption for an indefinite or a limited period:
- (d) replace an exemption either before or when it expires. 30
- (3) Class exemptions may be granted by regulations (*see* section 105).

89ZU Criteria for granting exemption

- (1) Before granting an exemption under **section 89ZT(1)**, the Minister must be satisfied that—
- (a) the requirement is unreasonable or inappropriate in the particular case; 35
or

<p>(b) events have occurred that make the requirement unnecessary or inappropriate in the particular case.</p> <p>(2) For the purposes of applying subsection (1)(a) and (b), the Minister must consider the prescribed criteria (if any).</p>	<p>5</p>
<p>Subpart 4—Enforcement, remedies, and appeals</p>	
<p>89ZV Application of this subpart</p>	
<p>This subpart applies in relation to any contravention or alleged contravention of this Act or the regulations.</p>	
<p>89ZW Chief executive or enforcement officer may accept enforceable undertakings</p>	
<p>(1) The chief executive or an enforcement officer may accept an enforceable undertaking given by a person in writing in connection with a matter relating to a contravention or an alleged contravention by the person of this Act or the regulations.</p> <p>(2) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.</p> <p>Compare: 2015 No 70 s 123</p>	<p>10</p> <p>15</p>
<p>89ZX Notice of decision and reasons for decision</p>	
<p>The chief executive or enforcement officer must give the person seeking to make an enforceable undertaking written notice of—</p>	
<p>(a) their decision to accept or reject the undertaking; and</p> <p>(b) the reasons for the decision.</p> <p>Compare: 2015 No 70 s 124</p>	<p>20</p>
<p>89ZY When enforceable undertaking is enforceable</p>	
<p>An enforceable undertaking takes effect and becomes enforceable when the chief executive’s or enforcement officer’s decision to accept the undertaking is given to the person who made the undertaking, or at any later date specified by the chief executive or enforcement officer.</p> <p>Compare: 2015 No 70 s 125</p>	
<p>89ZZ Compliance with enforceable undertaking</p>	
<p>(1) A person must not contravene an enforceable undertaking given by that person that is in force.</p> <p>(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$200,000.</p> <p>Compare: 2015 No 70 s 126</p>	<p>25</p> <p>30</p> <p>35</p>

89ZZA Contravention of enforceable undertaking

- (1) The chief executive or an enforcement officer may apply to the District Court for an order referred to in **subsection (2)** if a person contravenes an enforceable undertaking.
- (2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court may make either or both of the following orders: 5
- (a) an order directing the person to comply with the undertaking;
 - (b) an order discharging the undertaking.
- (3) In addition to the orders referred to in **subsection (2)**, the court may make any other order that the court considers appropriate in the circumstances, including orders directing the person to pay the department that, with the authority of the Prime Minister, is responsible for the administration of this Act— 10
- (a) the costs of the proceedings; and 15
 - (b) the reasonable costs of the chief executive or the enforcement officer in monitoring compliance with the enforceable undertaking in the future.
- (4) This section does not prevent proceedings being brought for the contravention or alleged contravention of this Act or regulations to which the enforceable undertaking relates. 20

Compare: 2015 No 70 s 127

89ZZB Withdrawal or variation of enforceable undertaking

- (1) A person who has given an enforceable undertaking may at any time, with the written agreement of the chief executive,— 25
- (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the provisions of the undertaking cannot be varied to provide for a different alleged contravention of this Act or regulations.

Compare: 2015 No 70 s 128

89ZZC Proceedings for alleged contravention 30

- (1) Subject to this section, no proceedings (whether civil or criminal) for a contravention or an alleged contravention of this Act or regulations may be brought against a person if an enforceable undertaking is in effect in relation to that contravention.
- (2) No proceedings may be brought for a contravention or an alleged contravention of this Act or regulations against a person who— 35
- (a) has made an enforceable undertaking in relation to that contravention; and

- (b) has completely discharged the enforceable undertaking.
 - (3) The chief executive or an enforcement officer may accept an enforceable undertaking in relation to a contravention or an alleged contravention before proceedings in relation to that contravention have been completed.
 - (4) If the chief executive or an enforcement officer accepts an enforceable undertaking before the proceedings are completed, the chief executive or an enforcement officer must take all reasonable steps to have the proceedings discontinued as soon as practicable. 5
- Compare: 2015 No 70 s 129

