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1975, No. 43

An Act to amend the Petroleum Act 1937

[19 September 1975]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Petroleum Amendment Act 1975, and shall be read together with and deemed part of the Petroleum Act 1937 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be fixed by Order in Council.

2. Interpretation—The principal Act is hereby amended by repealing section 2, and substituting the following section:

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

“ ‘Act’ includes all regulations for the time being in force under this Act:

“ ‘Chief Inspector’ means the Chief Inspector appointed under section 41 of this Act:

“ ‘Coal’ has the same meaning as in the Coal Mines Act 1925:

“ ‘Continental shelf’ has the same meaning as in the Continental Shelf Act 1964:

“ ‘Inspector’ means an Inspector appointed under section 41 of this Act:

“ ‘Land’ means all land within the territorial limits of New Zealand; and includes land below the sea and any other water:

“ ‘Licence’ means a prospecting licence or a mining licence granted under this Act:

“ ‘Licensee’ means the registered holder or holders for the time being of a licence:

“ ‘Mining licence’ means a mining licence granted under section 12 of this Act:

“ ‘Mining operations’ means mining for petroleum; and includes prospecting for petroleum; and also includes the treatment or processing of petroleum or the products of petroleum to supply the input to any pipeline authorised under Part II of this Act and any works associated with such treatment or processing; and also includes, in connection with such operations,—

“(a) The extraction, production, rectification, refining, improvement, conveyance, and storage of petroleum produced in New Zealand and of any products of any such petroleum; and

“(b) The construction, maintenance, and operation of any works, structures, wells, buildings, storage tanks, pipelines, machinery, plant, wireless apparatus, telephonic equipment, railways, tramways, reservoirs, waterways, appliances, or chattels used or intended to be used in connection with any such operations—

whether carried out by a licensee or not:

“ ‘Minister’ means the Minister of Mines:

“ ‘Occupier’, in relation to any land, means the person in actual occupation of the land or any part thereof either as the owner of the fee simple thereof or under any lawful title granted by or derived from the owner:

“ ‘Petroleum’ means—

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

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

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

and 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:

“ ‘Prescribed’ means—

“(a) Prescribed by this Act or by any regulations for the time being in force under this Act:

“(b) In respect of forms, prescribed by this Act or by any such regulations, or prescribed or provided by the Secretary in accordance with any such regulations:

“ ‘Prospecting licence’ means a prospecting licence granted under section 5 of this Act:

“ ‘Secretary’ means the Secretary of Mines.

“(2) The Minister may in his discretion, by notice in the *Gazette*, exempt any mining operations or any part of any mining operations, from all or any of the provisions of this Act.”

3. New Part I of principal Act—The principal Act is hereby further amended by repealing sections 3 to 47 and the Schedule, and substituting the following sections:

“PART I

“*Preliminary*

“3. Petroleum declared to be property of the Crown—

(1) Notwithstanding anything to the contrary in any Act or in any Crown grant, certificate of title, lease, or other instrument of title, all petroleum existing in its natural condition on or below the surface of any land, whether the land has been alienated from the Crown or not, is hereby declared to be the property of the Crown.

“(2) All alienations of land from the Crown made on or after the commencement of this Act, whether by way of sale or lease or otherwise, shall be deemed to be made subject to the reservation of all petroleum existing in its natural condition on or below the surface of the land, and subject to the provisions of this Act.

“(3) Notwithstanding anything in section 2 of this Act, for the purposes of this section the term ‘petroleum’ shall not include petroleum which has been mined or otherwise recovered from its natural condition on or below the surface of any land, whether or not such petroleum has subsequently been returned to a natural reservoir for storage purposes in the same or an adjacent area.

“4. Prohibiting prospecting or mining for petroleum save pursuant to this Act—(1) Subject to the provisions of this Act, no person shall prospect or mine for petroleum except pursuant to a prospecting licence or a mining licence granted under this Act.

“(2) Notwithstanding the provisions of subsection (1) of this section, the Minister may, with the consent of the Minister of Transport, authorise any person to carry out a regional reconnaissance survey within the territorial sea or continental shelf subject to such terms and conditions as the Minister thinks fit to specify. Such an authorisation shall not be given in respect of any area comprised in a licence without the consent of the licensee.

“(3) This section shall bind the Crown.

“*Prospecting Licences*

“5. Minister may grant prospecting licences—(1) Subject to the provisions of this Act, the Minister may in his discretion, on application in that behalf, grant to the applicant on such terms and conditions as the Minister may in his discretion specify, a prospecting licence authorising the

licensee to prospect for petroleum on the whole or any part or parts of the land referred to in the application.

“(2) Without limiting the generality of subsection (1) of this section, the Minister may on granting the licence specify as a condition of the licence the terms on which the Minister or any other person authorised to act on behalf of the Crown shall be entitled to participate in prospecting under the licence or in the mining of petroleum under any mining licence granted in accordance with the provisions of section 11 of this Act.

“(3) It shall be a condition of every prospecting licence that the licensee will diligently and continuously carry out a programme of work approved by the Minister and specified in the licence in accordance with recognised good oilfield practice.

“(4) Any number of prospecting licences may be granted to the same person.

“6. **Term of prospecting licence and extension**—(1) The term of any prospecting licence shall be such period, not exceeding 5 years, as the Minister may specify in the licence.

