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## 1991, No. 70

**An Act to restate and reform the law relating to the management of Crown owned minerals** [22 July 1991]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Crown Minerals Act 1991.

(2) This Act shall come into force on the 1st day of October 1991.

## PART I

## CROWN OWNED MINERALS

*Interpretation and Application*

**2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

“Access arrangement” and “arrangement” means an arrangement between a person desiring access to land for the purpose of carrying out mineral-related activities and the owner and occupier of the land, permitting such access, either entered into by way of agreement or determined by an arbitrator in accordance with this Act:

“Bed” means—

(a) In relation to any river, the space of land which the waters of the river cover at its fullest flow without overtopping the banks; and

(b) In relation to a lake, the space of land which the waters of the lake cover at its highest level without exceeding its physical margin; and

(c) In relation to the sea, the submarine areas covered by the internal waters and the territorial sea:

“Change” includes amend, add to, delete from, and replace:

“Coal” means anthracite, bituminous coal, sub-bituminous coal, lignite, peat, and oil shale; and includes every other substance worked or normally worked with coal:

“Contravene” includes fail to comply with:

“Controlling authority”, in relation to land, means—

(a) In the case of land within 20 metres of a road, the authority having control of the road:

(b) In the case of land within 100 metres of a public bridge, the authority having control of the public bridge:

(c) In the case of land within 60 metres of a private bridge, the person owning or having control of the private bridge:

(d) In the case of land within 100 metres of a railway, the person responsible for the administration of that railway:

(e) In the case of land within 60 metres of any river control or flood protection work, the authority having control of the river control or flood protection work:

“Crop” means plants grown on cultivated land, the produce of which is to be harvested:

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

(a) Land alienated by way of lease or licence under section 66, section 68, or section 69 of the Land Act 1948; and

(b) Crown land within the meaning of paragraphs (a) to (f) of the definition of the term “Crown land” in section 2 of the Land Act 1948:

“Crown owned mineral” means any mineral that is the property of the Crown:

“Current” means, in relation to a permit, that the permit has been granted and has not expired or been surrendered or revoked; and “currency” has a corresponding meaning:

“Discovery” means the discovery of a deposit or occurrence of a mineral:

“Draft minerals programme” means a programme prepared or in the course of preparation under section 14:

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

“Enter” includes to re-enter; and “entry” has a similar meaning:

- “Exploration” means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of one or more minerals; and includes any drilling, dredging, or excavations (whether surface or sub-surface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and “to explore” has a corresponding meaning:
- “Exploration permit” means an exploration permit granted under this Part:
- “Foreshore” means any land covered and uncovered by the flow and ebb of the tide at mean spring tides and, in relation to any such land that forms part of the bed of a river, does not include any area that is not part of the coastal marine area:
- “Fuel minerals” includes coal and petroleum:
- “Gold” includes any substance containing gold, or having gold mixed in it:
- “Gold fossicking area” means any area declared under section 98 to be a gold fossicking area:
- “In”, in relation to land, means on or under the surface of land:
- “Industrial rocks and building stones” includes aggregate, basalt, diatomite, dunite, granite, limestone, marble, purlite, pumice, sandstone, serpentine, slate, sand, and gravel:
- “Initial permit” means a permit that is not a subsequent permit:
- “Land” includes land covered by water; and also includes the foreshore and seabed to the outer limits of the territorial sea:
- “Maori land” has the same meaning as in the Maori Affairs Act 1953; and includes Maori reserves within the meaning of that Act:
- “Metallic minerals” includes compounds of aluminium, chromium, copper, gold, iron, iron sand, lead, manganese, mercury, molybdenum, nickel, platinum, silver, tin, titanium, tungsten, uranium, vanadium, and zinc:
- “Mineral” means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones,

and a prescribed substance within the meaning of the Atomic Energy Act 1945:

“Minerals programme” means a programme issued by the Governor-General under section 18 that is current:

“Minimum impact activity” means any of the following:

(a) Geological, geochemical, and geophysical surveying:

(b) Taking samples by hand or hand held methods:

(c) Aerial surveying:

(d) Land surveying:

(e) Any activity prescribed as a minimum impact activity:

(f) Any lawful act incidental to any activity to which paragraphs (a) to (e) relate—

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

(g) The cutting, destroying, removing, or injury of any vegetation on greater than a minimum scale; or

(h) The use of explosives; or

(i) Damage to improvements, stock, or chattels on any land; or

(j) Any breach of the provisions of this or any other Act, including provisions in relation to protected native plants, water, noise, and historic sites; or

(k) The use of more persons for any particular activity than is reasonably necessary; or

(l) Any impacts prescribed as prohibited impacts; or

(m) Entry on land prescribed as prohibited land:

“Mining” means to take, win, or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from that mineral, for the purpose of obtaining the mineral or chemical substance; but does not include prospecting or exploration; and “to mine” has a corresponding meaning:

“Mining operations” means operations in connection with mining, exploring, or prospecting for any Crown owned mineral including—

(a) The extraction, transport, treatment, processing, and separation of any mineral; and

(b) The construction, maintenance, and operation of any works, structures, and other land

improvements, and of any machinery, and equipment, connected with such operations; and

(c) The removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral; and

(d) The deposit or discharge of any mineral, material, debris, tailings, refuse, or wastewater produced from or consequent on, any such operations; and

(e) The doing of all lawful acts incidental or conducive to any such operations—

when carried out at or near the site where the mining, exploration, or prospecting is carried out:

“Mining permit” means a mining permit granted under this Part:

“Minister” means the Minister of Energy:

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

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

“Occupier”, in relation to land, means a person who has a right to occupy the land by virtue of a lease, sub-lease, licence, or any renewal thereof, granted by the owner of the land; and includes—

(a) A holder of an exploration permit or mining permit who has a right of access in respect of the land for the purpose of carrying out an activity under the permit (other than minimum impact activity) or mining operations; and

(b) A person in actual occupation of the land by virtue of being the holder of an existing privilege as defined in section 106 (other than an exploration licence or prospector’s right granted under the Mining Act 1971, or an authorisation granted under Part II of the Petroleum Act 1937); and

(c) A controlling authority in respect of the land:

“Owner” means—

(a) In relation to Crown land, the appropriate Minister within the meaning of subsection (2); and

(b) In relation to land other than Crown land, the person or persons who hold the fee simple title to the land:

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

“Permit holder” means any holder or holders for the time being of a permit:

“Person” includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate:

“Petroleum” means—

(a) Any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or

(b) Any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or

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

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

“Petroleum mining permit” means a mining permit for petroleum:

“Prescribed” means prescribed by regulations made under this Act:

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

“Private bridge” means a bridge or culvert (other than a footbridge) that is owned by or under the control of any person other than the Government or a public authority:

“Prospecting” means any activity undertaken for the purpose of identifying land likely to contain

exploitable mineral deposits or occurrences; and includes—

(a) Geological, geochemical, and geophysical surveys; and

(b) The taking of samples by hand or hand held methods; and

(c) Aerial surveys,—

and “to prospect” has a corresponding meaning:

“Prospecting permit” means a prospecting permit granted under this Part:

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

“Public notice”, when given by the Minister, means notice published in one or more daily newspapers circulating in the main metropolitan areas:

“Railway” means a railway within the meaning of the New Zealand Railways Corporation Act 1981 and also within the meaning of section 2 of the Public Works Act 1981:

“Regulations” means regulations made under this Act:

“Relevant minerals programme”,—

(a) In relation to an application for an initial permit, means a minerals programme that applies to the mineral to which the application applies; and

(b) In relation to an initial permit, means a minerals programme that applies to a mineral to which the initial permit applies and—

(i) That was in force at the time the initial permit was granted; or

(ii) That applies to the initial permit by virtue of a term of that permit; and

(c) In relation to a subsequent permit or an application for a subsequent permit, means, except where paragraph (d) applies, a minerals programme that, in accordance with paragraph (b) of this definition, is the relevant minerals programme in relation to the initial permit that relates to the subsequent permit or application; and

(d) In relation to an application for a subsequent mining permit in respect of a discovery made under a subsequent mining permit, means a minerals programme that applies to the mineral to which the

application applies, that was in force at the commencement of the exploration activities resulting in the discovery:

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

“Road” means—

(a) A road within the meaning of section 121 of the Public Works Act 1981 or section 315 of the Local Government Act 1974:

(b) A motorway within the meaning of section 2 of the Public Works Act 1981:

(c) A limited access road within the meaning of section 153 of the Public Works Act 1981 or section 346 of the Local Government Act 1974:

(d) A regional road within the meaning of section 362 of the Local Government Act 1974:

(e) A limited access regional road within the meaning of section 371 of the Local Government Act 1974:

(f) A regional motorway within the meaning of section 374 of the Local Government Act 1974:

“Sand” does not include ironsand:

“Secretary” means the Secretary of Commerce:

“Serve” means serve in accordance with section 352 or section 353 of the Resource Management Act 1991:

“Silver” includes any substance containing silver, or having silver mixed in it, other than a substance that also contains gold or has gold mixed in it:

“Submission” means a written submission:

“Subsequent permit” means a permit granted in accordance with section 32:

“Territorial sea” means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977:

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

“Uranium” includes thorium and all natural substances, chemical compounds, and physical combinations of uranium or thorium:

“Working day” means any day except—

(a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(b) A day in the period commencing with the 20th day of December in any year and ending with the 15th day of January in the following year.

(2) In this Part, the term "the appropriate Minister", in relation to Crown land, means the Minister for the time being charged with the administration of the land, or with the administration of the enactment (if any) to which the land is subject, or, if there is no such Minister, the Minister of Lands. If any question arises as to who is the appropriate Minister in relation to any particular land, the Governor-General in Council shall determine who is the appropriate Minister.

(3) For the purposes of sections 38 and 97, a permit holder who has not fully complied with the conditions of his or her permit, shall be deemed to have substantially complied with those conditions if—

(a) The permit holder has been duly exempted from compliance with any condition and has substantially complied with all other conditions; or

(b) The Minister is satisfied that the failure of the permit holder to comply with the conditions has been due to causes beyond the control of the permit holder, or that for any other reason the failure of the permit holder to comply with the conditions should be excused.

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

(a) A reference to a Part, section, or Schedule, is a reference to a Part, section, or Schedule of this Act; and

(b) A reference in a section to a subsection is a reference to a subsection of that section; and

(c) A reference in a subsection to a paragraph is a reference to a paragraph of that subsection; and

(d) A reference in a section to a paragraph is a reference to a paragraph of that section.

**3. Act to bind Crown**—This Act shall bind the Crown.

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

*Functions, Powers, and Duties of Minister*

**5. Functions of Minister of Energy**—The Minister shall have the following functions under this Act:

- (a) The preparation of minerals programmes:
- (b) The grant of minerals permits:
- (c) The monitoring of the effect and implementation of minerals programmes and minerals permits.

**6. Delegation of functions by Minister of Energy**—

(1) The Minister may, either generally or particularly, delegate to the chief executive, in accordance with section 28 of the State Sector Act 1988, any of the Minister's functions, powers, or duties under this Act other than—

- (a) The making of decisions on submissions on a draft minerals programme under section 17 and the recommendation of a minerals programme:
- (b) This power of delegation.

(2) The chief executive may, in accordance with section 41 of the State Sector Act 1988, subdelegate any function, power, or duty delegated to him or her by the Minister in accordance with subsection (1).

(3) Any delegation or subdelegation made under this section may be revoked in accordance with section 29 or section 42 of the State Sector Act 1988, as the case may be.

**7. Appointment of enforcement officers**—(1) The Minister may authorise any officers of a department of State or of a local authority to exercise and carry out the functions and powers of an enforcement officer under the Resource Management Act 1991 in relation to compliance with a permit, and for this purpose, sections 332 and 334 of that Act shall be read as if—

- (a) Every reference to a consent authority included a reference to the Minister; and
- (b) Every reference to a resource consent included a reference to a permit.

(2) Any authorisation under subsection (1) to an officer of a local authority is subject to such terms and conditions as to payment of salary and expenses and as to appointment of his or her duties as may be agreed between the Minister and the local authority.

(3) The Minister shall supply every enforcement officer authorised by him or her with a warrant, and that warrant shall clearly state the functions and powers that the person

concerned has been authorised to exercise and carry out under this Act.

(4) Every enforcement officer who exercises or purports to exercise any power conferred on him or her by virtue of this section shall have with him or her, and shall produce if required to do so, his or her warrant and evidence of his or her identity.

(5) Every enforcement officer who holds a warrant issued under this section shall, on the termination of his or her appointment as such, surrender the warrant to the Minister.

#### *Duties and Restrictions*

**8. Restrictions on prospecting or exploring for, or mining, Crown owned minerals—**(1) No person may prospect or explore for, or mine, Crown owned minerals in land unless the person—

(a) Is the holder of a permit granted under this Act which authorises the holder to do so, or is authorised to do so by the holder of such a permit in accordance with the permit, or is otherwise authorised to do so under this Act; and

(b) Complies with sections 49, 50, 51, 53, and 54.

(2) Subsection (1)(a) does not apply to the taking by any person of—

(a) Any Crown owned mineral that—

(i) Exists in a natural state in land of which the person is an owner or occupier; and

(ii) Is in land which is not the subject of a permit in respect of such mineral—

for use for any reasonable agricultural, pastoral, domestic, roadmaking, or building purpose on land of which the person is an owner or occupier; or

(b) Any sand, shingle, or other natural material in the bed of a river or a lake or in the coastal marine area unless otherwise specified in a minerals programme.