Compliance notices 10

89ZZD Power to issue compliance notices

- (1) This section applies if the chief executive or an enforcement officer reasonably believes that a person—
 - (a) is contravening a provision of this Act or the regulations; or
 - (b) is likely to contravene a provision of this Act or the regulations. 15
 - (2) The chief executive or enforcement officer may issue a compliance notice requiring the person to—
 - (a) remedy the contravention; or
 - (b) prevent a likely contravention from occurring; or
 - (c) remedy the things or activities causing the contravention or likely to cause a contravention. 20
 - (3) The chief executive or enforcement officer may issue a compliance notice only, if in the opinion of the chief executive or enforcement officer,—
 - (a) the contravention or likely contravention is or would be sufficiently serious to justify the issue of a compliance notice; or 25
 - (b) there has been a repeated contravention or a repetition of behaviour that is likely to lead to a contravention occurring; or
 - (c) the contravention or behaviour likely to lead to a contravention has been committed intentionally or recklessly or involves negligence on the person's part. 30
 - (4) However, each of the criteria specified in **subsection (3)(a) to (c)** may be considered on the basis of the information readily available to the chief executive or enforcement officer and the chief executive or enforcement officer need not make further enquiries before applying those criteria. 35
- Compare: 2015 No 70 s 101

89ZZE Content of compliance notices

- (1) A compliance notice must state—

- (a) that the chief executive or an enforcement officer believes the person—
 - (i) is contravening a provision of this Act or the regulations; or
 - (ii) is likely to contravene a provision of this Act or the regulations;and
 - (b) the provision the chief executive or enforcement officer believes is being, or is likely to be, contravened; and 5
 - (c) briefly, how the provision is being, or is likely to be, contravened; and
 - (d) a period within which the person is required to remedy—
 - (i) the contravention or likely contravention; or
 - (ii) the things or activities causing the contravention or likely to cause a contravention. 10
- (2) A compliance notice may include recommendations concerning—
- (a) the measures that could be taken to remedy the contravention, or prevent the likely contravention, to which the notice relates:
 - (b) the things or activities causing the contravention, or likely to cause a contravention, to which the notice relates. 15

Compare: 2015 No 70 s 102

89ZZF Compliance with compliance notice

- (1) A person who has been issued with a compliance notice must comply with the notice within the period specified in the notice. 20
- (2) A person who contravenes **subsection (1)** commits an offence and is liable on conviction, to a fine not exceeding \$200,000.
- (3) However in a prosecution for an offence against **subsection (2)** the defendant has a defence if they prove that they had a reasonable excuse for failing to comply with the compliance notice within the required period. 25
- (4) It is not an offence to fail to comply with recommendations in a compliance notice.

Compare: 2015 No 70 s 103

89ZZG Extension of time for compliance with compliance notices

- (1) This section applies if a person has been issued with a compliance notice. 30
- (2) The chief executive or enforcement officer may, by written notice given to the person, extend the compliance period for the compliance notice.
- (3) However, the chief executive or enforcement officer may extend the compliance period only if the period has not ended.
- (4) In this section, **compliance period**— 35
 - (a) means the period stated in the compliance notice under **section 89ZZE(1)**; and

(b) includes any extension of that period under this section.

Compare: 2015 No 70 s 104

General provisions

89ZZH General provisions relating to compliance notices

- (1) A compliance notice must be in writing. 5
- (2) A compliance notice may be addressed to any person under the person's legal name or usual business name or style.

Compare: 2015 No 70 s 112

89ZZI Changes to notice by chief executive or enforcement officer

The chief executive or an enforcement officer (as the case may be) may make minor changes to a compliance notice— 10

- (a) for clarification; or
- (b) to correct errors or references; or
- (c) to reflect changes of address or other circumstances.

Compare: 2015 No 70 s 113

15

89ZZJ Chief executive or enforcement officer may vary or cancel compliance notice

Except as provided in **section 89ZZI**, a compliance notice issued by the chief executive or an enforcement officer may be varied or cancelled only by the chief executive or the enforcement officer. 20

Compare: 2015 No 70 s 114

89ZZK Formal irregularities or defects in compliance notice

A compliance notice is not invalid merely because of—

- (a) any defect, irregularity, omission, or want of form in the compliance notice unless the defect, irregularity, omission, or want of form causes or is likely to cause a miscarriage of justice; or 25
- (b) a failure to use the correct name of the person to whom the compliance notice is issued if the notice sufficiently identifies the person and is issued to the person in accordance with **section 89ZZL**.