“(2) Unless otherwise specified in the licence by the Minister when it was granted, the licensee may, at any time before the expiry of the licence, apply to the Minister for an extension of the term of the licence.

“(3) Every such application shall—

“(a) Specify the area of land in respect of which the extension is sought, being an unbroken area, conforming with such graticular system as may be prescribed, not exceeding one-half of the area of the land comprised in the licence at the time it was granted; and

“(b) Contain or be accompanied by a written statement specifying the details of the programme of work proposed to be carried out.

“(4) If the licensee has substantially complied with the terms and conditions of the prospecting licence and the Minister is satisfied that—

“(a) The proposed programme of work will provide for the satisfactory exploration of the land in respect of which the extension is sought; and

“(b) Such land is so situated that it will not prevent or seriously hinder the prospecting by any subsequent licensee of the other part of the land comprised in the licence—

he shall grant an extension of the term of the licence for such period, not exceeding the original term of the licence, as he thinks fit.

“(5) The term of a prospecting licence may be extended only once.

“(6) Except as may be otherwise agreed between the Minister and the licensee and subject to subsection (7) of this section, every term and condition to which the prospecting licence was subject immediately before the expiry of the original term shall continue to apply during the period of extension.

“(7) If the programme of work to be carried out during the period of extension differs from that carried out during the original term, it shall be a condition of the licence that the licensee will diligently and continuously carry out the new specified programme of work in accordance with recognised good oilfield practice.

“(8) Nothing in this section shall be so construed as to prevent any holder of a prospecting licence from applying for a new prospecting licence in respect of the area or any part of the area comprised in the original licence which was not included in the extension of the original licence.

“7. Rights of licensees—(1) Subject to the provisions of this Act, a prospecting licence shall during its currency confer on the licensee—

“(a) The exclusive right to prospect for petroleum on the land comprised in the licence and the right for that purpose only to carry out mining operations; and

“(b) Such other rights, not inconsistent with this Act or with the terms and conditions of the licence, as may be necessary for the effective carrying out of prospecting operations.

“(2) The rights of the licensee shall be so exercised as to interfere as little as possible with the occupation and use of the land by any other person having a right to occupy or use it.

“(3) Nothing in this Act or in any prospecting licence shall exempt the licensee from the obligation to comply with the requirements of any other Act or regulations that may affect or apply to any operations carried out under the prospecting licence.

“(4) The holder of a prospecting licence shall not, by virtue of that fact, have any proprietary or other rights in respect of any petroleum derived from the land comprised in the licence except as a result of the licensee’s mining operations on that land.

“8. **Deposit or bond in respect of prospecting licence**—A prospecting licence shall not be granted until the applicant has deposited with the Secretary, as security for compliance with the terms and conditions of the licence, such monetary deposit or bond as may be prescribed.

“9. **Annual fee for prospecting licence**—(1) During the currency of a prospecting licence there shall be payable an annual fee at such rate as may be prescribed.

“(2) The fee shall be payable by the licensee to the Secretary half-yearly in advance on the 1st day of January and the 1st day of July in each year. The fee for the period (if any) between the commencement of the term of the licence and the due date of the first half-yearly payment (reduced proportionately having regard to the length of that period) shall be payable in advance on the grant of the licence.

“10. **Power of Minister to modify or suspend prospecting programme**—The Minister may in his discretion, on application by the holder of a prospecting licence, modify or suspend, for such period or periods and upon such terms and conditions as the Minister thinks fit, the whole or any part of the programme of work referred to in the prospecting licence or imposed by the provisions of this Act.

“11. **Licensee entitled to grant of mining licence**—(1) Subject to the provisions of this Act, if the holder of a prospecting licence satisfies the Minister that—

“(a) He has discovered within the limits of the land comprised in the licence a deposit of petroleum of such quantity and quality that, estimated or assessed in the light of all available information, it can reasonably be expected to be mined at a profit; and

“(b) If a mining licence is granted to him, he will forthwith commence and continue mining operations in accordance with recognised good oilfield practice—

he shall have the right, on applying under section 12 of this Act before the expiry of the prospecting licence, to surrender that licence as to the whole of the land comprised in the

licence, or any part of that land conforming with such graticular system as may be prescribed, and to receive in exchange a mining licence.

“(2) A mining licence granted in accordance with subsection (1) of this section shall be granted over the area of land surrendered or over such smaller area as the Minister determines will be reasonably adequate to enable mining operations to be carried out in respect of the reservoir or field intended to be mined in accordance with recognised good oilfield practice.

“(3) If the applicant disagrees with any decision of the Minister under subsection (1) (a) or subsection (2) of this section he may, within 28 days after the date of receipt of the decision, refer the matter to arbitration in accordance with section 47J of this Act.

“(4) If the Minister grants a mining licence over a smaller area than the area applied for, that part of the area applied for which was not included in the mining licence shall, if the applicant so requires, continue to be included in his prospecting licence until its expiry or other termination.

“Mining Licences

“12. Mining licences may be granted by Minister—

(1) Subject to the provisions of this Act, the Minister may in his discretion, on application in that behalf, grant to the applicant on such terms and conditions as the Minister may in his discretion specify, a mining licence authorising the licensee to mine for petroleum on the whole or any part or parts of the land referred to in the application.