(3) Subsection (1) does not prohibit prospecting or exploring for, or mining, gold in a gold fossicking area by means of hand held non-motorised machinery.

**9. Other legal requirements not affected—**Compliance with this Act does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.

#### *Minerals Owned by the Crown*

**10. Petroleum, gold, silver, and uranium—**Notwithstanding anything to the contrary in any Act or in any

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

**11. Minerals reserved to Crown**—(1) Every alienation of land from the Crown made on or after the commencement of this Act (whether by way of sale, lease, or otherwise) shall be deemed to be made subject to a reservation in favour of the Crown of every mineral existing in its natural condition in the land.

(2) For the avoidance of doubt, every mineral reserved in favour of the Crown by any enactment shall continue to be reserved in favour of the Crown, notwithstanding the repeal of that enactment.

#### *Minerals Programmes*

**12. Purpose of minerals programme**—The purpose of a minerals programme is to establish policies, procedures, and provisions to be applied in respect of the management of any Crown owned mineral that is likely to be the subject of an application for a permit under this Part and, in particular, policies, procedures, and provisions which provide for—

- (a) The efficient allocation of rights in respect of Crown owned minerals; and
- (b) The obtaining by the Crown of a fair financial return from its minerals.

**13. Minister's obligation to provide minerals programme**—Where a mineral to which no minerals programme applies is (or, in the opinion of the Minister, is likely to be) the subject of an application for a permit under this Part, the Minister shall exercise all his or her powers under this Part to ensure that a minerals programme is issued in respect of that mineral as soon as practicable.

**14. Preparation of draft minerals programme**—(1) The Minister may at any time arrange for the preparation of one or more draft minerals programmes or proposed changes to minerals programmes.

(2) A proposed change to a minerals programme may involve a proposed change to any part of a minerals programme.

(3) In sections 16, 17, and 21, a reference to a draft minerals programme includes a reference to a proposed change to a minerals programme.

**15. Contents of minerals programme**—(1) Every draft minerals programme and every minerals programme shall include statements specifying—

- (a) Every mineral to which it applies; and
- (b) Whether or not (and, if so, to what extent) prospecting for, exploration for, or mining of any mineral to which it applies is to be permitted; and
- (c) The policies and procedures to be applied in granting permits under this Part in respect of any mineral to which it applies, including—
  - (i) The basis, if any, on which non-exclusive permits will be granted; and
  - (ii) The basis, if any, on which a permit holder will not be entitled to a subsequent permit; and
  - (iii) The basis, if any, on which approval of work programmes and modified work programmes under section 43 will be withheld; and
- (d) The policies relating to the financial return to be obtained by the Crown in respect of any mineral to which it applies; and
- (e) The principal reasons for and against adopting the policies, procedures, and provisions included in the minerals programme.

(2) There shall not be more than one minerals programme for any mineral but a minerals programme may provide that different policies, procedures, and provisions apply to different areas within New Zealand.

(3) On the request of an iwi, a minerals programme may provide that defined areas of land of particular importance to its mana are excluded from the operation of the minerals programme or shall not be included in any permit.

**16. Public notice**—(1) The Minister shall ensure that—

- (a) Public notice is given of a draft minerals programme; and
  - (b) Notice is given of a draft minerals programme to all iwi; and
  - (c) The draft minerals programme is available for inspection by any person at such places as the Minister considers appropriate.
- (2) Every notice under subsection (1) (a) shall—
- (a) Give reasonable notice of the contents of the draft minerals programme; and
  - (b) Indicate where the draft minerals programme may be inspected; and

- (c) Indicate that submissions may be made on the draft minerals programme, how submissions may be made, and by what date.

**17. Submissions**—(1) Any person may make a submission on a draft minerals programme.

(2) A submission under subsection (1) must be received by the Secretary not later than 40 working days after the date of public notification under section 16.

(3) Every submission under this section shall state the reasons for the submission.

(4) If any submission is made under this section, the Secretary shall, following the expiry of the time for making submissions, arrange for a report and recommendations to be made to the Minister in respect of all submissions.

(5) The Minister shall consider the report and recommendations made under subsection (4) and may make such changes to the draft minerals programme as the Minister thinks fit.

(6) After considering the report and recommendations made under subsection (4), the Minister shall—

(a) Notify every person who made a submission of the recommendations and of the Minister's decision on the recommendations; and

(b) Publicly notify the draft minerals programme incorporating any changes made under subsection (5).

(7) Notwithstanding the provisions of the Official Information Act 1982, where a request is made by any person for disclosure of information contained in a submission, the Department or Minister to whom the request was made may refuse to make the information available where the Department or Minister is satisfied that such refusal is necessary to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu and, in the circumstances of the particular case, the importance of avoiding such offence or disclosure outweighs the public interest in making that information available.

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

(2) The Minister shall not make a recommendation under subsection (1) before the time allowed for making submissions under section 17 has expired.

**19. Notification of approved programme**—The Minister shall—

- (a) Notify every person who made a submission under section 17 of the issuing of a minerals programme and where it may be inspected; and
- (b) Give public notice that the programme has been issued and of the places where it is available for inspection; and
- (c) Make the programme available for public inspection at such places as the Minister considers appropriate.

**20. Review of minerals programme**—(1) The Minister shall review a minerals programme as a whole within 10 years of the issuing of the minerals programme by preparing a replacement minerals programme.

(2) A replacement minerals programme shall be prepared whether or not any changes are proposed to the minerals programme that is the subject of the review.

(3) A replacement minerals programme shall be deemed to be a draft minerals programme prepared under section 14.

(4) A current minerals programme shall continue in force until the review of that minerals programme is completed and a new minerals programme is issued.

**21. Matters to be considered**—The Minister, in carrying out and exercising his or her functions and powers in respect of minerals programmes and draft minerals programmes, shall have regard to—

- (a) The purpose of a minerals programme; and
- (b) The prohibition of a right of access to Crown land under section 62; and
- (c) The prohibition of prospecting or exploring for or mining Crown owned minerals on land under any other Act.

#### *Permits*

**22. Exercise of Minister's functions and powers**—(1) Subject to subsection (2), the Minister shall carry out and exercise his or her functions and powers under this Part in respect of permits and applications for permits—

- (a) In a manner that is consistent with the policies, procedures, and provisions in any relevant minerals programme, provided that where—
  - (i) The relevant minerals programme differs from the current minerals programme in respect of the same mineral; and

(ii) The permit holder or applicant for a permit desires that a policy, procedure, or provision in the current minerals programme apply to the holder's permit or the applicant's application in place of a policy, procedure, or provision in respect of the same matter in the relevant minerals programme; and

(iii) The current minerals programme does not prohibit such application,—  
then the desired policy, procedure, or provision in the current minerals programme shall apply in respect of that particular matter; and

(b) Where there is no relevant minerals programme, having regard to the importance of—

(i) The efficient allocation of rights in respect of Crown owned minerals; and

(ii) The Crown obtaining a fair financial return from its minerals.

(2) Where—

(a) The Minister has publicly notified a proposed change to a policy, procedure, or provision in a current minerals programme; and

(b) That programme is the relevant minerals programme in respect of an application for a permit received by the Secretary after the date of public notification of the proposed change; and

(c) If the proposed change were in force, it would be likely that the Minister's decision in respect of the application would be different than if it were made under the current relevant minerals programme,—

the Minister may defer his or her consideration of the application until the proposed change has been made or the Minister has decided not to proceed with the change.

(3) Where the Minister grants, or makes a material change to, a permit in respect of a mineral for which there is no minerals programme, the Minister shall ensure that the reasons therefor, or the place where those reasons may be inspected, is publicly notified.

**23. Application for permits—**(1) Any person may apply to the Secretary for a permit in respect of a mineral in land, whether or not there is a minerals programme for the mineral.

(2) Every application under subsection (1) shall be in the prescribed form.

**24. Allocation by public tender**—(1) Unless a relevant minerals programme expressly provides otherwise, the Minister may, from time to time, by notice in such publications as the Minister considers appropriate, offer permits for allocation by public tender.

(2) Every notice for the purposes of subsection (1) shall specify—

- (a) The type of permit offered; and
- (b) The land and minerals to which the permit relates; and
- (c) The manner in which tenders must be submitted, and the time by which tenders must be received by the Minister, in order for such tenders to be valid; and
- (d) The conditions to which any permit granted pursuant to the tender will be subject.

(3) The Minister shall not accept any tender which does not comply in a material way with the requirements of the notice.

(4) The Minister may amend or revoke a notice before the time by which tenders must be received expires.

(5) The Minister may decline to grant any permit pursuant to a tender.

(6) A permit granted pursuant to a tender shall be subject to the relevant conditions specified in the notice, unless otherwise agreed with the applicant.

**25. Grant of permit**—(1) Subject to the provisions of this Act, the Minister may grant to any person a permit in respect of any specified minerals and land, on such conditions as the Minister thinks fit.

(2) Without limiting the generality of subsection (1), the Minister may, on granting a permit, specify as a condition of the permit the terms on which the Minister, or any other person acting on behalf of the Crown, shall be entitled to participate in prospecting, exploration, or mining under the permit or under any subsequent permit.

**26. Priority of applications if more than one made and no minerals programme**—(1) Subject to the provisions of this Act, if more than one application is made for a permit in respect of all or part of the same land and in respect of a common mineral, and there is no minerals programme for that mineral, the applicant whose application is first received by the Secretary shall have a right in priority over every other applicant to have the permit applied for by him or her granted in respect of such land and mineral.

(2) If 2 or more applications in respect of the same or partly the same land and a common mineral appear to have been received at the same time, the applicant to have a prior right shall be determined as the Minister thinks fit.

(3) Every applicant who has a right of priority under this section shall retain the right until his or her application has been finally disposed of by being granted, refused, or withdrawn.

(4) An applicant shall not have a right of priority under this section over any tender for a permit in respect of the same or partly the same land and a common mineral if his or her application was received on or after the date of publication of the notice of offer of the permit to which any such tender relates.

(5) The Secretary shall be under no obligation to process an application for a permit while it is in second or subsequent priority to another application.

**27. Provisions relating to granting of permit**—(1) The Minister may grant a permit under this Part only where the Minister is satisfied that the applicant will comply with the conditions of, and give proper effect to, the permit.

(2) A permit shall not be granted under this Part unless there has been deposited with the Secretary, as security for compliance with the conditions of the permit, such monetary deposit or bond as may be required by the Minister in each case.

**28. Restriction on granting of prospecting permits** —

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

(a) The prospecting proposed in the application is unlikely to materially add to the existing knowledge of the mineral in all or part of the land to which the application relates; or

(b) There exists, at the time of the application, substantial interest in exploring for or mining the mineral in all or part of the land to which the application relates,—  
the Minister shall not grant a prospecting permit in respect of the mineral and the land or part of the land concerned unless he or she is satisfied that special circumstances apply.

**29. Minister may require survey to be done**—Where the Minister considers it appropriate to do so, the Minister may require that land to which an application for a permit relates be

surveyed in the prescribed manner and may postpone making a determination in respect of the granting of a permit until a survey plan, certified by the Chief Surveyor, has been lodged with the Secretary by or on behalf of the applicant.

*Conditions of Permits*

**30. Rights to prospect, explore, mine**—(1) Subject to section 8, the holder of a current prospecting permit shall have a right to prospect for the mineral, in the land, and on the conditions, stated in the permit.

(2) Subject to section 8, the holder of a current exploration permit shall have the rights of a holder of a current prospecting permit and, in addition, a right to explore for the mineral, in the land, and on the conditions, stated in the permit.

(3) Subject to section 8 and subsections (4) and (5), the holder of a mining permit shall have the rights of a holder of a current exploration permit and, in addition, a right to mine the mineral, in the land, and on the conditions, stated in the permit.

(4) Where a mining permit states that the right to mine only applies to a specified discovery of a mineral, the right to mine shall only extend to that discovery.

(5) Where a mining permit states that the right to mine only applies to a specified discovery of a mineral, and the holder of the permit makes a further discovery in relation to a mineral and land to which the permit relates, the permit holder shall only have a right to receive a mining permit in accordance with section 32 (6) in relation to that discovery—

(a) If within 12 months after making the further discovery, the permit holder notifies the Minister in writing of the making of the discovery and that the permit holder is interested in applying for a permit to mine the discovery; and

(b) Within the period notified to the permit holder under subsection (6).

(6) On receiving a notice from a permit holder under subsection (5), the Minister shall notify the permit holder in writing of the period which in the Minister's opinion is reasonable to allow for—

(a) The carrying out of the necessary appraisal work in respect of the discovery; and

(b) The preparation of a work programme for the mining of the discovery; and

(c) The consideration and granting of an application for a permit to mine the discovery.

(7) Subject to subsection (8) and unless the permit expressly provides otherwise, the rights referred to in subsections (1) to (3) are exclusive to the permit holder.

(8) A permit conferring all or any of the same rights as a current permit in respect of all or part of the same land and a common mineral may only be granted to a person other than the holder of the current permit with the prior written consent of the current permit holder.

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

**32. Right of permit holder to subsequent permits**—  
(1) Subject to sections 22, 27, and 43, and unless the prospecting permit expressly provides otherwise, if the holder of a prospecting permit satisfies the Minister that the results of his or her prospecting under the prospecting permit justifies the granting of an exploration permit in respect of any land and mineral to which the prospecting permit relates, the permit holder shall have the right, on applying under section 23 before the expiry of the prospecting permit, to surrender the permit insofar as it relates to that land and to be granted in exchange an exploration permit for that land and mineral.