Compare: 2015 No 70 s 115

30

89ZZL Issue of compliance notice

- (1) A compliance notice may be issued to a person—
- (a) by delivering it personally to the person; or
- (b) by sending it to the person—
- (i) by post to the person's usual or last known place of residence or business; or 35

- (ii) by electronic transmission; or
 - (c) by leaving it for the person at the person's usual or last known place of residence or business with a person who appears to be 16 years or over and who appears to reside or work there; or
 - (d) in a prescribed manner. 5
- (2) Regulations may prescribe the steps a person to whom a compliance notice is issued must take to bring it to the attention of other persons.
- (3) A compliance notice posted under **subsection (1)(b)(i)** is to be treated as having been received at the time at which the notice would have been delivered in the ordinary course of the post, in the absence of proof to the contrary. 10
- Compare: 2015 No 70 s 116

Civil proceedings for non-compliance with compliance notices

89ZZM Civil proceedings relating to non-compliance with compliance notice

- (1) On an application by the chief executive or an enforcement officer, the District Court may make an order— 15
- (a) compelling a person to comply with a compliance notice; or
 - (b) restraining a person from contravening a compliance notice.
- (2) The court may make an order—
- (a) under **subsection (1)(a)**, if it is satisfied that the person has refused or failed to comply with a compliance notice: 20
 - (b) under **subsection (1)(b)**, if it is satisfied that the person has contravened, is contravening, or is likely to contravene a compliance notice.
- (3) The courts may make an order under **subsection (2)**—
- (a) whether or not proceedings have been brought for an offence against this Act or regulations in connection with any matter in relation to which the compliance notice was issued; and 25
 - (b) whether or not the compliance period for the compliance notice has expired.

Compare: 2015 No 70 s 122

Pecuniary penalties 30

89ZZN Reasonable mistake defence in pecuniary penalty proceedings

- (1) Every person has a defence to proceedings for pecuniary penalties under **section 89ZZO**, in connection with a breach of this Act, if the person proves that—
- (a) the breach was due to a reasonable mistake or due to events outside of the person's control; and 35

- (b) the breach was remedied (to the extent that it could be remedied) as soon as practicable after the breach was discovered by the person or brought to the person's notice; and
- (c) the person has compensated or offered to compensate any person who has suffered loss or damage by that breach. 5
- (2) For the avoidance of doubt, a **mistake** does not include a mistake of law or a mistake in the interpretation of any enactment or of any document.
- 89ZZO Pecuniary penalties**
- (1) A court of competent jurisdiction may, on the application of the chief executive, order a person to pay to the Crown the pecuniary penalty that the court determines to be appropriate if the court is satisfied that the person— 10
- (a) has contravened any of the following provisions:
- (i) **sections 89K and 89L** (which require the decommissioning of petroleum infrastructure):
- (ii) **sections 89R and 89S** (which require the plugging and abandoning of wells): 15
- (iii) **section 89ZE** (which requires the establishment and maintenance of an adequate financial security).
- (b) has attempted to contravene such a provision; or
- (c) has aided, abetted, counselled, or procured any other person to contravene such a provision; or 20
- (d) has induced, or attempted to induce, any other person, whether by threats or promises or otherwise, to contravene such a provision; or
- (e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by any other person of such a provision; or 25
- (f) has conspired with any other person to contravene such a provision.
- (2) In determining an appropriate penalty under this section, the court must have regard to all relevant matters, in particular,—
- (a) the nature and extent of the contravention; and
- (b) the nature and extent of any loss or damage suffered by any person because of the contravention; and 30
- (c) any gains made or losses avoided by the person in contravention; and
- (d) the circumstances in which the contravention took place (including whether the contravention was intentional, inadvertent, or caused by negligence). 35
- (3) The amount of any pecuniary penalty must not, in respect of each act or omission, exceed,—
- (a) in the case of an individual, \$500,000; or

- (b) in the case of a body corporate, \$10,000,000.
- (4) Proceedings under this section may be commenced within 3 years after the matter giving rise to the contravention was discovered or ought reasonably to have been discovered.
- (5) Where conduct by any person constitutes a contravention of 2 or more provisions referred to in **subsection (1)(a)**, proceedings may be instituted under this Act against that person in relation to the contravention of any 1 or more of the provisions; but no person is liable to more than 1 pecuniary penalty under this section in respect of the same conduct. 5
- Compare: 2003 No 52 s 107A 10