“(2) Without limiting the generality of subsection (1) of this section, the Minister may on granting the licence specify as a condition of the licence the terms on which the Minister or any other person authorised to act on behalf of the Crown shall be entitled to participate in mining under the licence.

“(3) It shall be a condition of every mining licence that on the grant of the licence the licensee will forthwith commence and thereafter diligently and continuously carry out mining operations in accordance with recognised good oilfield practice.

“(4) If a mining licence is granted in accordance with the provisions of section 11 of this Act, and the prospecting licence in respect of which it is granted specified any term or

condition to be included in such mining licence, no other or additional term or condition which modifies or conflicts with such specified term or condition shall be included in the mining licence without the consent of the licensee.

“(5) If a prospecting licence is in force in respect of any land no mining licence shall be granted over that land to any person other than the licensee under the prospecting licence except with the consent in writing of that licensee.

“(6) Any number of mining licences may be granted to the same person.

“13. **Term of mining licence**—(1) Subject to subsection (2) of this section, every mining licence shall remain in force for a period of 40 years after the date on which it was granted, or for such shorter period as may be specified in the licence, and shall then expire.

“(2) Every prospecting licence shall specify the term of any mining licence which may be granted in exchange for the prospecting licence in accordance with section 11 of this Act, and every such mining licence shall remain in force for the period specified in the prospecting licence or for such longer period not exceeding 40 years as the Minister may specify in the mining licence.

“14. **Rights of licensees**—(1) Subject to the provisions of this Act, a mining licence shall during its currency confer on the licensee—

“(a) The exclusive right to mine for petroleum on the land comprised in the licence, and the right for that purpose to carry out mining operations; and

“(b) Such other rights, not inconsistent with this Act or with the terms and conditions of the licence, as may be necessary for the effective carrying out of mining operations.

“(2) The rights of the licensee shall be so exercised as to interfere as little as possible with the occupation and use of the land by any other person having a right to occupy or use it.

“(3) Nothing in this Act or in any mining licence shall exempt the holder of any mining licence from the obligation to comply with the requirements of any other Act or regulations that may affect or apply to any operations carried out under the mining licence.

“(4) The holder of a mining licence shall not, by virtue of that fact, have any proprietary or other rights in respect of any petroleum derived from the land comprised in the licence except as a result of the licensee’s mining operations on that land.

“15. **Power of Minister to modify or suspend mining operations**—The Minister may in his discretion, on application by the holder of or applicant for a mining licence, modify or suspend the obligation of the licensee to commence or continue mining operations for such period or periods and upon such terms and conditions as the Minister thinks fit.

“16. **Deposit or bond in respect of mining licence**—A mining licence shall not be granted until the applicant has deposited with the Secretary, as security for compliance with the terms and conditions of the licence, such monetary deposit or bond as may be prescribed.

“17. **Annual fee for mining licence**—(1) During the currency of a mining licence there shall be payable an annual fee at such rate as may be prescribed.

“(2) The fee shall be payable by the licensee to the Secretary half-yearly in advance on the 1st day of January and the 1st day of July in each year. The fee for the period (if any) between the commencement of the term of the licence and the due date of the first half-yearly payment (reduced proportionately having regard to the length of that period) shall be payable in advance on the grant of the licence.

“*Royalties*”

“18. **Royalties payable**—(1) Subject to the provisions of this section, the licensee under a mining licence or a prospecting licence shall pay to the Secretary a royalty computed at the rate specified in the licence on the value at the well-head of all petroleum that is produced from the land comprised in the licence. Different rates of royalty may be specified in respect of different parts of such land.

“(2) For the purposes of this Act, the value at the well-head of any petroleum shall be such amount as is agreed between the licensee and the Minister or, in default of agreement, as may be fixed by arbitration in accordance with section 47J of this Act.

“(3) For the purposes of this Act, the well-head in relation to any petroleum shall be such valve station as is agreed between the licensee and the Minister or, in default of agreement, as may be fixed by arbitration in accordance with section 47J of this Act.

“(4) The Minister may in his discretion at any time reduce the rate of royalty payable under a licence.

“(5) If any rate of royalty specified in a mining licence is less than 20 percent, the Minister may in his discretion increase the rate, subject to subsection (6) of this section and to the following conditions:

“(a) The rate of royalty shall not be increased until a period of not less than 10 years has elapsed since the date on which the mining licence was granted or the effective date of the last increase in the rate, as the case may be:

“(b) Any increase in the rate of royalty under this subsection shall not exceed an amount equal to one-half of the rate payable immediately before the date of increase unless that rate is less than 6 $\frac{3}{4}$ percent in which case the rate may be increased to any rate not exceeding 10 percent.

“(6) An increase in the rate of royalty under subsection (5) of this section shall not be of such an amount as to make the total rate payable more than 20 percent.

“(7) No royalty shall be paid in respect of—

“(a) Any petroleum that in the opinion of the Secretary has been unavoidably lost:

“(b) Any petroleum that with the approval of the Secretary is used by the licensee for the purposes of production or for incidental purposes.

“(8) All royalties payable under this section shall be payable for each half-year ending with the 30th day of June and the 31st day of December in each and every year, and the royalty for any half-year shall, within 1 month after the expiration of that half-year, be payable to the Secretary.