(2) If an exploration permit is granted in accordance with subsection (1), and the prospecting permit in respect of which it is granted specified any condition to be included in such exploration permit, no other or additional condition which modifies or conflicts with that condition shall be included in the exploration permit without the consent of the permit holder.

(3) Subject to sections 22, 27, and 43, and unless the exploration permit expressly provides otherwise, if the holder of an exploration permit satisfies the Minister that he or she has, as a result of activities authorised by the permit, discovered a deposit or occurrence of a mineral to which the permit relates, the permit holder shall have the right, on applying under section 23 before the expiry of the exploration permit, to surrender the permit insofar as it relates to the land in which the deposit or occurrence exists and to be granted in exchange a mining permit for that land and mineral.

(4) A permit granted under this section may be limited to such part of the land to which the current permit relates as the Minister determines is reasonably adequate to enable the activities authorised by the subsequent permit to be carried out.

(5) If a mining permit is granted in accordance with subsection (3) and the initial permit or any subsequent permit specified any condition to be included in such mining permit, no other or additional condition which modifies or conflicts with that condition shall be included in the mining permit without the consent of the permit holder.

(6) For the purposes of this section—

- (a) An exploration permit shall be deemed to be an exploration permit and a prospecting permit; and
- (b) A mining permit shall be deemed to be a mining permit and an exploration permit and a prospecting permit.

**33. Permit holder to comply with permit and this Act**—(1) Every permit holder shall comply with the conditions of the permit and with this Act.

(2) Where a permit is held by 2 or more persons, those persons shall be jointly and severally liable to comply with and perform the obligations of the permit holder under the permit and this Act.

(3) The holding of a permit shall not operate to relieve the permit holder or any other person from liability in respect of anything done or omitted to be done in respect of or under the permit.

**34. Financial return to the Crown**—The Minister may—

- (a) Require, in return for any permit granted under this Part, the payment of money to the Crown;
- (b) Include in any permit granted under this Part a condition requiring payments to the Crown by the permit holder for—
  - (i) The rights given by the permit and this Part; and
  - (ii) Any minerals obtained by the permit holder under the permit.

**35. Duration of permit**—(1) Subject to section 36,—

- (a) A prospecting permit shall expire on the date that is 2 years after the commencement date of the permit;
  - (b) An exploration permit shall expire on the date that is 5 years after the commencement date of the permit;
  - (c) A mining permit shall expire on the date that is 40 years after the commencement date of the permit—
- unless an earlier date is specified in the permit, in which case the permit shall expire on that earlier date.

(2) Where the Minister is satisfied that a permit holder has been prevented from commencing activities under a permit by

delays in obtaining consents under this Act, and that those delays have not been caused or contributed to by default on the part of the permit holder, the Minister may, on the application of the permit holder, defer or amend the commencement date of the permit, and subsection (1) shall apply accordingly.

**36. Change to permit**—(1) Subject to section 38, at any time or times during the currency of a permit, the Minister may, on such conditions as he or she thinks fit and—

- (a) With the prior written consent of the permit holder; or
- (b) On the written application of the permit holder; or
- (c) In the manner, if any, provided in the permit,—

amend the conditions of a permit, or extend the minerals or land to which a permit relates, or extend the duration of a permit, by granting a certificate of change of conditions or a certificate of extension, as the case may be.

(2) In considering whether to extend the minerals or land to which a permit relates, the Minister shall have regard to whether or not such an extension will facilitate a more rational carrying out of activities under the permit.

(3) Where land is added to a permit under this section, the addition shall be deemed to be the grant of a new permit for the purposes of section 30 (8) (which restricts the granting of permits where another permit holder has an exclusive right).

(4) The duration of a prospecting permit or exploration permit may not be changed under this section to any date that is—

- (a) In the case of a prospecting permit, more than 4 years from the commencement date of the permit; or
- (b) In the case of an exploration permit, more than 10 years from the commencement date of the permit.

(5) The duration of a mining permit may not be extended under this section unless the permit holder—

- (a) Satisfies the Minister that the discovery to which the permit relates cannot be economically depleted before the date of expiration of the permit (and in this respect the Minister may consider the extent to which the inability to deplete the discovery during the term of the permit is due to causes or reasons beyond the permit holder's control); and

- (b) Where required to do so by the Minister, submits a work programme which is approved by the Minister in the same manner, with any necessary modifications, as a work programme is approved under section 43—

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

(6) Every application under this section shall be in the form and contain the information required by the Minister in that case.

**37. Extension of duration of exploration permit—**

(1) Subject to section 38, the Minister shall, on the written application of the permit holder, extend the duration of an exploration permit for such period, not exceeding 10 years from the commencement date of the permit, as the Minister thinks fit, where—

- (a) The extension is sought in respect of an area of land, being an unbroken area, not exceeding one-half of the area comprised in the permit; and
- (b) The permit holder has submitted with his or her application a proposed programme of work to be carried out which the Minister is satisfied will provide for the satisfactory exploration of the land in respect of which the extension is sought; and
- (c) That land is so situated that it will not prevent or seriously hinder the exploration by any other permit holder of the other part of the land comprised in the permit.

(2) Subject to section 38, the Minister shall, on the written application of the permit holder, extend the duration of an exploration permit over part or parts of its area for such period or periods as the Minister considers necessary to enable the permit holder to carry out the appraisal work for a discovery where—

- (a) The permit holder has made a discovery; and
- (b) The duration of the permit is insufficient to carry out the appraisal work for the discovery; and
- (c) The permit holder is not entitled under subsection (1) to an extension of the duration of the exploration permit—
  - (i) For a period sufficient to enable the permit holder to carry out the appraisal work for the discovery; or
  - (ii) For all the land comprised in the permit to which it is likely that the discovery relates; and
- (d) The Minister is satisfied that reasonable efforts are being made to carry out the appraisal and that the appraisal work programme is sufficient to carry out the appraisal work.

(3) The Minister may grant an extension under subsection (1) or subsection (2), subject to such conditions as he or she thinks fit and, in respect of any extensions under subsection (2), the extensions shall be restricted to that land comprised in the permit to which the Minister determines it is likely that the discovery relates and is necessary to reasonably appraise the discovery and enable subsequent mining operations.

**38. Applicant to have substantially complied with permit—**(1) Subject to subsection (2), where an application is made to the Minister for an amendment to the conditions of a permit, or an extension of the minerals or land to which a permit relates, or an extension of the duration of a permit, and the permit holder—

(a) Has not, in the opinion of the Minister, substantially complied with the conditions of the permit; and

(b) Has not been exempted, or is not excused, from such compliance in accordance with section 2 (3),—  
the Minister shall decline the application and give written notice to the permit holder accordingly.

(2) The Minister shall, if he or she proposes to decline any such application, serve a notice on the applicant—

(a) Stating that the Minister has reason to believe that the applicant has not substantially complied with the conditions of his or her permit and has not been exempted or excused from compliance with the conditions that the Minister believes have not been complied with; and

(b) Specifying the respects in which the applicant has not complied with the conditions of the permit; and

(c) Stating that the application will be declined unless the applicant can, within 20 working days of the date of service of the notice, show that he or she has nevertheless substantially complied with the conditions of his or her permit.

(3) The Minister shall not decline an application until he or she has considered any representations made by the applicant under subsection (2) (c).

(4) A permit holder who has had an application declined under this section, may, not later than 20 working days after being notified of the Minister's decision, appeal against the Minister's decision to the Administrative Division of the High Court.

**39. Revocation of permit**—(1) If the Minister, on receipt of a report from the Secretary, has reason to believe that any permit holder is contravening or not making reasonable efforts to comply with this Part, or regulations in force under this Part, or any of the conditions of the permit, the Minister may cause to be served on the permit holder a notice—

- (a) Specifying the alleged contravention or non-compliance; and
- (b) Requiring the permit holder, within 20 working days after the service of the notice or such longer time as the Minister may specify in the notice, to remedy, or make reasonable efforts to remedy, the contravention or non-compliance, or show reasonable cause for its occurrence, or show that it has not in fact occurred; and
- (c) Stating that failure to comply with the requirements of the notice may result in revocation of the permit.

(2) If the Minister is satisfied that a permit holder has failed to comply with the requirements of a notice served under subsection (1), the Minister may, by written notice served on the permit holder, declare that, 20 working days after the date of service of the notice, the permit shall be revoked or shall become the property of the Minister; and, subject to subsection (6), on the expiry of that period the permit shall be revoked or become the property of the Minister, as the case may be. Every notice under this subsection shall specify the reason for the Minister's decision.

(3) On a permit becoming the property of the Minister under this section, the Minister may exercise the rights granted by the permit, or offer it or any share in it for sale by public tender or otherwise.

(4) The consent of the Minister under section 41 shall not be required to the transfer of a permit under this section.

(5) A permit holder who has been served with notice under subsection (2) may, not later than 20 working days after the date of service, appeal against the Minister's decision to the High Court. Every such appeal shall be heard and determined by the Administrative Division of the High Court.

(6) Pending the determination of any appeal, the permit in respect of which the appeal is made shall for all purposes continue in force unless it sooner expires.

(7) The revocation of a permit or the transfer of a permit to the Minister under this section shall not release the permit holder from any liability in respect of—

- (a) A permit, or any condition of it, up to the date of revocation or transfer; and
- (b) Any act under the permit up to the date of revocation or transfer giving rise to a cause of action.

(8) As soon as practicable after a permit (other than a permit in respect of petroleum) is revoked, the Secretary shall lodge a copy of the notice served on the permit holder under subsection (2) with the District Land Registrar.

**40. Surrender of permit**—(1) Subject to subsection (2), a permit holder may surrender a permit or any part of it by lodging for acceptance by the Secretary a notice of surrender in the prescribed form, together with any required accompaniments and the prescribed fee.

(2) The Secretary shall, if everything is in order, accept the surrender, at which time the surrender shall take effect unless the Minister considers it in the interests of the Crown for the Minister to acquire the permit for the purposes of reallocation or otherwise, in which case the permit shall become the property of the Minister.

(3) Where a permit becomes the property of the Minister under this section then, for the purposes of subsections (5) and (6), the permit shall be deemed to have been surrendered under this section and such surrender shall be deemed to have taken place on the date of the Minister's decision under subsection (2).

(4) The consent of the Minister under section 41 shall not be required to the transfer of a permit under this section.

(5) Where a permit is surrendered in whole or in part and payments have been made to the Crown under the permit or under this Part, the permit holder shall be entitled to a refund of so much of the payments as have been made in respect of—

- (a) The remaining part of the period subsequent to the date of the surrender; and
- (b) The land surrendered.

(6) The surrender of a permit shall not release the permit holder from any liability in respect of—

- (a) The permit up to the date of the surrender; and
- (b) Any act under the permit up to the date of surrender giving rise to a cause of action.

(7) If a permit is being surrendered in part only, the form of surrender shall be accompanied by a plan that has the land in respect of which part of the permit is being surrendered clearly delineated and identified on it.

(8) The surrender of only part of a permit shall, on acceptance, be endorsed on the permit by the Secretary.

(9) The Secretary shall, on acceptance, lodge every surrender of a permit (other than a permit in respect of petroleum), whether in whole or in part, with the District Land Registrar.

(10) Every right, title, and interest held under a permit that has been surrendered under this section shall end in respect of the land to which the permit related, or in respect of that part of the land in relation to which the permit is surrendered, as the case may be, on the date on which the Secretary accepts the surrender.

**41. Transfers and other dealings with permits—**(1) In this section—

“Agreement” includes a contract or deed and an arrangement; but does not include an access arrangement:

“Transfer” includes assign.

(2) No permit holder or any other person shall enter into an agreement (except by way of mortgage or other charge only) which—

- (a) Transfers a permit; or
- (b) Creates any interest in or affecting any existing or future permit; or
- (c) Transfers or otherwise deals, either directly or indirectly, with any interest in or affecting any existing or future permit; or
- (d) Imposes any obligation on the permit holder which relates to or affects the production of minerals from the land to which the permit relates or the proceeds of such production—

unless the agreement is entered into subject to the consent of the Minister and an application for such consent is made within 3 months after the date of the agreement.

(3) The Minister shall consent to an agreement of the kind referred to in subsection (2), on such conditions as he or she thinks fit, unless in his or her opinion special circumstances exist. Before making a decision in respect of any such agreement, the Minister may require the production of such information relating to the agreement as the Minister considers necessary or desirable.

(4) An agreement which is subject to the consent of the Minister under this section shall not have any effect unless application for the Minister’s consent is made in accordance with subsection (2) and the Minister consents to the agreement.

(5) All conditions of the Minister's consent under this section shall, for the purposes of this Part, be deemed to be conditions of the permit concerned.

(6) Subject to the conditions of the permit and of the agreement which transfers the permit and to the conditions of the Minister's consent under this section, on the transfer of a permit in accordance with this section, the transferor shall cease to have any rights or obligations under the permit, except in respect of any contravention of the conditions of the permit that occurred before the date of the transfer.

(7) A transfer or lease of a permit, other than a permit in respect of petroleum, shall not have any force or effect until the instrument of transfer or memorandum of lease has been lodged with and accepted by the District Land Registrar.

(8) A transfer or lease of a permit in respect of petroleum shall not have any force or effect until a notice, in the prescribed form, of the transfer or lease has been lodged with the Secretary and the Minister has consented to the transfer or lease.

(9) Every instrument of transfer or memorandum of lease of a permit, other than a permit in respect of petroleum, shall, with the necessary modifications, be in the form prescribed by the Land Transfer Act 1952 and shall be lodged with the prescribed fee.