89ZZP Proceedings for pecuniary penalties

In any proceedings under this subpart for a pecuniary penalty,—

- (a) the standard of proof is the standard of proof that applies in civil proceedings; and
- (b) the chief executive may, by order of the court, obtain discovery and administer interrogatories. 15

Compare: 2003 No 52 s 107B

Criminal liability for knowingly failing to carry out certain obligations

89ZZQ Criminal liability for knowingly failing to carry out certain obligations

- (1) This section applies to a person (A) if A is liable for 1 or more of the following (A's decommissioning obligations): 20
- (a) carrying out or meeting the costs (or both) of decommissioning petroleum infrastructure under **section 89K or 89L** by the time A is required to do so under **section 89O**:
- (b) carrying out or meeting the costs (or both) of plugging and abandoning wells under **section 89R or 89S** by the time A is required to do so under **section 89V**. 25
- (2) A commits an offence if they do an act, fail to act, or engage in a course of conduct knowing that the act, failure to act, or course of conduct will result in A not being able to meet A's decommissioning obligations. 30
- (3) If A is a body corporate and commits an offence under **subsection (2)**, any person who is or was a director of A during a period when A was liable for A's decommissioning obligations also commits an offence.
- (4) A person who commits an offence under this section is liable on conviction,— 35
- (a) in the case of an individual, to imprisonment for a term not exceeding 2 years, or a fine not exceeding \$1 million, or both; and
- (b) in any other case, the greater of the following:
- (i) a fine not exceeding \$10 million:

(ii)	a fine not exceeding 3 times the cost of decommissioning.	
(5)	Proceedings under this section may be commenced within 3 years after the matter giving rise to the offence was discovered or ought reasonably to have been discovered.	
89ZZR Defence to criminal liability for directors		5
(1)	In any proceeding against a director under section 89ZZQ(3) , it is a defence if the director proves that—	
(a)	A took all reasonable steps to ensure A would meet A's decommissioning obligations; or	
(b)	the director took all reasonable steps to ensure that A would meet A's decommissioning obligations; or	10
(c)	in the circumstances, the director could not reasonably have been expected to take steps to ensure that A would meet A's decommissioning obligations.	
(2)	In this section,—	15
	A has the meaning set out in section 89ZZQ	
	A's decommissioning obligations has the meaning set out in section 89ZZQ .	
	<i>Relationship between pecuniary penalties and criminal liability</i>	
89ZZS Relationship between pecuniary penalties and criminal liability		
(1)	A criminal proceeding for an offence may be commenced against a person in relation to particular conduct whether or not a proceeding for a pecuniary penalty has been commenced against the person in relation to the same conduct.	20
(2)	A proceeding for a pecuniary penalty against a person in relation to particular conduct is stayed (unless the court orders otherwise) if a criminal proceeding against the person has been commenced for an offence in relation to the same conduct.	25
(3)	After the criminal proceeding referred to in subsection (2) has been completed or withdrawn, a person may apply to have the stay lifted on the pecuniary penalty proceeding.	
	<i>Restrictions on indemnities and insurance</i>	30
89ZZT Restriction on indemnities		
(1)	A body corporate must not indemnify any director, employee, or agent, or former director, employee, or agent, of the body corporate or of any related body corporate (person C) in respect of—	
(a)	any pecuniary penalty imposed on person C under this Act; or	35
(b)	any costs incurred by person C in defending any civil proceedings in which the pecuniary penalty referred to in paragraph (a) is imposed.	

- (2) An indemnity given in contravention of **subsection (1)** is void.
- (3) In this section and **section 89ZZU**, **indemnify** includes relieve or excuse from liability, whether before or after the liability arises, and **indemnity** has a corresponding meaning.
- Compare: 2003 No 52 s 107D

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89ZZU Restriction on insurance

No person may enter into a contract of insurance that indemnifies or purports to indemnify a person (**person C**) in respect of—

- (a) any pecuniary penalty imposed on person C under this Act; or
- (b) any costs incurred by person C in defending any civil proceedings in which the pecuniary penalty referred to in **paragraph (a)** is imposed.

10

Compare: 2003 No 52 s 107E

18 New subpart heading inserted

Before section 90, above the cross-heading, insert the following subpart heading:

15

Subpart 5—Offences and miscellaneous

19 Section 90 amended (Permit holder records and reports)

- (1) In section 90(1), replace “in respect of all prospecting, exploration, and mining activities” with “in respect of all prospecting, exploration, mining, and decommissioning activities”.