“(9) Notwithstanding the provisions of this section, the royalty payable under any licence in respect of any half-year shall be reduced by the part of the annual fee paid under the licence in respect of that half-year, and if the amount so paid exceeds the royalty no royalty shall be payable for the half-year.

“(10) For the purpose of enabling the royalty payable under any licence to be computed, the licensee shall furnish to the Secretary a monthly statement in the prescribed form showing the quantity of petroleum produced and sold during the preceding month, and giving such other information in relation thereto as may be prescribed, or as may be required by the Secretary.

“(11) All books, accounts, and other records of the licensee in relation to the licence shall, for the purposes of this section, be open at all reasonable times to inspection by the Secretary or by any person authorised by him in that behalf.

“Petroleum to be Refined and Processed in New Zealand

“19. Minister may direct that petroleum be refined and processed in New Zealand—(1) If, after consultation with the licensee under a mining licence, 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 licensee from petroleum produced from land comprised in the mining licence, the Minister may direct that the licensee 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) of this section, 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 licensee is directed under subsection (1) of this section to refine or process or cause to be refined or processed in New Zealand any petroleum and the licensee 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 licensee on such terms and conditions as may be agreed upon between the licensee 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 terms of any direction given under subsection (3) of this section 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 and shall be 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 has continued, and, if he is a licensee, shall be deemed to have failed to comply with the conditions of his licence.

“(6) No person shall be precluded by any contract or 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 contract or agreement, any liability of any kind whatsoever.

“(7) Nothing in subsection (6) of this section shall be construed to limit or affect the entitlement to compensation, under section 39 of this Act, of any party to a contract or agreement affected by that subsection.

“General Provisions Relating to Licences

“20. **Extension of area comprised in licence**—Subject to the provisions of this Act, the Minister may from time to time, on the application of the licensee, and upon or subject to such conditions as the Minister thinks fit, amend any licence by adding any adjoining land to the land comprised in the licence.

“21. **Licensees jointly and severally liable**—If a licence is held by 2 or more persons, those persons shall be jointly and severally liable for the due observance and performance of the terms and conditions of the licence.

“22. **Transfer of licences**—(1) It shall not be lawful for a licensee to enter into an agreement to transfer a licence (except by way of mortgage or other charge only) 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.

“(2) The Minister may, in his discretion, refuse any application for his consent under this section or may give his consent unconditionally or subject to such terms and

conditions as he thinks fit to impose. Before making a decision on any such application the Minister may require the production of such information relating to the agreement as he considers necessary or desirable.

“(3) If any agreement to transfer a licence is entered into without it being subject to the Minister’s consent, the agreement shall be unlawful and not have any effect.

“(4) If any agreement to transfer a licence is entered into subject to the consent of the Minister, the agreement shall not have any effect unless application for the Minister’s consent is made within 3 months after the date of the agreement and the Minister consents to it.

“(5) All terms and conditions to which the Minister’s consent under this section is subject shall, for the purposes of this Act, be deemed to be terms and conditions of the licence to which the consent relates.

“(6) On the vesting of a licence in the transferee, the transferor shall, subject to any terms and conditions of the Minister’s consent and to the provisions of the agreement consented to by the Minister, cease to have any rights or obligations under the licence, except in respect of any breach of the terms or conditions of the licence which occurred before the date of transfer.

“(7) The Minister shall not consent to any agreement to transfer a licence under this section unless the agreement relates to the whole of the area comprised in the licence.

“(8) The provisions of this section shall apply in respect of the transfer of a licence by a mortgagee or other charge holder pursuant to any rights under a mortgage or other charge of the licence.

“23. Approval of instruments creating interests in licences—(1) It shall not be lawful for a licensee or any other person to enter into an agreement (except by way of mortgage or other charge only) which—

“(a) Creates any interest in or affecting any existing or future licence; or

“(b) Assigns or otherwise deals, either directly or indirectly, with any interest in or affecting any existing or future licence; or

“(c) Imposes any obligation on the licensee which relates to or affects the production of petroleum from the land comprised in the licence 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.

“(2) The Minister may, in his discretion, refuse any application for his consent under this section or may give his consent unconditionally or subject to such terms and conditions as he thinks fit to impose. Before making a decision on any such application the Minister may require the production of such information relating to the agreement as he considers necessary or desirable.

“(3) If any agreement to which subsection (1) of this section applies is entered into without it being subject to the Minister’s consent, the agreement shall be unlawful and not have any effect.

“(4) If any such agreement is entered into subject to the consent of the Minister, the agreement shall not have any effect unless application for the Minister’s consent is made within 3 months after the date of the agreement and the Minister consents to it.

“(5) All terms and conditions to which the Minister’s consent under this section is subject shall, for the purposes of this Act, be deemed to be terms and conditions of the licence to which the consent relates.

“(6) The provisions of this section shall not apply in respect of the transfer of a licence under section 22 of this Act.

“(7) The provisions of this section shall apply in respect of any agreement entered into by a mortgagee or other charge holder pursuant to any rights under a mortgage or other charge of the licence.

“24. Minister not to be concerned with effect in law of agreement—The Minister shall not be concerned with the effect in law of any contract, agreement, or arrangement consented to by him under section 23 of this Act.

“25. Registers—(1) The Secretary shall keep registers of licences in such form as he thinks fit in which he shall enter brief particulars of all licences, and of all transfers and other dealings consented to under sections 22 and 23 of this Act.