(10) The District Land Registrar shall not accept any instrument of transfer or memorandum of lease under this section unless—

- (a) The Secretary has endorsed the instrument or memorandum to the effect that the Minister has consented to the transfer or lease to which the instrument or memorandum relates; and
- (b) The instrument or memorandum has been duly stamped, if it is liable for stamp duty; and
- (c) The holder's copy of the permit being transferred or leased is produced with the instrument or memorandum.

(11) On accepting an instrument of transfer or memorandum of lease under this section, the District Land Registrar shall—

- (a) Note the time and date of acceptance on the instrument or memorandum; and
- (b) Record and file it in his or her office; and
- (c) Endorse his or her filed copy of the permit being transferred or leased, and the copy of that permit produced under subsection (8), with the particulars of

the instrument of transfer or memorandum of lease, including the record reference.

(12) On completing the endorsement of the copy of the permit produced under subsection (10), the District Land Registrar shall return it to the person who presented it or to any other person authorised in writing by that person to receive it.

(13) Two or more permits may be comprised in the same instrument or memorandum for the purpose of transferring or leasing them all in the same way and between the same parties.

**42. Minister may require survey at any time**—It shall be a condition of every current mining permit that the Minister may at any time, require the holder of the permit to arrange for the survey, in the manner prescribed by regulations, of all or part of the land to which the permit relates.

*Work Programmes in Respect of Subsequent Permits*

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

(1) Where an application is made for a permit and the applicant has a right to receive that permit under section 32, the Minister shall not grant the permit unless—

(a) The Minister has approved the work programme for the permit; or

(b) The Minister has agreed or is satisfied that a work programme for the permit is not required to be approved under this section.

(2) Where an application is made for a permit and the applicant has a right to receive that permit under section 32, the Minister, within 6 months after receiving the proposed work programme for the permit applied for, shall either—

(a) Approve the programme; or

(b) Withhold approval of the programme if the Minister considers that—

(i) It is contrary to recognised good exploration or mining practice; or

(ii) To approve the programme would be acting contrary to section 22,—

and shall notify the applicant accordingly.

(3) Where the Minister withholds approval of a proposed work programme under subsection (2), the applicant shall be entitled to submit a modified work programme to the Minister within a reasonable period, as specified by the Minister when withholding approval of the proposed work programme, and the Minister shall then, within a further 6 months, either—

- (a) Approve the modified work programme; or
  - (b) Withhold approval of the modified work programme if the Minister considers that—
    - (i) It is contrary to recognised good exploration or mining practice; or
    - (ii) To approve the programme would be acting contrary to section 22,—
- and shall notify the applicant accordingly.

**44. Duty of Minister withholding approval of work programme—**(1) The Minister shall not withhold approval of any work programme or modified work programme under section 43 without first advising the applicant of the reasons for the Minister's proposed withholding of approval and affording the applicant a reasonable opportunity to make representations to him or her regarding the work programme or modified work programme.

(2) If the Minister withholds approval of a work programme or modified work programme under section 43, the applicant may refer the matter to arbitration under section 99.

(3) If it is determined under section 99 that it would be contrary to recognised good exploration or mining practice to carry out the work programme or modified work programme submitted by the applicant, or the Minister would be acting contrary to section 22 in approving the programme, the Minister shall give notice to the applicant of his or her intention to decline the application unless—

- (a) A modified work programme is submitted to the Minister within 3 months after the date of the notice or within such longer period as the Minister may, in his or her discretion, determine in the notice; and
- (b) The modified work programme is approved by the Minister.

(4) Where it is determined under section 99 that it would not be contrary to recognised good exploration or mining practice to carry out the work programme or modified work programme submitted by the applicant, or the Minister would not be acting contrary to section 22 in approving the programme, the Minister shall forthwith approve that programme.

**45. Minister may direct that petroleum be refined and processed in New Zealand, etc.—**(1) If, after consultation with the permit holder of a petroleum mining permit and having regard to the national interest, the Minister is satisfied

that products are able to be manufactured in New Zealand by or on behalf of the permit holder from petroleum produced from land to which the permit relates, the Minister may direct that the permit holder refine or process (or cause to be refined or processed) in New Zealand so much of the petroleum as may be required for the manufacture of those products.

(2) Where a direction is given under subsection (1), the Minister may give a further direction prohibiting the export from New Zealand of any petroleum directed to be refined or processed and of all or any of the products so manufactured from any such petroleum.

(3) Where a permit holder is directed under subsection (1) to refine or process (or cause to be refined or processed) in New Zealand any petroleum and the permit holder does not have facilities for refining or processing such petroleum in New Zealand, the Minister, after consultation with all interested parties, may direct the owner of any refinery or processing plant capable of refining or processing the petroleum, to refine or process the petroleum on behalf of the permit holder on such conditions as may be agreed upon between the permit holder and the owner of the refinery or processing plant or, failing agreement, as may be determined by the Minister.

(4) The owner of or any other person lawfully using a refinery or processing plant may at any time apply to the Minister for a variation in the conditions of any direction given under subsection (3) and the Minister may make such variations as may be agreed upon between the owner and all other persons lawfully using the refinery or processing plant or, failing agreement, as may be determined by the Minister.

(5) Any person who wilfully fails to comply with any direction of the Minister under this section commits an offence against this Act and, if he or she is a permit holder, shall be deemed to have failed to comply with the conditions of his or her permit.

(6) No person shall be precluded by any agreement from doing or refraining from doing such acts as may be necessary to comply with a direction given under this section; and every person who does or refrains from doing any such act shall not thereby suffer, under any agreement, any liability of any kind whatsoever.

(7) In this section, the term "agreement" includes a contract, deed, and arrangement.

**46. Unit development**—(1) If the Minister is satisfied that—

- (a) The land to which any 2 or more petroleum permits relate or any part thereof forms part of a single geological petroleum structure or petroleum field (in this section referred to as an oilfield); and
- (b) In order to prevent waste, avoid unnecessary competitive drilling, and secure the maximum ultimate recovery of petroleum that the oilfield should be worked as a unit in co-operation by all relevant permit holders whose permits comprise any part thereof,—

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

(2) The notice shall specify the land in respect of which, and the period within which, the Minister requires a development scheme to be submitted.

(3) If the Minister withholds his or her approval of a development scheme under subsection (1), the Minister shall notify the permit holders that he or she has withheld approval and of the reasons for doing so, and shall invite the permit holders to submit a modified development scheme for the Minister’s approval within a reasonable period, as specified by the Minister in the notice given under this subsection.

(4) If a development scheme or modified development scheme is not submitted to the Minister within the period specified in that behalf in the relevant notice, or if a modified development scheme submitted under this section is not approved by the Minister, the Minister shall prepare a development scheme that in the opinion of the Minister is fair and equitable to all the permit holders, and the permit holders shall perform and observe the conditions of that scheme.

(5) In this section “petroleum permits” means permits in respect of petroleum.

#### *Access to Land*

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

**48. Cancellation of any Crown right of entry that is reserved by statute—**No right reserved to the Crown, by

virtue of any enactment, to enter any land for any purpose in connection with prospecting or exploring for, or mining, any mineral, shall have any effect.

*Access to Land for Minimum Impact Activity*

**49. Entry on land for minimum impact activity—**

(1) Notwithstanding section 8, but subject to sections 50, 51, and 62, any person employed by the Crown and authorised either specially or generally for that purpose, and any person authorised specifically in writing by the Minister for that purpose, may during the daytime enter on any land, with such assistance as he or she thinks fit, and carry out minimum impact activity.

(2) Subject to sections 8, 50, 51, and 62, a permit holder (and employees, agents, and contractors of a permit holder authorised for that purpose) may enter land to which the permit relates and carry out minimum impact activity.

(3) Notwithstanding subsections (1) and (2), no person may enter on land under either of those subsections without the written consent of the owner and occupier unless at least 10 working days' notice has been given to every owner and every occupier of the land of—

- (a) The date of intended entry; and
- (b) The type and duration of work to be carried out; and
- (c) A telephone number in New Zealand of the person who intends to enter the land.

(4) Every person who enters land under this section shall, if required by any owner or occupier to do so, produce a copy of the authorisation or permit which gives the right of entry under this section.

(5) A person who enters land under this section shall not carry out any activity other than a minimum impact activity.

**50. Entry on special classes of land for minimum impact activity—**No person may, without the consent of the owner or occupier of the land, enter land of a class to which any of paragraphs (a) to (g) of section 55 (2) relate for the purpose of carrying out a minimum impact activity.

**51. Entry on Maori land for minimum impact activity—**(1) Where a permit holder or, any person authorised under section 49, as the case may be, seeks to enter any Maori land for the purpose of carrying out any minimum impact activity, the permit holder or that person, shall, in addition to complying with section 49 and before any such entry is made—

- (a) Ensure that reasonable efforts have been made to consult with those owners of the land able to be identified by the Registrar of the Maori Land Court; and
- (b) Give not less than 10 working days' notice to the local iwi authority of the land to be entered and the matters referred to in section 49 (3).

(2) No person may, without the consent of the owners of the land, enter Maori land for the purpose of carrying out a minimum impact activity where the land is regarded as waahi tapu by the tangata whenua.

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

*Access to Land other than for Minimum Impact Activity*

**53. Access to land for petroleum**—(1) This section shall not apply to minimum impact activities.

(2) The holder of a permit in respect of petroleum shall not prospect, explore, or mine on or in land to which his or her permit relates otherwise than in accordance with an access arrangement—

- (a) Agreed in writing between the permit holder and each owner and occupier of the land; or
- (b) Determined by an arbitrator in accordance with this Act.

**54. Access to land for minerals other than petroleum**—

(1) This section shall not apply to minimum impact activities.

(2) The holder of a permit in respect of a mineral (other than petroleum) shall not prospect, explore, or mine in land to which his or her permit relates otherwise than in accordance with an access arrangement—

- (a) Agreed in writing; or
- (b) Determined by an arbitrator where a consent has been given or declaration made under section 66 which entitles an arbitrator to determine an access arrangement in accordance with an Order in Council.

**55. Restrictions on determination of access arrangements by arbitrators**—(1) Subject to section 66, or to any agreement between the landowner and the person desiring access, an arbitrator shall not be entitled to determine an access arrangement in respect of prospecting or exploration for, or mining of, a mineral other than petroleum.

(2) Unless otherwise agreed between the landowner and the person desiring access, an arbitrator shall not be entitled to determine an access arrangement to enable prospecting or exploration for, or mining of, petroleum in respect of the following classes of land:

- (a) Any land held or managed under the Conservation Act 1987 or any other Act specified in the First Schedule to the Conservation Act 1987:
- (b) Land subject to an open space covenant in terms of the Queen Elizabeth the Second National Trust Act 1977:
- (c) Land subject to a covenant in terms of the Conservation Act 1987 or the Reserves Act 1977:
- (d) Land for the time being under crop:
- (e) Land used as or situated within 30 metres of a yard, stockyard, garden, orchard, vineyard, plant nursery, farm plantation, shelterbelt, airstrip, or indigenous forest:
- (f) Land which is the site of or situated within 30 metres of any building, cemetery, burial ground, waterworks, race, or dam:
- (g) Land having an area of 4.05 hectares or less.

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

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

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

- (c) Will not or is not likely to have any prejudicial effect in respect of any possible future use of the surface of the land.

**58. Disputes as to classification of land and activities—**

(1) If any dispute arises as to whether or not—

- (a) Any land is included in a class of land referred to in section 55; or
- (b) Any activity is a minimum impact activity; or
- (c) Prospecting, exploration, or mining carried out below the surface of any land constitutes prospecting, exploration, or mining on or in land for the purposes of section 53 or section 54—

a party to the dispute may apply to a District Court for that Court to determine the matter.

(2) At least 10 days' notice in writing of any such application shall be given by the applicant to every other party to the dispute.

(3) On the receipt of any such application, the Registrar of the District Court shall give notice of the time and place fixed for the hearing of the application to the applicant and every other party to the dispute.

(4) The applicant and every other party to the dispute shall be entitled to be present and to be heard at the hearing of the application.

**59. Notice of request for grant of right of access—**

(1) Every person wishing to obtain an access arrangement in order to prospect, explore, or mine on or in land shall serve on each owner and occupier of the relevant land a notice in writing of that person's intention to obtain an access arrangement.

(2) Every notice under subsection (1) shall, in addition to matters required by regulations, specify—

- (a) The land affected; and
- (b) The purpose for which the right of access is required; and
- (c) The proposed programme of work including the type and duration of work to be carried out and the likely adverse effect on the land or the owner or occupier of the land; and
- (d) The compensation and safeguards against any likely adverse effects proposed; and
- (e) The type of permit held or applied for by the person giving the notice.

(3) Where an access arrangement is obtained by way of agreement, and the requirements of this section were not complied with in a material way, then such agreement shall be of no force or effect unless the non-compliance is waived in writing by the owner or occupier affected.

**60. Grant of right of access by access arrangement—**

(1) An access arrangement in relation to land may make provision for or with respect to the following matters:

- (a) The periods during which the permit holder is to be permitted access to the land:
- (b) The parts of the land on or in which the permit holder may explore, prospect, or mine and the means by which the permit holder may gain access to those parts of the land:
- (c) The kinds of prospecting, exploration, or mining operations that may be carried out on or in the land:
- (d) The conditions to be observed by the permit holder in prospecting, exploring, or mining on or in the land:
- (e) The things which the permit holder needs to do in order to protect the environment while having access to the land and prospecting, exploring, or mining on or in the land:
- (f) The compensation to be paid to any owner or occupier of the land as a consequence of the permit holder prospecting, exploring, or mining on or in the land:
- (g) The manner of resolving any dispute arising in connection with the arrangement:
- (h) The manner of varying the arrangement:
- (i) Such other matters as the parties to the arrangement may agree to include in the arrangement.