20

- (2) After section 90(1), insert:

- (1A) Without limiting the generality of subsection (1), the records and reports required to be kept include—

- (a) financial records, including any financial records required to be kept and retained under the Tax Administration Act 1994;
- (b) commercial records, including any feasibility studies;
- (c) scientific and technical records;
- (d) any calculations made in support of the above records;
- (e) records, reports, statements, or any other documentation or information required under other legislation, if regulations made under this Act prescribe that they must be retained for the purposes of this Act;
- (f) any other records or reports prescribed by regulations.

25

30

- (3) After section 90(8), insert:

- (8A) The chief executive may, but is not required to, publish on an internet site maintained by the chief executive or in any other way the chief executive considers appropriate all or any of the information supplied under this section, at

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	any time after the information is required to be made available under any of subsections (6) to (8).	
(4)	Replace section 90(11) with:	
(11)	Nothing in this section requires the chief executive to send or make available any records, reports, information, or returns—	5
(a)	gathered under subsection (1A)(a) , including information gathered under sections 89ZA, 89ZC, 89ZE, 89ZF, 89ZR, and 89ZS :	
(b)	relating to the calculation and payment of royalties by permit holders.	
20	Section 90A amended (Disclosure of information)	
	In section 90A(1), after “61C,”, insert “ 89ZA, 89ZC, 89ZE, 89ZF, 89ZR, 89ZS, ”.	10
21	Section 99C amended (Application for warrant for entry to search)	
	In section 99C(1), replace “place or vehicle” with “place, structure, vehicle, or ship” in each place.	
22	Section 100 amended (Offences)	15
(1)	After section 100(2)(d), insert:	
(e)	section 99F , which relates to providing certain information to the Minister, the chief executive, or an enforcement officer:	
(2)	After section 100(4), insert:	
(5)	If an enforceable undertaking has been given, criminal proceedings may be taken for an offence within 6 months after—	20
(a)	the enforceable undertaking is contravened; or	
(b)	it comes to the notice of the regulator that the enforceable undertaking has been contravened; or	
(c)	the chief executive agreed to the withdrawal of the enforceable undertaking.	25
23	Section 101A amended (Interpretation)	
	In section 101A, repeal the definition of ship .	
24	New sections 104A to 104J inserted	
	After section 104, insert:	30
104A	Interpretation	
	In this Act,—	
	infringement fee , in relation to an infringement offence, means the infringement fee for the offence specified in the regulations	

infringement offence—

- (a) means an offence against this Act or an offence against the regulations that is prescribed as an infringement offence in the regulations; but
- (b) does not include the following offences:
 - (i) knowing failure to carry out certain obligations (**section 89ZZQ**): 5
 - (ii) wilfully obstructing, hindering, resisting or deceiving any person in the execution of powers (section 100(3)): 5
 - (iii) knowingly providing altered, false, incomplete, or misleading information to the chief executive or any other person (section 100(3A)). 10

104B Infringement offences

- (1) A person who is alleged to have committed an infringement offence may—
 - (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or 15
 - (b) be issued with an infringement notice under **section 104D**.
- (2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued. 20

104C Who may issue infringement notices

The chief executive may, in writing, authorise an enforcement officer to issue infringement notices under this Act.

104D When infringement notice may be issued

The chief executive or an enforcement officer may issue an infringement notice to a person if the chief executive or enforcement officer believes on reasonable grounds that the person is committing, or has committed, an infringement offence. 25

104E Revocation of infringement notice before payment made

- (1) The chief executive or an enforcement officer may revoke an infringement notice before—
 - (a) the infringement fee is paid; or
 - (b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957. 35

- (2) The chief executive or enforcement officer must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.
- (3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 104B(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter. 5

104F What infringement notice must contain

An infringement notice must be in the form prescribed in the regulations and must contain the following particulars:

- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence: 10
- (b) the amount of the infringement fee:
- (c) the address of the [*place where the infringement notice must be paid*]:
- (d) how the infringement fee may be paid:
- (e) the time within which the infringement fee must be paid: 15
- (f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:
- (g) a statement that the person served with the notice has a right to request a hearing:
- (h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing: 20
- (i) any other matters prescribed in the regulations.