“(2) A true copy of every document evidencing a transfer of or other dealing with a licence shall be deposited with the Secretary by the transferor or the licensee of the licence being dealt with, as the case may be, on applying for consent under section 22 or section 23 of this Act.

“(3) There shall be open to public inspection, during ordinary office hours, on the payment of such fee as may be prescribed,—

“(a) Every copy of a licence held by the Secretary;

“(b) The registers kept under subsection (1) of this section; and

“(c) Every true copy of such other document or class of document as may from time to time be specified by the Governor-General by Order in Council.

“(4) The Secretary shall keep such other registers as may be prescribed or as he considers necessary.

“(5) 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.

“(6) 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 licence shall, in the absence of proof to the contrary, be sufficient evidence that that person was not the holder of such a licence on that date.

“26. **Surrender of licences**—(1) Any licensee may surrender his licence either absolutely or in respect of any defined portion of the land comprised therein conforming with such graticular system as may be prescribed on giving to the Minister not less than 2 months' notice in writing (in the case of a prospecting licence) or not less than 6 months' notice in writing (in the case of a mining licence) of his intention so to do:

“Provided that the Minister may, if he thinks fit, on the application of the licensee, accept the surrender of any such licence notwithstanding that notice of intention to surrender the licence may not have been duly given.

“(2) In the case of a partial surrender, the annual fee payable in respect of the licence shall be reduced from the date of the surrender in proportion to the reduction, effected by the surrender, in the area of the land comprised in the licence.

“(3) If a licence is completely or partially surrendered, the annual fee shall be apportioned as at the date of the surrender, and the licensee shall be entitled to a refund of so much of the fee as has been paid in respect of any period

subsequent to the date of the surrender, or, in the case of a partial surrender, of so much thereof as has been so paid in respect of the land to which the surrender relates.

“(4) Except as provided in this section, the complete or partial surrender of a licence shall not release the licensee from any liability in respect of the licence up to the date of the surrender.

“27. **Revocation of licences**—(1) If at any time during the currency of a licence the Minister has reason to believe that the licensee has failed to comply or is not making reasonable efforts to comply with any of the terms or conditions of the licence or with the requirements of this Act he may give the licensee a notice in writing specifying the default and requiring him to remedy it within a period of 90 days after the giving of the notice.

“(2) If the licensee fails to comply with the notice to the satisfaction of the Minister, the Minister may thereupon, by written notice served on the licensee, declare that on the expiry of a period of 1 month after the date of service of the notice the licence shall be revoked; and, subject to subsection (4) of this section, on the expiry of that period the licence shall be revoked. Every such notice shall specify the reason for the Minister’s decision.

“(3) A licensee who has received a notice under subsection (2) of this section may, not later than 1 month after the date of service on him of the notice, appeal against the Minister’s decision to the Supreme Court. Every such appeal shall be heard and determined by the Administrative Division of that Court.

“(4) Pending the determination of any appeal under subsection (3) of this section, the licence in respect of which the appeal was made shall for all purposes continue in force unless it sooner expires.

“(5) The revocation of a licence shall not release the licensee from any liability in respect of the licence up to the date of revocation.

“Entry on Land

“28. **Right of entry on land**—(1) Subject to the provisions of this Act, the licensee under any licence may himself or by his agents or employees or invitees, with such other assistance as he or they may require, for the purpose of exercising any powers conferred on the licensee by this Act, enter on any land comprised in the licence at any time with or without any vehicles, machinery, implements, or equipment of any kind.

“(2) It shall be the duty of all persons exercising any powers conferred on licensees by this Act to do as little damage or injury as possible to the property and rights of other persons.

“29. **Public reserves, etc., not to be entered without consent of appropriate Minister**—(1) The classes of land to which this section applies shall be—

- “(a) National Parks within the meaning of the National Parks Act 1952:
- “(b) Public reserves within the meaning of the Reserves and Domains Act 1953:
- “(c) Land reserved from sale or other disposition under section 58 of the Land Act 1948:
- “(d) Marine reserves within the meaning of the Marine Reserves Act 1971:
- “(e) Land set apart as a Maori reservation under section 439 of the Maori Affairs Act 1953:
- “(f) State forest land within the meaning of the Forests Act 1949:
- “(g) Wildlife refuges and wildlife sanctuaries within the meaning of the Wildlife Act 1953:
- “(h) Land held or acquired under the Public Works Act 1928 for a public work:
- “(i) Land that is a railway within the meaning of the Government Railways Act 1949:
- “(j) Land that is part of a road or street:
- “(k) Soil conservation reserves declared under section 16 of the Soil Conservation and Rivers Control Act 1941:
- “(l) Any part of the foreshore, being the area between the high-water mark of the sea at ordinary spring tides and its low-water mark at ordinary spring tides:
- “(m) Any part of the seabed between the low-water mark at ordinary spring tides and the seaward limits of the territorial sea of New Zealand, within the meaning of the Territorial Sea and Fishing Zone Act 1965:
- “(n) The continental shelf:
- “(o) All land that is part of the bed of a navigable river within the meaning of section 206 of the Coal Mines Act 1925, whether vested in the Crown or not:

“(p) All land that is part of the bed of a river (not being a navigable river), or part of the bed of a lake, if it is held by or on behalf of the Crown, or if, in the opinion of the Minister, it is not clearly established who is the owner of the land:

“(q) All land to which the provisions of this section are applied by the Governor-General by Order in Council under subsection (2) of this section.