(2) In considering whether to agree to an access arrangement, an owner or occupier of land (other than Crown land) may have regard to such matters as he or she considers relevant.

**61. Access arrangements in respect of Crown land—**

(1) The appropriate Minister may, by agreement, enter into an access arrangement in respect of Crown land.

(2) In considering whether to agree to an access arrangement in respect of Crown land, the appropriate Minister shall have regard to—

- (a) The objectives of any Act under which the land is administered; and
- (b) Any purpose for which the land is held by the Crown; and

- (c) Any policy statement or management plan of the Crown in relation to the land; and
- (d) The safeguards against any potential adverse effects of carrying out the proposed programme of work; and
- (e) Such other matters as the appropriate Minister considers relevant.

**62. Prohibition of access in respect of Crown land—**

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister and the Minister administering the land concerned, prohibit access in respect of any Crown land.

(2) No minimum impact activities shall be carried out on land subject to an Order in Council under subsection (1).

(3) No access arrangement shall be made in respect of any land subject to an Order in Council under subsection (1).

(4) An Order in Council made under subsection (1) shall not affect—

- (a) Any access arrangement entered into before the date of the Order in Council or any rights granted under such an arrangement; or
- (b) The rights of the holder of an existing privilege under Part II.

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

(2) The person desiring access, and each owner and occupier of the land concerned, may agree to the appointment of any person as arbitrator.

**64. Appointment of arbitrator in default of agreement—**(1) If, by the end of 30 days after a person desiring access serves notice in accordance with section 63, that person and each owner and occupier of the land concerned have been unable to agree on the appointment of an arbitrator, then any one of them may apply to the Secretary for the appointment of an arbitrator.

(2) Every such application shall be accompanied by the prescribed fee.

(3) On receipt of such an application the Secretary shall as soon as practicable appoint an arbitrator.

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

(1) As soon as practicable after having been appointed, an arbitrator shall—

- (a) Fix a time and place for conducting a hearing into the question of access to the land concerned; and
- (b) Cause notice of his or her or their appointment, and of the time and place fixed for conducting the hearing, to be given to the person desiring access and to each of the owners and occupiers of that land.

(2) The arbitrator may, by a further notice served on the person desiring access and on each of the owners and occupiers of the land concerned (whether on the application of the person desiring access or of any owner or occupier of that land or otherwise), vary the time or place fixed for conducting the hearing.

(3) The arbitrator shall, at the time and place fixed under this section, conduct a hearing into the question of access to the land concerned.

**66. Declaration by Order in Council that access arrangement may be determined by arbitrator—**(1) If—

- (a) The owner or occupier of any land which is subject to a permit fails or refuses to enter into an access arrangement with the holder of the permit in respect of such land by the end of 60 days after the holder has served on the owner or occupier a notice of intention to obtain an access arrangement as specified in section 59; and
- (b) The land is not Maori land, or land defined as private land by section 5 (1) of the Mining Act 1971, or a class of land to which any of paragraphs (a) to (g) of section 55 (2) relate—

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

(2) On receiving an application under subsection (1), the Secretary shall report on it to the Minister.

(3) If the Minister, after considering the application and the Secretary's report, considers that there are sufficient public interest grounds to support the application, the Minister shall cause to be served on the owner and occupier of the land a notice in writing of the application, and of the Minister's preliminary views, and stating that the owner and occupier have a period of 3 months, after the date on which the notice was served, to either—

- (a) Enter into an access arrangement with the permit holder; or
- (b) Consent in writing to an arbitrator determining an access arrangement; or
- (c) Make representations to the Minister as to why a declaration should not be made under this section.

(4) A notice under subsection (3) shall specify the land to which it relates and the public interest grounds which the Minister considers support the application, and shall have attached to it a copy of the application.

(5) If, within the period of 3 months referred to in subsection (3),—

- (a) An access arrangement between the permit holder and the owner and occupier is not entered into; or
- (b) The owner and occupier do not consent to an arbitrator determining an access arrangement—

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

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

**67. Right of appearance—**(1) At any hearing by an arbitrator into the question of access, a person desiring access to the land concerned, and each of the owners and occupiers of the land, are entitled to appear and be heard.

(2) A party to a hearing may be represented by counsel or otherwise.

**68. Conciliation**—(1) An arbitrator shall not make a determination until the arbitrator has brought, or has used his or her best endeavours to bring, the parties to a settlement acceptable to all of them.

(2) If the parties come to such a settlement, the arbitrator shall make a determination which gives effect to the terms of the settlement.

**69. Procedure**—(1) Except as otherwise provided by this Act, the procedure at a hearing shall be as determined by the arbitrator.

(2) An arbitrator shall act according to equity, good conscience, and the substantial merits of the case without regard for technicalities or legal forms.

(3) An arbitrator may conduct a hearing even though one or more of the parties to the hearing fails to attend the hearing.

**70. Determination of access arrangement, etc.**—(1) As soon as practicable after conducting a hearing, the arbitrator shall determine an access arrangement in respect of the land concerned giving the person desiring access access to the land on reasonable conditions, and serve a copy of the arrangement on each of the parties to the hearing.

(2) An access arrangement that is determined by an arbitrator shall specify the compensation, as assessed by the arbitrator, to which each owner or occupier of the land is entitled under section 76.

(3) Where the person desiring access has not obtained the required permit under this Act at the time of the determination of an access arrangement, the arbitrator shall specify the compensation, as assessed by the arbitrator, to which each owner and occupier would be entitled under section 76 if the person desiring access had obtained the required permit; and in any such case the obligation to pay compensation shall be conditional upon the person desiring access obtaining the required permit.

**71. Effect of access arrangement, etc.**—An access arrangement determined by an arbitrator—

- (a) Takes effect when a copy of the arrangement has been served on each of the parties to the hearing and the person desiring access has complied with the requirements of section 83, if that section is applicable; and

- (b) Has effect as if its terms were embodied in a deed that had been duly executed by each of the parties; and
- (c) Runs with the land and binds all subsequent owners and occupiers.

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

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

**74. Withdrawal from arbitration**—(1) The parties to a hearing may, at any time before the conclusion of the hearing, terminate the hearing by notice in writing, signed by all of the parties, served on the arbitrator.

(2) This section does not limit the liability of the person desiring access to bear the arbitrator's costs in relation to the hearing.

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

- (a) Any determination made by the arbitrator; or
- (b) Any publication made by the arbitrator; or
- (c) Any other act, matter, or thing done by the arbitrator— for the purposes of a hearing, as long as the determination, publication, act, matter, or thing was made or done in good faith.

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

- (a) Reimbursement of all reasonable costs and expenses incurred by the owner or occupier in respect of negotiations with the permit holder and all

reasonable legal and valuation fees in respect of the determination of an access arrangement:

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

satisfaction, within such reasonable period as is specified by the arbitrator, the arbitrator shall refuse to determine an access arrangement.

(6) In considering the provision of compensation as part of an access arrangement, an arbitrator shall have regard to any monetary or non-monetary compensation offered to the owner or occupier by a person desiring access.

(7) Where an owner or occupier suffers loss, injury, or damage due to the activities of a permit holder or of a person authorised under section 49 (1) carried out on the owner's or occupier's land, and the permit holder entered the land under the authority of an access arrangement or of section 49, the owner or occupier shall be entitled to and may claim full compensation against the permit holder or person authorised for all loss, injury, or damage suffered by him or her as a consequence of such activities to the extent that compensation for such activities has not already been provided for in an access arrangement.

(8) In default of agreement between the parties, compensation payable under subsection (7) shall be assessed and determined by an arbitrator appointed in the same manner as for the determination of an access arrangement; and the provisions of this Act relating to the determination of an access arrangement shall, with all necessary modifications, apply accordingly.

**77. Compliance with access conditions**—No person entitled to exercise a right of access by virtue of an access arrangement shall contravene the conditions of the arrangement.

**78. Absentee or unknown owner of land**—(1) Where an owner or occupier of land with whom it is desired to enter into an access arrangement under this Part is—

- (a) Of unknown whereabouts and has no known agent; or
- (b) Unknown,—

the person seeking the right of access may, after notifying the Public Trustee, apply to a District Court for an order authorising the Public Trustee to act as if he or she were the agent of the owner or occupier; and that Court may make such an order.

(2) On the making of such an order, the Public Trustee shall, for the purposes of this Part, be deemed to be the agent of the owner or occupier in respect of whom the order was made, and notwithstanding the provisions of any Act, rule of law, deed, or

instrument, may enter into an access arrangement on behalf of the owner or occupier.

(3) Any compensation payable under an access arrangement to an owner or occupier to which an order under subsection (1) applies shall be paid to the Public Trustee who shall hold such compensation on behalf of the owner or occupier concerned.

(4) Where any doubt or dispute arises as to the right of any person to receive compensation held by the Public Trustee under subsection (3), the High Court may, upon the application of any of the parties interested, make such order in relation to the compensation as it thinks fit, and the Public Trustee shall pay any such compensation in accordance with that order.

**79. Absentee or unknown owner of minerals**—(1) If any person desires to enter into an agreement with the owner of a mineral estate for the purpose of acquiring title to or any interest in the mineral estate, and if the owner is—

(a) Unknown; or

(b) Of unknown whereabouts and has no known agent; or

(c) An infant, a mentally disordered person, or a person under some other legal disability,—

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

(2) On the making of such an order, the Public Trustee may enter into an agreement with the applicant for the purchase at fair market value of the title to or any interest in the mineral estate.

(3) The Public Trustee shall not enter into an agreement with the applicant for the purchase of the title to or any interest in the mineral estate if he or she considers an offer at fair market value has not been made.

(4) Any money payable pursuant to any such agreement shall be paid to the Public Trust Office, and the Public Trustee, after deducting any fair and reasonable costs incurred by him or her in relation to the agreement, shall hold the remaining money on behalf of the person represented by him or her.

(5) If any doubt or dispute arises as to the rights of any person to receive the money held by the Public Trustee under this section, the Public Trustee may apply to the High Court for an order instructing the Public Trustee how to deal with and apply any such money.

**80. Access arrangements in respect of Maori land—**

(1) Except where the land is owned by a single owner in severalty or is vested in trust in a body corporate or a trustee (other than the Maori Trustee), any arrangement for the purposes of section 50 or section 60 with any person having a freehold interest in Maori land or any claim for compensation under section 76 shall be entered into or made by the Maori Trustee on behalf of that person.

(2) If any Maori land is owned by a single owner in severalty or is vested in trust in a body corporate or a trustee (other than the Maori Trustee), the owner or the body corporate or the trustee, as the case may be, may appoint the Maori Trustee as his, her, or its agent to act in respect of any arrangement for the purposes of section 50 or section 60 or any claim for compensation under section 76; and in any such case the Maori Trustee, if he or she accepts the appointment, shall have all the powers and discretions of the person appointing him or her in respect of such an arrangement.

(3) Any compensation agreed upon in any case where the Maori Trustee is acting for the person entitled to it shall be paid to the Maori Trustee; and, subject to subsection (4) of this section, the Maori Trustee shall distribute the compensation money, after making any proper deductions, to the persons entitled to it.

(4) If he or she thinks fit to do so, the Maori Trustee may apply to the Maori Land Court to determine to whom, and in what proportions, any compensation money paid to him or her under this section should, according to what the Court considers just and equitable in the circumstances, be distributed; and the compensation money shall be distributed in accordance with any order made by the Court in that behalf.

(5) Any action or decision of the Maori Trustee under this section shall be binding on all persons whom he or she represents, and anything done or omitted to be done by the Maori Trustee in the exercise of his or her rights and powers under this section shall not be actionable at the suit of any person.

*Notation on Land Titles*

**81. Lodging and notation of permits—**(1) On the granting of a permit, other than a permit in respect of petroleum, the Secretary shall forthwith lodge with the District Land Registrar—

(a) Four copies of the permit, if it was granted in respect of unalienated Crown land or Maori land; or

(b) Three copies of the permit in every other case— together with any fee prescribed by regulations under the Land Transfer Act 1952.

(2) Every copy of a permit lodged under subsection (1) shall have attached to it or incorporated in it a plan delineating and identifying the land to which it relates, including in respect of exploration and mining permits, a schedule identifying the certificate of title references for the land affected by the permit.

(3) On receipt of copies of a permit under this section and of the prescribed fee, the District Land Registrar shall, if everything is in order,—

- (a) Sign and seal on all copies a statement of the time and date of receipt; and
- (b) Record and file one of the copies in his or her office, and endorse on all copies the record reference; and
- (c) In respect of exploration and mining permits, enter on every certificate of title, provisional register, or other instrument of title registered or lodged in his or her office that is affected by the permit, the particulars of the permit, including the record reference and the nature of the permit; and
- (d) Return the remaining copies to the Secretary.

(4) On the return to him or her of the copies of the permit, the Secretary shall forward one copy to the permit holder.

(5) The Secretary shall also forward one copy of the permit to—

- (a) The Chief Surveyor, if the permit was granted in respect of unalienated Crown land; or
- (b) The Registrar of the Maori Land Court, if the permit was granted in respect of Maori land.

(6) On receipt of a copy of a permit under subsection (5), the Chief Surveyor or the Registrar of the Maori Land Court, as the case may be, shall enter in his or her records the particulars of the permit, including the record reference endorsed on the permit by the District Land Registrar.

(7) The Secretary may recover from the permit holder the amount of the prescribed fee payable under subsection (1).

**82. Lodging of certificates of extension—**(1) Section 81 shall apply to the extension of land to which a permit relates as if the granting of the extension were the granting of a permit in respect of the land subject to the extension and, except where the context otherwise requires, every reference in section 81 to “permit” shall, in the case of an extension of land to which the

permit relates, be deemed to be a reference to the certificate of extension.

(2) On the extension of the minerals to which a permit relates or the duration of a permit, the Secretary shall lodge with the District Land Registrar 3 copies of the certificate of extension and on receipt of such copies the District Land Registrar shall—

- (a) Sign and seal on all copies a statement of the time and date of receipt; and
- (b) Attach one of the copies to the filed copy of the permit; and
- (c) Return the remaining copies to the Secretary,—

following which the Secretary shall forward one copy to the permit holder.

(3) Nothing in this section shall apply to permits in respect of petroleum.

**83. Notation of access rights on land titles—**(1) On entering into an access arrangement that is of more than 6 months duration from its date of commencement, the permit holder or applicant for a permit who entered into the arrangement shall forthwith lodge with the District Land Registrar 3 copies of a notice, in the prescribed form, of the particulars of the arrangement with a copy of the arrangement attached, and any fee prescribed by regulations under the Land Transfer Act 1952.

(2) A copy of an arrangement attached to a notice under subsection (1) may have excluded from it any monetary sums paid or agreed to be paid under it.

(3) On receipt of copies of a notice under subsection (1) and of the prescribed fee, the District Land Registrar shall, if everything is in order,—

- (a) Sign and seal on all copies a statement of the time and date of receipt; and
- (b) Record and file one of the copies in his or her office, and endorse on all copies the record reference; and
- (c) Enter on every certificate of title, provisional register, or other instrument of title registered or lodged in his or her office in respect of land to which the arrangement relates, the particulars of the arrangement, including the record reference.

**84. Entry of permit and access particulars acts as notice only—**The entry by the District Land Registrar on a certificate of title, provisional register, or other instrument of title

registered or lodged in his or her office of the particulars of a permit or access arrangement, shall operate only as notice of the existence of the permit or access arrangement and shall not create any estate or interest under the Land Transfer Act 1952.

**85. Land Transfer Act 1952 not to limit or affect rights under permits or rights of access**—Nothing in the Land Transfer Act 1952 shall be construed to in any way limit or affect any right, title, or interest held under a permit that has been recorded by a District Land Registrar under section 81 or in any way limit or affect any access arrangement which has been recorded by a District Land Registrar under section 83.

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

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

(2) Every application under subsection (1) shall be in the form prescribed under the Land Transfer Act 1952 and shall be lodged with the District Land Registrar together with any fee prescribed by regulations under the Land Transfer Act 1952.

(3) On the lodging with the District Land Registrar of—

- (a) An application under subsection (1); or
- (b) Copies of an exploration or mining permit or certificate of extension of land in respect of an exploration or mining permit, under section 81; or
- (c) An instrument evidencing a transfer of or dealing with the ownership of a mineral; or
- (d) An instrument having the effect of alienating land from the Crown,—

the District Land Registrar shall ensure, to the extent he or she is able, that the particulars of the ownership of the minerals in the land concerned are entered on every certificate of title, provisional register, or other instrument of title registered or lodged in his or her office for an estate in fee simple in that land.

(4) Where the District Land Registrar considers that he or she does not have available to him or her sufficient information on the ownership of the minerals in any land to carry out his or her duty under subsection (3), he or she may require the deposit of such plans or the supply of such information as he or she considers reasonably necessary, together with such further

fees as may be prescribed by regulations under the Land Transfer Act 1952. Unless the District Land Registrar otherwise directs in any particular case, such plans or information shall not be accepted by the District Land Registrar until they have been certified as correct by the Chief Surveyor.

(5) For the purposes of this section, the District Land Registrar may require the production by the registered proprietor of the outstanding duplicate of any certificate of title or other instrument of title to be noted with the particulars of mineral ownership. The costs of any such production shall be met by the person lodging the application, copies of a permit or certificate of extension, or instrument, as the case may be.

**87. Certified copies of permits, certificates, and other documents to be evidence**—(1) The District Land Registrar shall, on payment of any fee prescribed by regulations under the Land Transfer Act 1952, provide to any person so applying a certified copy of any permit or other document that has been lodged with and recorded by the District Land Registrar under this Part.

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

**88. Recorded documents to be open for search**—Any person may, for the purpose of inspection, have access to any permit or other document recorded by the District Land Registrar under this Part on payment of the fee and during the hours and on the days prescribed by regulations under the Land Transfer Act 1952.

**89. Revision of records**—On the receipt by the District Land Registrar of any notice of revocation of or surrender of a permit, the District Land Registrar shall, without payment of a fee, sign and seal on the notice a statement of the time and date of receipt, note the particulars on his or her record copy of the permit affected, and attach the notice to that record copy.

#### *Registers and Records*

**90. Reports to Secretary of Commerce**—(1) Every permit holder shall keep detailed records and reports in respect of all prospecting, exploration, and mining activities conducted by or on behalf of the permit holder in accordance with regulations in force under this Act.

(2) Every record and report kept under this section shall be kept in a form that is readily accessible at all reasonable times by the Secretary or any person authorised in writing by the Secretary for this purpose.

(3) Every person exercising rights under subsection (2) shall, if required by the permit holder, produce a copy of the document by which he or she is authorised to do so.

(4) Every permit holder shall provide to the Secretary, in accordance with regulations made under this Act, 2 certified copies or duplicates of records and reports required to be kept under subsection (1) and, upon the expiry of the periods referred to in subsection (7) (a) and (b), whichever first occurs, the Secretary shall send to the Director of Department of Scientific and Industrial Research Geology and Geophysics a copy of every record, report, and other material provided to the Secretary by the permit holder under this subsection.

(5) When requested by the Secretary to do so, every permit holder shall provide to the Secretary—

(a) A certified copy of any report made by or for the permit holder in respect of any activities under the permit; and

(b) A report on any aspect of the permit holder's activities under the permit that the Secretary may from time to time specify.

(6) When all or part of a permit is revoked under section 39 or surrendered under section 40, the permit holder shall provide to the Secretary separate certified copies of all geological, geophysical, and other reports previously provided to, or requested by, the Secretary under subsections (1) and (4) showing, separately, details in respect of the area of land in respect of which the revocation or surrender occurred.

(7) No information supplied by a permit holder under subsections (1) and (4) shall be made available to any person who so requests—

(a) Until the expiry of 5 years after the date on which the information was obtained by the permit holder; or

(b) Until the expiry, surrender (other than in the case of a surrender of all or part of a permit by a permit holder in respect of the granting of a permit under section 32), or revocation of the permit, or part of the permit, in respect of which the information was provided—

whichever first occurs.

(8) Until the expiry of the period referred to in subsection (7) (a) or subsection (7) (b), whichever first occurs, the Minister may use any information that has been supplied under this section

for the purpose of exercising any power or performing any function conferred on the Minister under this Act, but shall not use it for any other purpose without the prior consent of the permit holder who provided the information.

(9) This section shall apply to every record, report, and other material held or provided by the holder of a licence issued under any previous enactment in respect of any mineral as if the licence holder was a permit holder.

**91. Secretary to keep registers**—(1) The Secretary shall keep a register of permits in such form as the Secretary thinks fit in which there shall be entered brief particulars of all permits, including changes, transfers, and leases.

(2) There shall be open to public inspection at the office of the Secretary, during ordinary office hours, on the payment of such fee as may be prescribed by regulations—

(a) A copy of every permit granted under this Act and all changes thereto; and

(b) The register kept under subsection (1); and

(c) Such other documents as may from time to time be prescribed by regulations.

(3) The Secretary shall keep such other registers as may be prescribed by regulations or as he or she considers necessary.

(4) The contents of any register kept by the Secretary may be evidenced in any proceedings by a certificate under the hand of the Secretary, and every such certificate shall, in the absence of proof to the contrary, be sufficient evidence of the matters stated therein.

(5) A certificate under the hand of the Secretary that on a date specified in the certificate the name of any person did not appear in any register as the holder of a permit shall, in the absence of proof to the contrary, be sufficient evidence that the person was not the holder of such a permit on that date.

#### *Miscellaneous Provisions*

**92. Permits are not real or personal property**—(1) A permit is neither real nor personal property.

(2) Except as expressly provided otherwise in the conditions of a permit,—

(a) On the death of the holder of a permit, the permit vests in the personal representative of the holder as if the permit were personal property, and he or she may deal with the permit to the same extent as the holder would have been able to do so; and

(b) On the bankruptcy of an individual who is the holder of a permit, the permit vests in the Official Assignee as if it were personal property, and he or she may deal with the permit to the same extent as the holder would have been able to do so; and

(c) A permit shall be treated as property for the purposes of the Protection of Personal and Property Rights Act 1988.

(3) The holder of a permit may grant a charge over that permit as if it were personal property, but the permit may only be transferred to the chargee, or by or on behalf of the chargee, to the same extent as it could be so transferred by the holder.

**93. Access arrangement does not confer interest—**

(1) An access arrangement does not transfer to, or confer on, the permit holder or applicant for a permit an estate or interest in the land to which it relates.

(2) A right of access obtained by the holder of a permit may, subject to the conditions of the relevant access arrangement, be enjoyed by the holder for the time being of that permit.

**94. Officers not to have personal interest—**Except as otherwise provided in this Act or in regulations, no person holding any office under, or employed by, the Crown in any capacity in the administration of this Act shall hold, directly or indirectly, any pecuniary interest whatever in any permit.

**95. Address for service—**(1) Every permit holder shall give written notification to the Secretary of an address in New Zealand to which any notice required to be served on the permit holder under this Part may be sent. A permit holder may change that address to a different address in New Zealand at any time by giving written notification to the Secretary of the change.

(2) Without limiting sections 352 and 353 of the Resource Management Act 1991 (as applied by section 96), any notice which is required to be served on a permit holder under this Act may be served by sending the notice by post to the last address notified under subsection (1).

**96. Service of documents, etc.—**Sections 352 and 353 of the Resource Management Act 1991, with the necessary modifications, shall apply in respect of the service of

documents and of notices and consents in relation to Maori land under this Act.

**97. Application of monetary deposits**—(1) Subject to subsections (2) and (4), Part VII of the Public Finance Act 1989 shall apply in respect of all money paid to the Secretary in respect of any monetary deposit or bond required or permitted under this Part.

(2) Any money paid to the Secretary by a person in accordance with this section, together with any accrued interest thereon, may be applied by the Minister, as he or she thinks fit, in or towards the payment of any money payable by the person to the Crown in relation to the permit concerned or in relation to any other permit held by that person.

(3) Subject to subsection (2), a permit holder shall, during the currency of a permit in respect of which money is held by the Secretary, be entitled to receive all interest from time to time earned on the money while it is held by the Secretary.

(4) On the termination or transfer of any permit in respect of which money is held by the Secretary the following provisions shall apply:

(a) If the permit holder has substantially complied with the conditions of the permit throughout its currency, he or she shall be entitled to a refund of the deposit, together with all accrued interest thereon, less any amount that has been applied by the Minister in accordance with subsection (2):

(b) If, in the opinion of the Minister, the permit holder has failed to comply substantially with the conditions of his or her permit, the Minister may direct that the full deposit or such part of it as he or she thinks fit shall be paid into the Departmental Bank Account in respect of outstanding fees, or into the Crown Bank Account in respect of other payments outstanding; and in any such case the balance (if any) of the deposit shall be refunded to the permit holder.

**98. Gold fossicking areas**—(1) The appropriate Minister and the Minister may, by notice in the *Gazette*, jointly designate any area of Crown land as a gold fossicking area, which shall then be open for public fossicking in respect of gold.

(2) The area and location of every gold fossicking area declared under subsection (1) shall be defined in the notice under that subsection.

(3) Every person shall have the right to mine for gold in a gold fossicking area by means only of non-motorised hand held tools.

(4) The designation of an area of land as a gold fossicking area does not prevent or restrict the granting of any permit in respect of that area.

(5) The Minister may, by notice in the *Gazette*, revoke any designation of a gold fossicking area.

**99. Arbitration**—(1) A reference of a matter to arbitration under section 44 shall be deemed to be a submission within the meaning of the Arbitration Act 1908 and that Act shall apply accordingly.

(2) Where a dispute is referred to arbitration under this Part, the decision of the arbitrator or arbitrators or umpire shall be final and binding on the parties to the arbitration and the Minister shall take such steps as may be necessary to ensure that effect is given to the decision.

#### *Offences and Legal Proceedings*

**100. Offences**—(1) Every person commits an offence against this Act who contravenes, or permits a contravention of, section 8 (which imposes duties and restrictions in relation to minerals).

(2) Every person commits an offence against this Act who contravenes, or permits a contravention of, any of the following:

- (a) Section 33, which relates to compliance with permit conditions and with this Act;
- (b) Section 49 (5) which relates to entering land and carrying out an activity other than minimum impact activity;
- (c) Section 77, which relates to contravening the conditions of a right of access;
- (d) Section 94, which relates to persons administering this Act holding a pecuniary interest in a mining permit.

(3) Every person commits an offence against this Act who wilfully obstructs, hinders, resists, or deceives any person in the execution of any powers conferred on that person by or under this Act.

(4) Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against subsection (1) may be laid by any person at any time within 6 months after the time when the contravention giving rise to the information first became known, or should have become known, to the local authority or consent authority.

**101. Penalties**—(1) Every person who commits an offence against section 100 (1) is liable on summary conviction to imprisonment for a term not exceeding 2 years or a fine not exceeding \$200,000, and, if the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues.

(2) Every person who commits an offence against section 100 (2) is liable on summary conviction to a fine not exceeding \$10,000, and, if the offence is a continuing one, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues.

(3) Every person who commits an offence against section 100 (3) is liable on summary conviction to a fine not exceeding \$1,500.

(4) Notwithstanding anything in section 29 of the Criminal Justice Act 1985, a Court may sentence any person who commits an offence against this Act to a sentence of community service (whether that offence is punishable by imprisonment or not) and the provisions of Part III of that Act, with all necessary modifications, apply accordingly.

(5) Where a person is convicted of an offence against section 77, the Court may, instead of, or in addition to, imposing a fine, cancel or revoke the right of access or impose additional conditions on the right where it considers it is appropriate to do so in the circumstances.

(6) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act shall be deemed to be a continuing offence.

**102. Liability of principal for acts of agents**—(1) Where an offence is committed against this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he, she, or it had personally committed the offence.

(2) Notwithstanding anything in subsection (1), where any proceedings are brought by virtue of that subsection, it shall be a good defence if the defendant proves—

(a) In the case of a natural person (including a partner in a firm) that—

(i) He or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or

(ii) He or she took all reasonable steps to prevent the commission of the offence:

(b) In the case of a body corporate that—

(i) Neither the directors nor any person involved in the management of the body corporate knew or could reasonably be expected to have known that the offence was to be or was being committed; or

(ii) The body corporate took all reasonable steps to prevent the commission of the offence; and

(c) In all cases, that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.

(3) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of the like offence if it is proved—

(a) That the act that constituted the offence took place with his or her authority, permission, or consent; and

(b) That he or she knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

**103. Strict liability**—(1) In any prosecution for an offence of contravening or permitting a contravention of section 8, it is not necessary to prove that the defendant intended to commit the offence.

(2) Subject to subsection (3), it is a defence to prosecution of the kind referred to in subsection (1), if the defendant proves—

(a) That—

(i) The action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and

(ii) The conduct of the defendant was reasonable in the circumstances; and

(iii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or

(b) That the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case either—

(i) The action or event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.

(3) Except with the leave of the Court, subsection (2) does not apply unless, within 7 days after the service of the summons or within such further time as the Court may allow, the defendant delivers to the prosecutor a written notice—

- (a) Stating that he or she intends to rely on subsection (2); and
- (b) Specifying the facts that support his or her reliance on subsection (2).

**104. Recovery of fees and other money**—(1) All fees and other money payable to the Crown under this Part, or under any permit granted under this Part, shall be recoverable as money due to the Crown, and, without limiting any other method of recovery, may be recovered in any Court of competent jurisdiction as a debt due to the Crown.

(2) All fees payable under this Act shall be paid into a departmental bank account, and all other money payable to the Crown under this Act, or under any permit granted under this Act, shall be paid into the Crown Bank Account.

#### *Regulations*

**105. Regulations**—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing or making provision for forms of applications, permits, notices, and other documents for the purposes of this Part, and prescribing the manner in which any such forms are to be executed:
- (b) Prescribing the information to be provided with applications for permits:
- (c) Prescribing conditions on which permits may be applied for, granted, changed, or extended:
- (d) Prescribing the manner in which permits may be surrendered:
- (e) Prescribing the manner in which persons wishing to apply for permits in respect of any land are to mark out or identify the land and prescribing a graticular system for the purpose of defining areas or parts of areas

comprised in permits, applications for permits, or extensions of permits:

- (f) Prescribing registers to be kept under this Part, the form of such registers, the matters to be entered therein, and the means by which entries shall be verified:
  - (g) Providing for the keeping and provision of records, reports, information, and returns by permit holders for any purpose under this Part, and prescribing the nature of the records, reports, information, and returns, and the form, manner, and times in or at which they shall be kept or provided:
  - (h) Providing for the keeping by a holder of a permit of cores, specimens, or samples obtained in the course of activities carried out under the permit and for the examination, taking, and retention of such cores, specimens, or samples by authorised persons:
  - (i) Prescribing matters in respect of which fees are to be payable under this Act, the amount of the fees, the time and manner of their payment, and the persons liable to pay them, and providing for charges for late payment of fees:
  - (j) Authorising the refund or remission of any fees payable under this Act:
  - (k) Prescribing the amount of monetary deposits or bonds required with applications for permits:
  - (l) Prescribing the duties of permit holders and the activities to be carried out under permits:
  - (m) Prohibiting or regulating activities under a permit near the boundaries of the land comprised in the permit and on or near land comprised in other permits:
  - (n) For the purposes of the definition of "minimum impact activity", prescribing impacts as prohibited impacts and land as prohibited land:
  - (o) Generally regulating activities carried out under permits:
  - (p) Providing for the exemption of permit holders, either wholly or partially, and either absolutely or conditionally, from any of the conditions of their permits or from the provisions of any regulations for the time being in force under this Part:
  - (q) The prevention of the waste or loss of petroleum:
  - (r) Providing for such matters as are contemplated by or necessary for giving full effect to this Part and for its due administration.
- (2) Any regulations made under this section may provide for different regulations to apply in respect of different classes of

permits, permit holders, or activities or in respect of the same class of permits, permit holders, or activities, in different circumstances.

(3) Any regulations made under this section may apply generally throughout New Zealand or within any specified part or parts thereof. All regulations made under this section shall, unless otherwise specified in the regulations, apply generally throughout New Zealand and the continental shelf.

## PART II

### TRANSITIONAL PROVISIONS RELATING TO MINERALS

**106. Interpretation**—In this Part, unless the context otherwise requires,—

“Existing privilege” means every—

(a) Mining privilege granted under Part IV of the Mining Act 1971:

(b) Mining privilege and licence referred to in paragraphs (b) and (c) of section 136 of the Mining Act 1971:

(c) Coal mining right and every other right, lease, sublease, tenancy, licence, and easement granted under the Coal Mines Act 1979:

(d) Prospecting licence or mining licence granted under Part I of the Petroleum Act 1937 or authorisation granted under Part II of that Act:

(e) Authorisation given, agreement entered into, and grant of rights under the Iron and Steel Industry Act 1959, and existing rights referred to in section 5 of that Act—

that is in force immediately before the date of commencement of this Act:

“Minerals permit” means a prospecting permit, an exploration permit, or a mining permit within the meaning of Part I.

#### *Existing Privileges*

**107. Existing privileges to continue**—(1) Except as provided in this Part, every existing privilege shall continue to have effect after the date of commencement of this Act as if this Act and the Resource Management Act 1991 had not been enacted and as if the Act which applied to the privilege before that date continued in force, and, without limiting the generality of the foregoing,—

- (a) As if the holder of the privilege continued to have the same statutory rights as the holder would have had if this Act and the Resource Management Act 1991 had not been enacted; and
  - (b) As if the holder of the privilege continued to have the same statutory obligations as the holder would have had if this Act had not been enacted; and
  - (c) Subject to section 108, as if every person having any function, power, or duty relating to the administration of the Act which applied to the privilege before that date continued to have those functions, powers, and duties; and
  - (d) As if the Planning Tribunal and any other body having any function, power, or duty connected with the determination of any dispute under the Act which applied to the privilege before that date continued to have those functions, powers, and duties; and
  - (e) As if all persons continued to have the same rights to compensation, to make objections, and to appeal as they would have had if this Act had not been enacted.
- (2) Nothing in subsection (1) (a) applies to any right under any enactment specified in section 111 (2).

**108. Administration of existing privileges**—(1) Where there is doubt as to which person is responsible for exercising a particular function, power, or duty, and that doubt cannot be resolved by agreement between those persons, any such person may apply to the Planning Tribunal for an order determining the matter, and the Tribunal may grant such an order on such conditions as it thinks fit.

(2) Before the Minister of Energy varies the terms and conditions of an existing privilege, or takes any enforcement action against the holder of an existing privilege in respect of that existing privilege, the Minister shall give written notice to the consent authority which has any functions, powers, and duties in relation to the privilege under this section, of the proposed action and the reasons therefor.

(3) Before a consent authority varies the terms and conditions of an existing privilege, or takes any enforcement action against the holder of an existing privilege, the consent authority shall give written notice to the Minister of Energy of the proposed action and the reasons therefor.

(4) Any failure to comply with subsection (2) or (3) shall not render any variation or enforcement action invalid.

(5) References in this section to the Minister of Energy include references to the Secretary and to any Inspector or other statutory officer appointed under the Act under which the existing privilege was granted.

(6) A local authority shall have for the purposes of exercising their functions, powers, and duties in relation to an existing privilege under this section, all of the powers conferred on an enforcement officer by section 332 of the Resource Management Act 1991.

**109. Bonds and monetary deposits**—The administration of monetary deposits and bonds held under section 108A of the Mining Act 1971, section 71 of the Coal Mines Act 1979, and section 47H of the Petroleum Act 1937 shall be carried out so that the Secretary shall continue to hold the monetary deposit or bond, and any money recovered under such a bond, but those sections shall apply so that—

- (a) During the duration of, and on the termination of, an existing privilege, the appropriate consent authority shall be entitled to have first priority to one-half of the amount of any deposit or bond held by the Secretary for the purpose of restoring or protecting any property injuriously affected or endangered by reason of the failure of the holder of the existing privilege to comply with the terms and conditions of that privilege; and
- (b) During the duration of, and on the termination of, an existing privilege, the Minister shall be entitled to have first priority to the other half of the amount of any such deposit or bond for the purpose of the payment of any money payable to the Crown by the holder of the existing privilege in respect of which the deposit or bond is held or in respect of any other existing privilege held by that holder.

**110. Fees payable by holders of existing privileges**—Notwithstanding section 107—

- (a) The holders of coal mining rights under the Coal Mines Act 1979 shall not be liable for the payment of rental under that Act in respect of any period following the date of commencement of this Act; and
- (b) The holder of mining privileges under the Mining Act 1971 shall not be liable for the payment of rental under that Act in respect of any period following the date of commencement of this Act; and

- (c) Persons entitled to the payment of rental under the Coal Mines Act 1979 shall not be entitled to the payment of rental under that Act in respect of any period following the date of commencement of this Act; and
- (d) Persons entitled to the payment of rental under the Mining Act 1971 shall not be entitled to the payment of rental under that Act in respect of any period following the date of commencement of this Act; and
- (e) From the date of commencement of this Act, the holders of coal mining rights under the Coal Mines Act 1979 and the holders of mining privileges under the Mining Act 1971 shall be liable to pay to the Secretary such fees in respect of their coal mining right or mining privilege as they would be liable to pay if their coal mining right or mining privilege were the equivalent kind of minerals permit; and
- (f) Any ironsands export levy payable under an authorisation given or an agreement entered into under the Iron and Steel Industry Act 1959 shall be paid 6-monthly within 30 days after the 1st days of January and July in each year; and
- (g) Where the holder of an existing privilege fails to make payment to the Crown of an ironsands export levy or royalties payable under the existing privilege by the due date, a penalty of 10 percent of the amount due shall also become due and payable, by the holder of the existing privilege, to the Crown.

**111. Right to new permits**—(1) Where, after the date of commencement of this Act, a holder of an existing privilege makes an application in respect of Crown owned minerals to which any of the enactments specified in subsection (2) would have applied if this Act had not been enacted, then, notwithstanding section 107,—

- (a) The Acts specified in subsection (2) shall not apply in respect of the application; but
  - (b) This Act (including, in particular, section 32) shall apply in respect of the application as if the existing privilege was a minerals permit of the appropriate kind.
- (2) The enactments for the purposes of subsection (1) are—
- (a) Section 57A and section 68 of the Mining Act 1971;
  - (b) Section 40 of the Coal Mines Act 1979;
  - (c) Section 11 of the Petroleum Act 1937.

*Existing Applications***112. Existing applications under Mining Act 1971—**

(1) Where—

- (a) An application for a mining privilege under the Mining Act 1971 has been made, but not determined or withdrawn, before the date of commencement of this Act; and
- (b) In a case where section 103c(3) of the Mining Act 1971 applies, public notice of the application has been given before that date in accordance with that section—

then, unless the applicant advises the Minister of Energy in writing within 2 months after that date that he or she does not wish this subsection to apply,—

- (c) The application shall continue to be dealt with in accordance with that Act and any regulations made under that Act as if this Act had not been enacted; and
- (d) Any mining privilege granted as a result of the application shall be granted on the same terms and conditions that would have applied if this Act had not been enacted; and
- (e) For the purposes of this Act, any mining privilege granted as a result of the application shall be deemed to be an existing privilege which continues in effect in accordance with the provisions of this Part.

(2) Except as provided in subsection (1), where an application for a prospector's right, exploration licence, prospecting licence, or mining licence under the Mining Act 1971 has been made, but not determined or withdrawn, before the date of commencement of this Act, then the application shall be deemed to be an application made under this Act for a minerals permit of the kind most appropriate to the application, and this Act shall apply accordingly.