104G How infringement notice may be issued to person

- (1) An infringement notice may be issued to a person who the chief executive or enforcement officer believes is committing or has committed the infringement offence by— 25
- (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
- (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 16 years; or 30
- (c) leaving it for the person at the person's place of business or work with another person; or
- (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or
- (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand. 35
- (2) Unless the contrary is shown,—

- (a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and
- (b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the chief executive or enforcement officer.

5

104H Payment of infringement fees

All infringement fees paid for infringement offences must be paid into a Crown Bank Account.

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104I Reminder notices

A reminder notice must be in the form prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.

104J Regulations

15

Regulations may be made under section 105 specifying the offences in this Act and the regulations that are infringement offences, and prescribing infringement fees for these offences—

- (a) not exceeding \$1,000, in the case of an individual:
- (b) not exceeding \$3,000, in the case of a body corporate.

20

25 Section 105 amended (Regulations)

- (1) In section 105(1)(a), after “the manner in which such documentation or information is to be provided”, insert “(including electronically)”.

- (2) After section 105(1)(g), insert:

(gaa) prescribing the records, statements, or any other documentation or information required under other legislation that must be retained for the purposes of this Act:

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(gab) prescribing the standard or requirements that a cost estimate submitted as part of a field development plan under **section 42B** must meet:

- (3) After section 105(1)(q), insert:

30

(qa) regulating the decommissioning of petroleum installations and the plugging and abandonment of wells:

(qb) exempting specified classes of permit holders or licence holders from the obligation to decommission specified classes of petroleum infrastructure, or to plug and abandon specified classes of wells, or both, or deferring any or all of those obligations:

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- | | | |
|------|--|----|
| (qc) | declaring petroleum infrastructure and classes of petroleum infrastructure to be or not to be, as the case requires, relevant older petroleum infrastructure: | |
| (qd) | declaring a well or class of wells to be, or not to be as the case requires, to be a relevant older well or relevant older wells: | 5 |
| (qe) | requiring permit holders and licence holders to notify the chief executive of the likely date in which production will cease at any well, or in any field, at specified times: | |
| (qf) | regulating the making of payments for post decommissioning work, the establishment and operation of accounts into which those payments are deposited, and the use of, and accounting for, funds in those accounts: | 10 |
| (qg) | exempting specified classes of permit holders or licence holders from the obligation to make post-decommissioning payments under section 89ZO (either in whole or in part): | |
| (qh) | prescribing requirements in relation to the ongoing monitoring of a permit or licence holder's financial position and assessing their financial capability under sections 89ZA, 89ZB, and 89ZC : | 15 |
| (qi) | regulating the setting, obtaining and maintaining of financial securities that permit holders and licence holders may be required to obtain and maintain, which may include, without limitation,— | 20 |
| | (i) setting criteria that the Minister must consider under section 89ZF(1)(b) when deciding the kind of financial security to be required: | |
| | (ii) specifying matters to be considered by the Minister when determining the amount that is required to be secured (including 1 or more formulas or other methods of calculating the amount): | 25 |
| | (iii) prescribing circumstances in which certain kinds of securities will or will not be permitted: | |
| | (iv) requiring certain kinds of financial securities to be held in specified situations: | 30 |
| | (v) setting a hierarchy of preferred financial securities, which may differ in different circumstances: | |
| | (vi) specifying how certain financial securities must be held: | |
| | (vii) setting time frames for the obtaining and maintaining of all or part of a required security: | 35 |
| | (viii) exempting specified classes of permit holder or licence holders from the requirements to hold a financial security either generally, or in relation to any specified matter: | |
| | (ix) prescribing the form or content of applications to be made to the chief executive in connection with financial securities: | 40 |