“(2) The Governor-General may from time to time, by Order in Council, apply the provisions of this section to any specified land or class of land.

“(3) No person shall enter on any land to which this section applies pursuant to this Act or commence or carry on any mining operations thereon except with the prior written consent of the appropriate Minister and in accordance with the conditions (if any) upon or subject to which the consent is granted.

“(4) The appropriate Minister to grant his consent under this section shall be 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, shall be the Minister of Mines. If any question arises as to who is the appropriate Minister to grant his consent under this section in any case it shall be determined by the Governor-General in Council, whose decision shall be final.

“(5) The appropriate Minister may refuse his consent or may give his consent unconditionally or subject to such terms and conditions as he thinks fit to impose.

“(6) In respect of land in a National Park or public reserve, the Minister of Lands shall, before giving his consent under this section, consult with—

“(a) In the case of land in a National Park, the National Parks Authority:

“(b) In the case of land in a public reserve, the administering body of the reserve.

“(7) If any land to which this section applies (other than land in a National Park or public reserve) is held by or on behalf of or is controlled in whole or in part by any local authority, public body, or trustees, the appropriate Minister shall not make any decision in respect of an application for his consent under this section without first consulting the local authority, public body, or trustees, as the case may require:

“Provided that no decision of the appropriate Minister shall be held to be invalid on the ground that this subsection has not been complied with.

“30. **Certain other land not to be entered without consent of owner and occupier**—(1) This section shall apply to land that comes within 1 or more of the following classes:

“(a) Land for the time being under crop:

“(b) Land used as or situated within 50 metres of a yard, stockyard, garden, orchard, vineyard, plant nursery, farm plantation, shelter belt, or airstrip:

“(c) Land situated within a borough or town district and having an area of 0.2 of a hectare or less:

“(d) Land that is the site of or is situated within 50 metres of any building, cemetery, burial ground, water-works, race, or dam.

“(2) No person shall enter on any land to which this section applies pursuant to this Act or commence or carry on mining operations thereon except with the prior written consent of the owner and occupier of the land (or, in the case of an appeal as provided for in subsection (4) of this section, of the Minister) and in accordance with the conditions (if any) upon or subject to which the consent is granted.

“(3) Any owner or occupier, in his discretion, may refuse his consent under this section, or may grant his consent either unconditionally or upon or subject to such conditions, not inconsistent with this Act, as he thinks fit.

“(4) If the owner or any occupier of any land (other than the Crown or any Minister of the Crown) refuses or neglects to grant his consent under this section or grants his consent upon or subject to any condition, the person applying for consent may appeal to the Minister of Mines, and in any such case the Minister, in his discretion, may refuse his consent under this section in respect of that land, or may grant his consent either unconditionally or upon or subject to such conditions, not inconsistent with this Act, as he thinks fit.

“(5) If the owner or any occupier of any land is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives, any person requiring the consent of the owner or occupier under this section may appeal to the Minister as if the owner or occupier had refused or neglected to grant his consent, and the provisions of subsection (4) of this section shall apply accordingly.

“(6) Nothing in this section or in any decision of the Minister on an appeal under this section shall be construed to restrict the power of any owner or occupier of any land, and any person applying for the consent of the owner or occupier under this section, to enter into mutual agreements relating to the consent of the owner or occupier and to the conditions (if any) upon or subject to which it is granted.

“31. Coal mining rights and mining privileges not to be entered without consent of holders—(1) Section 30 of this Act shall apply in respect of the land comprised in any coal mining right under the Coal Mines Act 1925, or in any mining privilege (other than a prospector’s right or an exploration licence) under the Mining Act 1971 as if the holder of the coal mining right or mining privilege were one of the occupiers of the land, or, in the case of land to which that section would not apply independently of this section, as if the holder were the owner and occupier of the land.

“(2) The provisions of this section shall be in addition to and not in derogation of the provisions of sections 29 and 30 of this Act.

“32. Compensation to be paid or secured before any land is entered—(1) No person shall enter on any land pursuant to this Act or shall commence or carry on any mining operations on any land unless he has first, in respect of the owner of the land and of every person having any registered estate or interest therein and of every person holding any coal mining right or mining privilege (other than a prospector’s right or an exploration licence) in respect of the land, paid or tendered to him the amount of the compensation (if any) payable to him under this Act in respect of the proposed entry or mining operations, or entered into an agreement in writing with him as to the compensation and as to the payment thereof (if any) or given security to the satisfaction of the Minister for payment of the compensation (if any).

“(2) Nothing in subsection (1) of this section shall apply in respect of entry on any land for the purpose of making any geological survey or for the purpose of making any geophysical survey that does not involve a risk of damage to the land or to the improvements or to any stock or other chattels for the time being on the land.

“(3) If the land or any registered estate or interest therein is held by or on behalf of the Crown, an agreement under this section may be entered into on behalf of the Crown by

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, by the Minister of Mines. If any question arises as to who is the appropriate Minister to enter into any agreement under this section, it shall be determined by the Governor-General in Council, whose decision shall be final.

“(4) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act restricting the right to enter on any land or to commence or carry on any mining operations.

“33. **Notice of entry to be given to occupiers**—(1) Before any licensee enters on any land or causes it to be entered on pursuant to this Act, he shall give to every occupier of the land written notice of his intention so to do.

“(2) If the entry on the land is for the purpose of making any geological survey or for the purpose of making any geophysical survey that does not involve a risk of damage to the land or to the improvements or to any stock or chattels for the time being on the land, 14 clear days’ notice of intention shall be so given, and in every other case 28 clear days’ notice shall be given.

“(3) A notice to any occupier under subsection (1) of this section may be given by delivering it to the occupier personally, or by putting it up in a conspicuous place on the land and posting a copy of it by registered letter addressed to the occupier at his usual or last known place of residence or business in New Zealand or to the agent or representative of the occupier.

“(4) Every notice under this section shall specify the land on which it is proposed to enter, and shall also specify the purpose for which the entry is proposed to be made.

“(5) A notice posted as provided in this section shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

“(6) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act restricting the right to enter on any land or to commence or carry on any mining operations.

“(7) This section shall bind the Crown.

“34. **Removal of buildings and chattels from land on expiry, surrender, or revocation of licence**—(1) For the purposes of this section—

“(a) The prescribed period in respect of any licence shall be the period commencing 12 months before the expiry, surrender, or revocation of the licence and ending 6 months after the date of expiry, surrender, or revocation, or such longer period as the Minister from time to time or in any particular case determines:

“(b) The term ‘owner’, in relation to any land, includes a lessee or holder of a licence to occupy land who has, under the terms of the lease or licence, the right to acquire the fee simple of the land.

“(2) Subject to any direction given by the Minister pursuant to subsection (3) of this section, the licensee shall on the expiry, surrender, or revocation of his licence or within 6 months thereafter, remove from the land comprised in the licence all buildings, machinery, equipment, or other property erected or brought on to or deposited on the land by the licensee or any predecessor in title to the licensee, whether the buildings, machinery, equipment, or other property are affixed to the land or not.

“(3) The Minister may at any time during the prescribed period give written notice to the licensee directing that the whole or any part or parts of the buildings, machinery, equipment or other property referred to in subsection (2) of this section remain on the land comprised in the licence, and thereupon the buildings, machinery, equipment or other property specified in such notice shall vest in and become the property of the Crown freed and discharged from every right, title, or interest held by any other person in respect thereof.

“(4) Subsection (2) of this section shall be subject to and shall not affect the provisions of any valid agreement made by the licensee with the owner or occupier of any land comprised in the licence.

“(5) Except as otherwise provided in this Act, a licensee shall not be entitled to receive from the owner or occupier of any land any compensation for any improvements effected by the licensee to the land.

“Taking of Land

“35. Land required by licensee for mining operations may be taken under Public Works Act—(1) For the purpose of facilitating the carrying on of any mining operations the Governor-General may, on the application of a licensee and at his expense in all things, take under the Public Works Act

1928, as if for a public work within the meaning of that Act, any land, or any particular estate or interest in any land (whether for the time being subsisting separately or not), or any easement or *profit à prendre* over any land (whether for the time being subsisting or not).

“(2) Notwithstanding anything to the contrary in the Public Works Act 1928, the effect of a Proclamation issued for the purposes of this section shall be to vest the land, estate, interest, easement, or *profit à prendre*, as the case may be, in the licensee instead of in the Crown; and all proceedings subsequent to the issue of the Proclamation in respect of compensation, or otherwise for the purpose of complying with the said Act, shall be taken against the licensee, who shall be deemed to be the respondent and shall be liable in respect of the taking to the same extent as the Crown or the Minister of Works and Development would have been liable if the taking had been for the purpose of a Government work.

“Rights of the Crown”

“36. Minister may acquire licences and carry on mining operations—(1) Subject to the provisions of this section, the Minister may, on behalf of the Crown—

“(a) Grant any licence to himself or purchase or otherwise acquire any licence:

“(b) Purchase or otherwise acquire any interest in any licence:

“(c) Sell or otherwise deal with any licence or any interest in any licence:

“(d) Carry on mining operations:

“(e) Do any of those things jointly with any other person or persons.

“(2) The Minister may in his discretion and on such terms and conditions as he thinks fit authorise the Secretary or any other person or persons on behalf of the Crown to acquire a licence or any interest in a licence. In any such case references to the Minister in this section shall be read as references to the Secretary or the other person or persons, and the Secretary or other person or persons may, subject to the terms and conditions of the authorisation, exercise all the powers and discretions granted to the Minister by this section.

“(3) The Minister shall not prospect or mine for petroleum on any land unless a licence is held on behalf of the Crown in respect of that land.

“(4) Subject to the provisions of this section, any licence acquired by the Minister or by any other person or persons on behalf of the Crown shall confer the same rights, benefits, and privileges as would be conferred on a private person holding the licence. No transfer or mortgage to the Crown of any licence shall operate as a merger of the interest created by the licence.

“(5) A licence held solely by the Minister or by any other person or persons on behalf of the Crown shall not terminate by effluxion of time but shall continue in force notwithstanding the expiry of the term for which it was granted until the Minister, by notice in the *Gazette*, declares it to be surrendered.

“(6) Nothing in this section shall be construed to impose any obligation on the Crown or on any person or persons holding a licence solely on behalf of the Crown or to render binding on the Crown any provisions of this Act that are not expressed to bind the Crown.