**113. Existing applications under Coal Mines Act 1979—**(1) Where—

- (a) An application for a coal mining right under the Coal Mines Act 1979 has been made, but not determined or withdrawn, before the date of commencement of this Act; and
- (b) Public notice of the application has been given before that date in accordance with section 62 of that Act, or the application is made under section 32 of that Act—

then, unless the applicant advises the Minister of Energy in writing within 2 months after that date that he or she does not wish this subsection to apply,—

- (c) The application shall continue to be dealt with in accordance with that Act and any regulations made under that Act as if this Act had not been enacted; and
- (d) Any coal mining right granted as a result of the application shall be granted on the same terms and conditions that would have applied if this Act had not been enacted; and
- (e) For the purposes of this Act, any coal mining right granted as a result of the application shall be deemed to be an existing privilege which continues in effect in accordance with the provisions of this Part.

(2) Except as provided in subsection (1), where an application for a coal prospecting licence or coal mining licence under the Coal Mines Act 1979 has been made, but not determined or withdrawn, before the date of commencement of this Act, then the application shall be deemed to be an application made under this Act for a minerals permit of the kind most appropriate to the application, and this Act shall apply accordingly.

#### **114. Existing applications under Petroleum Act 1937—**

(1) An application for a prospecting licence or mining licence under the Petroleum Act 1937 that has been made, but not determined or withdrawn, before the date of commencement of this Act shall, unless the applicant advises the Minister of Energy in writing within 2 months after that date that he or she does not wish this subsection to apply, continue to be dealt with in accordance with that Act and any regulations made under that Act as if this Act had not been enacted and—

- (a) Any licence granted as a result of the application shall be granted on the same terms and conditions that would have applied if this Act had not been enacted; and
- (b) For the purposes of this Act, any licence granted as a result of the application shall be deemed to be an existing privilege which continues in effect in accordance with the provisions of this Part.

(2) Where an applicant for a licence of a kind referred to in subsection (1) advises the Minister of Energy in accordance with that subsection that he or she does not wish that subsection to apply, the application shall be deemed to be an application

made under this Act for a minerals permit, and this Act shall apply accordingly.

(3) Where a licence is granted in respect of an application to which subsection (1) applies,—

(a) The licensee shall, for the purposes of entering any land and carrying out any activities or operations under the licence, be deemed to be a permit holder; and

(b) The licence shall be deemed to be a permit in terms of Part I,—

and sections 28 to 34 of the Petroleum Act 1937 shall not apply.

(4) Where—

(a) An application for a pipeline authorisation under the Petroleum Act 1937 has been made, but not determined or withdrawn, before the date of commencement of this Act; and

(b) Notice of the application has been given before that date in accordance with section 52 of that Act, or the Minister of Energy considers that no such notice is required—

then, unless the applicant advises the Minister of Energy in writing within 2 months after that date that he or she does not wish this subsection to apply,—

(c) The application shall continue to be dealt with in accordance with that Act and any regulations made under that Act as if this Act had not been enacted; and

(d) Any authorisation granted as a result of the application shall be granted on the same terms and conditions that would have applied if this Act had not been enacted; and

(e) For the purposes of this Act, any authorisation granted as a result of the application shall be deemed to be an existing privilege which continues in effect in accordance with the provisions of this Part.

(5) Except as provided in subsection (4), where an application for a pipeline authorisation under the Petroleum Act 1937 has been made, but not determined or withdrawn, before the date of commencement of this Act, then the application shall be deemed to be an application for approval as a requiring authority made under section 167 of the Resource Management Act 1991, and that Act shall apply accordingly.

*Transitional Arrangements Regarding Access to Land*

**115. Existing agreements regarding land access not affected**—For the avoidance of doubt, it is hereby declared that nothing in this Act affects the validity or enforceability of any agreement entered into, or consent given, before the date of commencement of this Act, in relation to access to land for the purposes of prospecting or exploring for, or mining, minerals.

*Miscellaneous Provisions*

**116. Notices under section 24 of Mining Act 1971**—  
(1) Every notice issued under section 24 of the Mining Act 1971 before the date of commencement of this Act shall continue to have effect after that date until it is revoked by the Minister of Energy and—

(a) Any land set apart by any such notice for mining purposes, or any specified mining purposes exclusively, shall not be available for any other purpose; and

(b) No minerals permit that is inconsistent with any such notice may be applied for or granted under Part I.

(2) The Minister of Energy may only revoke—

(a) A notice made under section 24 (1) (aa) of the Mining Act 1971, with the concurrence of the Minister of Conservation;

(b) A notice made under section 24 (1) (b) of that Act, with the concurrence of the Minister of Lands.

**117. Minister's obligations in respect of minerals programmes**—The Minister of Energy shall—

(a) Within 2 months after the date of commencement of this Act, publicly notify a notice identifying minerals for which minerals programmes will be prepared (being minerals which are, or the Minister considers are likely to be, the subject of an application for a minerals permit); and

(b) Ensure that public notice is given under section 16 of draft minerals programmes for all minerals identified in the notice under paragraph (a) not later than 3 years after the date of commencement of this Act.

**118. Granting of petroleum permits before minerals programme issued**—Until such time as there is a minerals programme issued for petroleum—

- (a) The Minister may not, unless he or she specifically decides otherwise, grant a permit relating to petroleum unless he or she has invited applications for a permit under section 24; and
- (b) Section 26 (which relates to priority applications) shall not apply.

**119. Restriction on granting of permits**—Where any existing privilege continues in force, no permit in respect of the same mineral and all or part of the same land to which that existing privilege relates, shall be granted under Part I without the written consent of the current holder of that privilege.

**120. Repeals and revocations**—(1) The enactments specified in the First Schedule are hereby repealed.

(2) The regulations specified in the Second Schedule are hereby revoked.

(3) Every Proclamation made under section 132 of the Mining Act 1926 or under the corresponding provisions of any former enactment is hereby revoked.

**121. Consequential amendments**—The enactments specified in the Third Schedule are hereby amended in the manner indicated in that Schedule.

**122. Savings as to compensation claims**—Where, immediately before the date of commencement of this Act, any claim for compensation under any enactment repealed by this Act has been or could be made, that claim may be made or continued and enforced in all respects as if this Act had not been enacted.

**123. Savings as to court proceedings**—Nothing in this Act shall affect the rights of any party to any proceedings commenced in any court on or before the commencement of this Act.

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## SCHEDULES

### FIRST SCHEDULE

Section 120(1)

#### ENACTMENTS REPEALED

- 1937, No. 27—The Petroleum Act 1937: Sections 3 to 40, 47D, 47H, 47I, 47J, 47K, 47M (b), (c), (f), (h), (i), (k), (m), (o), (r), (s), (t), 47N, 47O, 48 to 85, 87 (b), (d), (e), (g), (h). (R.S. Vol. 7, p. 647.)
- 1971, No. 25—The Mining Act 1971: Sections 4A, 6, 7, 8, 21 to 81, 84 to 126, 130 to 151A, 154, 155, 216 to 231, 233 (c), (f), (g), (h), (i), (k), (l), (m), (n), (q), 236 to 239, 243 to 248. (R.S. Vol. 17, p. 355.)
- 1972, No. 91—The Mining Amendment Act 1972. (R.S. Vol. 17, p. 508.)
- 1975, No. 91—The Mining Amendment Act 1975. (R.S. Vol. 17, p. 509.)
- 1978, No. 52—The Mining Amendment Act 1978. (R.S. Vol. 17, p. 509.)
- 1979, No. 21—The Coal Mines Act 1979: Sections 4 to 7, 20 to 121A, 200 to 209, 261, 264, and paragraphs (b) to (m) and (o) to (q) of section 266.
- 1980, No. 72—The Petroleum Amendment Act 1980: Sections 2 to 6 (R.S. Vol. 7, p. 728.)
- 1981, No. 128—The Mining Amendment Act 1981: Sections 1, 2, 4 to 35, 37 to 39. (R.S. Vol. 17, p. 510.)
- 1982, No. 63—The Coal Mines Act 1982: Section 2.
- 1982, No. 153—The Petroleum Amendment Act 1982: Sections 3 to 21.
- 1983, No. 45—The Coal Mines Act 1983: Sections 2 and 7.
- 1985, No. 35—The Petroleum Amendment Act 1985.
- 1985, No. 92—The Mining Amendment Act 1985. (R.S. Vol. 17, p. 515.)
- 1987, No. 98—The Coal Mines Amendment Act 1987.
- 1987, No. 99—The Mining Amendment Act 1987.

### SECOND SCHEDULE

Section 120(2)

#### REGULATIONS REVOKED

Title	Statutory Regulations Serial number
The Coal Mining (Licensing) Regulations 1980	1980/50
The Mining Regulations 1981: Regulations 3 (1), 5 to 15, 19, 20, 22 to 32, 33 (a), (b), (d), (e), 34, 36, 38, 39	1981/347
The Mining Regulations 1981, Amendment No. 3	1988/329

Section 121

THIRD SCHEDULE  
ENACTMENTS AMENDED  
PART I  
ACTS AMENDED

Enactment	Amendment
1964, No. 28—The Continental Shelf Act 1964 (R.S. Vol. 16, p. 83)	By omitting from section 4 (1) the words “Petroleum Act 1937 (except section 3)”, and substituting the words “Crown Minerals Act 1991 (except section 10)”. By omitting from section 4 (1) (c) the expression “section 20”, and substituting the words “section 2 (2) of that Act”.
1971, No. 29—The Marine Farming Act 1971 (R.S. Vol. 22, p. 695)	By omitting from section 4 (2) the words “Petroleum Act 1937”, and substituting the words “Crown Minerals Act 1991”. By repealing paragraphs (a) to (e) of the definition of the term “mining interest”, and substituting the following paragraphs: “(a) Any exploration permit, mining permit, or prospecting permit within the meaning of section 2 of the Crown Minerals Act 1991; or “(b) Any existing privilege within the meaning of section 106 of that Act; or”.
1980, No. 66—The National Parks Act 1980	By inserting, after section 18, the following section: “18A. <b>Minister to consult Authority in respect of access notice under Crown Minerals Act 1991</b> —The Minister shall consult the Authority in respect of any notice requesting an access arrangement in respect of a national park served on the Minister pursuant to section 59 of the Crown Minerals Act 1991, as soon as practicable after receiving the notice.”
1986, No. 123—The Survey Act 1986	By omitting so much of the First Schedule as relates to the Mining Act 1971.
1986, No. 124—The State-Owned Enterprises Act 1986	By omitting so much of the First Schedule as relates to the Mining Act 1971. By repealing subsection (5) of section 24 (as added by section 7 of the State-Owned Enterprises Amendment Act 1987), and substituting the following section: “(5) Nothing in this Act or in any transfer of land to a State enterprise pursuant to this Act shall derogate from

THIRD SCHEDULE—*continued*  
 ENACTMENTS AMENDED—*continued*  
 PART I—*continued*  
 ACTS AMENDED—*continued*

Enactment	Amendment
1986, No. 124—The State-Owned Enterprises Act 1986— <i>continued</i>	the provisions of section 10 or section 11 of the Crown Minerals Act 1991.”
1986, No. 127—The Environment Act 1986	By omitting from the Schedule the following items: “The Coal Mines Act 1979 “The Mining Act 1971 “The Petroleum Act 1937”— and inserting, in its appropriate alphabetical order, the following item: “The Crown Minerals Act 1991.”
1987, No. 65—The Conservation Act 1987	By omitting so much of the Second Schedule as relates to sections 24 to 224 of the Mining Act 1971. By omitting so much of the Second Schedule as relates to sections 6 to 95 of the Coal Mines Act 1979.
1987, No. 117—The State-Owned Enterprises Amendment Act 1987	By omitting so much of the First Schedule as relates to the Petroleum Act 1937. By omitting so much of the First Schedule as relates to sections 26 and 27 of the Mining Act 1971. By omitting so much of the First Schedule as relates to sections 20 to 121A of the Coal Mines Act 1979.
1989, No. 44—The Public Finance Act 1989	By omitting so much of the First Schedule as relates to sections 14A, 14B, 14C, 47H, and 47K of the Petroleum Act 1937. By omitting so much of the First Schedule as relates to sections 108A, 217, 223, 224, and 226 of the Mining Act 1971. By omitting so much of the First Schedule as relates to sections 28, 71, 73, 119, and 120 of the Coal Mines Act 1979.
1989, No. 75—The Transit New Zealand Act 1989	By repealing subsection (2) of section 50, and substituting the following subsection: “(2) Nothing in subsection (1) of this section shall apply in respect of any mining operations carried out pursuant to a mining permit within the meaning of the Crown Minerals Act 1991.”

THIRD SCHEDULE—*continued*  
 ENACTMENTS AMENDED—*continued*  
 PART I—*continued*  
 ACTS AMENDED—*continued*

Enactment	Amendment
1989, No. 140—The Ministry of Energy (Abolition) Act 1989	By omitting so much of the First Schedule as relates to sections 29 to 56 of the Petroleum Act 1937. By omitting so much of the First Schedule as relates to section 26 of the Mining Act 1971. By omitting so much of the First Schedule as relates to sections 21, 200, 204, and 205 of the Coal Mines Act 1979.
1990, No. 31—The Conservation Law Reform Act 1990	By omitting so much of the Schedule as relates to the Petroleum Act 1937. By omitting so much of the Schedule as relates to the Mining Act 1971.

PART II  
 REGULATIONS AMENDED

Title	Amendment
The Petroleum Regulations 1978 (S.R. 1978/255) The Petroleum Pipelines Regulations 1984/114	By revoking regulations 3A to 34. By revoking the First Schedule. By revoking regulation 3. By revoking regulations 8 and 9. By revoking the Schedule.

This Act is administered in the Ministry of Commerce.