- (x) deferring the obligations of specified classes of permit holder or licence holder to obtain and maintain a financial security, either generally, or in relation to any specified matter:
- (xi) prescribing the manner in which information is to be supplied for the purposes of **section 89ZE(2)**: 5
- (xii) enabling the Minister to determine any other specified matter in connection with financial securities:
- (qj) specifying the maximum amount or a scale of maximum amounts, to be secured by financial securities that permit holders and licence holders may be required to obtain and maintain: 10
- (qk) regulating the setting and use of post-decommissioning payments, including, without limitation,—
 - (i) specifying criteria for calculating the amount of post-decommissioning payments that permit holders and licence holders are required to make: 15
 - (ii) setting time frames for making payments in one lump sum or by instalments:
 - (iii) setting criteria to be applied in determining whether post-decommissioning payments are to be made in a lump sum or by instalments: 20
 - (iv) setting criteria to be applied in determining whether to grant exemptions from post-decommissioning payments:
 - (v) providing for refunds of all or part of a post-decommissioning payment in specified circumstances:
 - (vi) setting restrictions on the use of post-decommissioning payments or post-decommissioning payments of a specified class: 25
- (4) After section 105(3), insert:
- (3A) Regulations made under this section may apply in relation to licences, licence holders, and holders of a participating interest in a licence, or any class of licence or those persons, in so far as the regulations relate to **sections 42B and 42C** and **subparts 2 and 3 of subpart 1B** or any other provision of this Act specified in the regulations. 30
- 26 Schedule 1 amended**
In Schedule 1, after Part 3, insert the **Part 4** set out in **Schedule 1** of this Act.
- 27 Enactments consequentially amended** 35
Amend the enactments specified in **Schedule 2** in the manner set out in that schedule.

Schedule 1
New Part 4 inserted into Schedule 1

s 22

Part 4		
Provisions relating to Crown Minerals (Decommissioning and Other Matters) Amendment Act 2021		5
32	Consequential amendments to minerals programmes	
	Nothing in section 17 or 18 of this Act applies to any change to a minerals programme if the change that is made is consequential to the amendments made to this Act by the Crown Minerals (Decommissioning and Other Matters) Amendment Act 2021 (including any change to remove inconsistencies between the minerals programme and this Act as amended).	10
33	Specific proceedings unaffected	
	To avoid doubt,—	
	(a) the decision of the High Court in the proceedings between Greymouth Gas Turangi Limited and the Minister of Energy and Resources (CIV-2018-485-237) is binding on the parties for the purposes of the matters at issue in those proceedings; and	15
	(b) the Act, as it was in force on 6 March 2018, continues to apply for the purposes of giving effect to that decision, notwithstanding the commencement of the Crown Minerals (Decommissioning and Other Matters) Amendment Act 2021 (other than this clause).	20
34	Existing applications determined in accordance with Act as amended	
(1)	Any application that was lodged or submitted, but not determined, before the day after the date on which the Crown Minerals (Decommissioning and Other Matters) Amendment Act 2021 (the Amendment Act) received the Royal assent must be determined in accordance with this Act as in force on the day after the date on which the Amendment Act received the Royal assent.	25
(2)	Subclause (1) applies despite anything to the contrary in this Act.	
(3)	In this clause, application means—	30
	(a) an application under section 23A (application for permits); and	
	(b) an application under section 24 (allocation by public tender); and	
	(c) an application under section 41 (transfer of interest in permit); and	
	(d) an application under section 41AB (change of control of permit operator of Tier 1 permit); and	35
	(e) an application under section 41C (change of permit operator).	

- 35 Existing financial securities for decommissioning**
- (1) This section applies if,—
- (a) before the day after the date on which the Crown Minerals (Decommissioning and Other Matters) Amendment Act **2021** received the Royal assent, a permit holder, a licence holder, or a person who holds a participating interest in a permit or a licence has obtained a financial security; and 5
 - (b) on and after that day, the Crown may obtain payment of the amount secured by that security in the event that the holder of that permit or licence fails to carry out, or separately meet, the costs of, the decommissioning of— 10
 - (i) petroleum infrastructure or 1 or more wells put in place or drilled or operated for the purposes of, or otherwise related to, activities authorised by the permit or licence; or
 - (ii) relevant older petroleum infrastructure or a relevant older well or wells. 15
- (2) The financial security is to be treated as being of a kind and amount required by the Minister under **sections 89ZE and 89ZG** and held and maintained in accordance with **sections 89ZE to 89ZK**, regardless of whether it is maintained by— 20
- (a) the permit holder or a person who holds a participating interest in the permit; or
 - (b) the licence holder or a person who holds a participating interest in the licence.
- (3) However, the Minister may at any time exercise the power in **section 89ZH** to— 25
- (a) require an increase to the amount secured or an alteration to the kind of security that is held; or
 - (b) reduce the amount required to be secured.

Schedule 2

Consequential amendments

s 23

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, item relating to section 99C of the Crown Mineral Act 1991, replace “place or vehicle” with “place, structure, vehicle, or ship”. 5

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, after paragraph (g), insert:

(ga) **section 104D** of the Crown Minerals Act 1991: