



ANALYSIS

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1993, No. 139

An Act to amend the Crown Minerals Act 1991

[28 September 1993]

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

1. Short Title—This Act may be cited as the Crown Minerals Amendment Act 1993, and shall be read together with and deemed part of the Crown Minerals Act 1991 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “dwellinghouse”, the following definition:

“‘Enforcement officer’ means any person authorised under section 7:”.

(2) Section 2 (1) of the principal Act is hereby amended—

(a) By omitting from the definition of the term “exploration permit” the word “Part”, and substituting the word “Act”:

- (b) By omitting from the definition of the term “industrial rocks and building stones” the word “purlite”, and substituting the word “perlite”;
- (c) By omitting from the definition of the term “metallic minerals” the words “iron sand,”;
- (d) By omitting from the definition of the term “mining permit” the word “Part”, and substituting the word “Act”;
- (e) By adding to paragraph (b) of the definition of the term “owner” the words “; and includes, except for the purposes of sections 8 and 49 to 52, the person or persons (other than the Crown) who owns or own the minerals in the land”;
- (f) By omitting from the definition of the term “prospecting permit” the word “Part”, and substituting the word “Act”.

3. Appointment of enforcement officers—(1) Section 7 (1) of the principal Act is hereby amended by inserting, after the words “compliance with a permit”, the words “or this Act”.

(2) Section 7 (1) (b) of the principal Act is hereby amended by adding the word “; and”.

(3) Section 7 (1) of the principal Act is hereby amended by adding the following paragraph:

“(c) Every reference to the Resource Management Act 1991 included a reference to this Act.”

4. Grant of permit—Section 25 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The Minister may not grant an exploration permit or a mining permit under this section in respect of minerals that are privately owned.”

5. Rights to prospect—Section 30 (1) of the principal Act is hereby amended by adding the words “, whether the mineral is owned by the Crown or privately owned”.

6. Right of permit holder to subsequent permits—(1) Section 32 (1) of the principal Act is hereby amended by inserting, after the expression “43,”, the words “and subsection (7),”.

(2) Section 32 (3) of the principal Act is hereby amended by inserting, after the expression “43,”, the words “and subsection (7),”.

(3) Section 32 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) If a mining permit is to be granted in accordance with subsection (3) and—

“(a) The initial permit or any subsequent permit; or

“(b) In any case to which section 111 applies, the existing privilege—

specified any condition to be included in such mining permit or in any subsequent privilege, right, or licence conferring a right to mine, as the case may be, that condition, unless the Minister and the grantee otherwise agree, shall be included in the mining permit; and no other or additional condition which modifies or conflicts with any condition so included shall be included in the mining permit without the consent of the holder of the mining permit.”

(4) Section 32 of the principal Act is hereby amended by adding the following subsection:

“(7) The Minister may not grant an exploration permit or a mining permit under this section in respect of minerals that are privately owned.”

7. Duration of permit—Section 35 (2) of the principal Act is hereby amended by omitting the words “this Act”, and substituting the words “any Act”.

8. Authorisation of geophysical surveys on adjacent land—The principal Act is hereby amended by inserting, after section 42, the following section:

“42A. (1) The Minister may, subject to such conditions as the Minister thinks fit to impose, grant written authorisation to a permit holder to carry out geophysical surveys on land adjacent to the land to which the permit relates if another permit is not in force in relation to that adjacent land.

“(2) Any authorisation granted under this section shall be subject to the provisions of this Act as if the authorisation were a permit.”

9. Unit development—(1) Section 46 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) If the Minister is satisfied that—

“(a) The land to which any 2 or more permits relate or any part thereof forms part of a single deposit of a

mineral (in this section referred to as a mineral deposit); and

“(b) In order to prevent waste, avoid unnecessary competitive extraction, and secure the maximum ultimate recovery of the mineral, the mineral deposit 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 mineral deposit as a unit by the permit holders in co-operation and to submit the scheme jointly for the approval of the Minister.”

(2) Section 46 (5) of the principal Act is hereby repealed.

10. Access to land for minerals other than petroleum—

Section 54 (2) of the principal Act is hereby amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:

- “(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.”

11. Restrictions on determination of access arrangements by arbitrators—Section 55 of the principal Act is hereby amended—

- (a) By omitting from subsection (1) the word “landowner”, and substituting the words “each owner and occupier of the land”;
- (b) By omitting from subsection (2) the word “landowner”, and substituting the words “each owner and occupier of the land”.

12. Access arrangements in respect of Crown land—

Section 61 of the principal Act is hereby amended by adding the following subsection:

“(3) Where a permit holder has secured the right, under the Resource Management Act 1991, to exclusive occupation of Crown land in the coastal marine area (as defined in section 2 (1) of that Act), it shall not be necessary for the permit holder to enter into an access arrangement in respect of that land.”

13. Fixing time and place for conducting hearing—Section 65 (1) (b) of the principal Act is hereby amended by omitting the words “or their”.

14. Reports to Secretary of Commerce—Section 90 of the principal Act is hereby amended by repealing subsections (7) and (8), and substituting the following subsections:

“(7) All information supplied by a permit holder under subsections (1) and (4) (other than information supplied in respect of a non-exclusive prospecting permit) shall, on the payment of a reasonable charge for the cost of labour and materials incurred in making the information available, be made available to any person who requests it—

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

“(b) After the permit in respect of which the information was obtained and every subsequent permit in respect of that permit (in so far as the information relates to land covered by both the subsequent permit and the original permit) ceases to be in force—

whichever first occurs.

“(8) All information supplied by a permit holder under subsections (1) and (4) in respect of a non-exclusive prospecting permit shall be made available to any person who requests it after the expiry of 5 years after the date on which the information was obtained by the permit holder.

“(8A) Until information supplied under this section is required to be made available to any person who so requests under subsection (7) or subsection (8), the Minister may use any such information for the purpose of exercising any power or performing any function conferred on the Minister under this Act, but (subject to the Official Information Act 1982) shall not use it for any other purpose without the prior consent of the person who provided the information.”

15. Offences—Section 100 (4) of the principal Act is hereby amended by omitting the words “local authority or consent authority”, and substituting the word “Secretary”.

16. Existing privileges to continue—(1) The principal Act is hereby amended by repealing section 107, and substituting the following section:

“107. (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 the Act which applied to the privilege before that date continued in force, and as if—

- “(a) Subject to subsection (3), 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) Subject to subsection (3), 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, 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) 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) 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).

“(3) Where any consent in respect of any such existing privilege which, but for this section, would be required and would need to be sought under the Resource Management Act 1991, then the Resource Management Act 1991 shall apply.

“(4) Notwithstanding subsection (1), sections 63 and 64 of the Petroleum Act 1937 shall not apply in respect of any pipeline to which an authorisation granted under Part II of that Act relates.”

(2) This section shall be deemed to have come into force on the 1st day of October 1991.

17. Administration of existing privileges—(1) Section 108 of the principal Act (as substituted by section 2 (1) of the Crown Minerals Amendment Act 1991) is hereby amended by adding the following subsection:

“(8) Notwithstanding section 107 (1) (c) of this Act or section 4 of the Health and Safety in Employment Act 1992, the functions, powers, and duties that—

“(a) Before the commencement of the Health and Safety in Employment Act 1992, would have been exercisable by any person in respect of an existing privilege; and

“(b) Concern matters that are within the functions, powers, and duties of an Inspector holding office under section 29 (1) of that Act—

shall be exercisable by such an Inspector; and the provisions of that Act relating to the existing privilege, with all the necessary modifications, shall apply accordingly.”

(2) This section shall be deemed to have come into force on the 1st day of April 1993.

18. Bonds and monetary deposits—(1) Section 109 (b) of the principal Act is hereby amended by adding the word “; and”.

(2) Section 109 of the principal Act is hereby amended by adding the following paragraph:

“(c) During the duration of, and on the termination of, an existing privilege, the appropriate consent authority shall be entitled to the full amount of any increase in the deposit or bond under subsection (2).”

(3) Section 109 of the principal Act is hereby amended by adding the following subsections:

“(2) Where the regional council for the region within which any land subject to a coal mining right is wholly or predominantly situated is satisfied, after consultation with the appropriate territorial authority, that the amount of the deposit or bond lodged in respect of that right pursuant to section 71 (1) of the Coal Mines Act 1979 is insufficient to meet the amount that is or may become payable under section 71 (3) of that Act (as continued in force by section 107 of this Act), the regional council may, at intervals of not less than 3 years, require the holder of the coal mining right to increase the amount of the deposit or bond accordingly; and the holder of the coal mining right shall comply with any such requirement.

“(3) Within 15 working days after the date on which notice is given to the holder of the coal mining right that a regional council has increased the amount of deposit or bond pursuant to subsection (2), the holder of the coal mining right may appeal against the decision of the regional council by lodging a notice of appeal, in the prescribed form, with the Planning Tribunal.

“(4) A copy of the notice of appeal shall be served on the regional council and on the Secretary either before or immediately after it is lodged with the Planning Tribunal.

“(5) Subject to subsections (6) and (7), for the purposes of an appeal under this section, the Planning Tribunal shall have all the powers, duties, functions, immunities, and discretions conferred on it under the Resource Management Act 1991.

“(6) In hearing an appeal under this section, the Planning Tribunal shall have regard to—

“(a) The purpose for which the deposit or bond is levied; and

“(b) The reasonableness of the amount of the deposit or bond set by the regional council, given the purpose for which the deposit or bond is levied.

“(7) On completion of the hearing, the Planning Tribunal shall prepare a written decision which shall either—

“(a) Uphold the decision of the regional council; or

“(b) Amend the amount of the increase in the deposit or bond set by the regional council, but such amendment shall not increase the amount originally fixed by the regional council; or

“(c) Revoke the decision of the regional council.

“(8) No appeal shall lie from any decision of the Planning Tribunal under this section.”

19. Fees payable by holders of existing privileges—

(1) Section 110 (g) of the principal Act is hereby amended by adding the word “; and”.

(2) Section 110 of the principal Act is hereby amended by adding the following paragraph:

“(h) On and after the 1st day of January 1994, every holder of a prospecting licence or mining licence granted under the Petroleum Act 1937 shall not be liable to pay any fees provided for in that Act or in any regulations made under that Act, but shall pay to the Secretary such fees in respect of the licence as the holder would be liable to pay if the licence was the equivalent kind of minerals permit.”

20. New sections inserted—The principal Act is hereby amended by inserting, after section 110, the following sections:

“110A. **Data lodgement requirements in respect of petroleum licences—**Notwithstanding section 107, on and after the 1st day of October 1993, every holder of a prospecting licence or mining licence granted under the Petroleum Act 1937 shall not be required to comply with the requirements for the lodging of data and reports specified in the Petroleum Act 1937 or in any regulations made under that Act, but shall comply with the requirements for the lodging of data and

reports in respect of the licence that would apply if the licence was the equivalent kind of minerals permit.

“110B. Extension of term of petroleum prospecting licences—Notwithstanding section 107, the Minister’s power to extend the duration of an exploration permit under section 37 (2) shall apply to prospecting licences granted under the Petroleum Act 1937; and for that purpose sections 37 (2) and (3) and 38 shall be read as if—

“(a) Every reference to an exploration permit or a permit included a reference to a prospecting licence granted under the Petroleum Act 1937; and

“(b) Every reference to the permit holder included a reference to the holder of the relevant prospecting licence granted under the Petroleum Act 1937.”

21. Priority of existing applications under Mining Act 1971, Coal Mines Act 1979, and Petroleum Act 1937—The principal Act is hereby amended by inserting, after section 114, the following section:

“114A. (1) For the avoidance of doubt, where an application for—

“(a) A mining privilege under the Mining Act 1971; or

“(b) A coal mining right under the Coal Mines Act 1971; or

“(c) A prospecting or mining licence under the Petroleum Act 1937—

has been made, but not determined or withdrawn, before the date of commencement of this Act, that application shall have a right in priority over every applicant for a permit in respect of all or part of the same land, and in respect of a common mineral.

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

“(3) The Secretary shall not be under any obligation to process an application for a permit while it is in second or subsequent priority to an application specified in subsection (1).”