“37. Development by Crown and commercial undertakings—(1) The Minister may from time to time, on behalf of Her Majesty the Queen, either alone or jointly with any other person or persons, carry on the business of prospecting or mining for petroleum, or of acquiring, processing, refining, marketing, or otherwise howsoever dealing with petroleum or petroleum products; and, in particular, may—

“(a) Establish or promote or concur in establishing or promoting any company having power to carry on any such business:

“(b) Subscribe for, purchase, or otherwise acquire shares, stock, or debentures in any company (whether incorporated or established before or after the commencement of this section) having power to carry on any such business:

“(c) Acquire any interest in or participate in any company, firm, partnership, or joint venture having power to carry on any such business:

“(d) Enter into and execute any agreements, contracts, deeds, arrangements, or other instruments for the purposes of giving full effect to this section:

“(e) Do all other acts or things that are reasonably necessary or desirable for such purposes.

“(2) The Minister of Finance may from time to time, on behalf of Her Majesty the Queen, advance money to—

“(a) The Minister, for the purposes of section 36 of this Act or of subsection (1) of this section; and

“(b) Any company in which the Minister holds any shares pursuant to subsection (1) of this section; and

“(c) Any firm, partnership, or joint venture in which the Minister has an interest or in which he is participating pursuant to subsection (1) of this section—
on such terms and conditions as the Minister of Finance thinks fit.

“(3) All money required to be paid under this section shall, without further appropriation than this section, be paid out of the Consolidated Revenue Account or the National Development Loans Account.

“(4) Where any money is required to be paid under this section, and the money is paid out of the National Development Loans Account, the authority of the Minister of Finance to borrow money under section 11 of the New Zealand Loans Act 1953 shall be deemed to be extended as if the money so paid had been authorised to be transferred from the National Development Loans Account to another fund or account as mentioned in that section.

“(5) Her Majesty the Queen, acting through any Government department or any other agency of the Crown or any officer of the Crown, may from time to time at the request of the Minister or of any company, firm, partnership, or joint venture referred to in subsection (1) of this section—

“(a) Execute any work or provide any service for or supply any goods, stores, or equipment to the company, firm, or joint venture; or

“(b) Enter into contracts or arrangements with any other persons for the execution or provision of any work or service by the department for the company, firm, or joint venture, or for the supply of any goods, stores, or equipment by the department to the company, firm, or joint venture—

on and subject to such terms and conditions as may be agreed upon.

“38. **Mining operations, etc., a public work**—The carrying on by the Minister, or by any other person, on behalf of the Crown, of—

“(a) Mining operations:

“(b) The business of prospecting or mining for petroleum:

“(c) The business of acquiring, processing, refining, marketing, or otherwise howsoever dealing with petroleum or petroleum products—
is hereby declared to be a public work within the meaning of the Public Works Act 1928.

“Compensation

“39. **Persons injuriously affected by operations under this Act entitled to compensation—**(1) Every person having any right, title, estate, or interest in any land injuriously affected by the exercise of any powers conferred by this Act or by any licence, and every person suffering any loss or damage from the exercise of any powers conferred by this Act or by any licence, shall be entitled to full compensation for all loss, injury, or damage suffered by him.

“(2) Where any claim for compensation under this section arises in respect of the exercise of any power by or on behalf of any licensee, the person liable for the compensation (if any) that becomes payable shall be the licensee, who shall be deemed to be the respondent for the purposes of the Public Works Act 1928.

“(3) Where in any other case the claim arises in respect of the exercise of any power by or on behalf of the Crown or the Governor-General or any Minister of the Crown, the Minister of Works and Development shall, subject to section 100 of the Public Works Act 1928, be liable for the compensation (if any) that becomes payable, and shall be deemed to be the respondent.

“(4) In default of agreement between the parties, claims for compensation under this section shall be made and determined within the time and in the manner provided by the Public Works Act 1928, and the provisions of that Act, shall, so far as they are applicable and with the necessary modifications, apply in respect of claims under this section.

“(5) Compensation shall not be payable under this or any other Act in respect of any petroleum existing in its natural condition on or below the surface of any land.

“(6) This section shall bind the Crown, and shall apply in respect of claims on behalf of the Crown, as well as to claims by or on behalf of other persons.

“Unit Development

“40. **Unit development**—(1) If the Minister is satisfied—

“(a) That the land comprised in 2 or more licences 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) That it is in the national interest in order to secure the maximum ultimate recovery of petroleum that the oilfield should be worked as a unit in co-operation by all the licensees whose licences comprise any part thereof—

the Minister may by notice in writing require all the licensees 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 licensees in co-operation and to submit the scheme jointly for the approval of the Minister.

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

“(3) If a development scheme is not submitted to the Minister within the period specified in that behalf in the notices, or if a development scheme submitted under this section is not approved by the Minister, the Minister shall himself prepare a development scheme fair and equitable to all the licensees, and the licensees shall perform and observe the terms and conditions of that scheme.

“Inspectors and Notification of Accidents

“41. **Inspectors**—(1) There may from time to time be appointed for the purposes of this Act, under the State Services Act 1962, a Chief Inspector and such number of persons to be Inspectors as may be required.

“(2) The Chief Inspector shall have all the powers of and be deemed to be an Inspector and shall perform such duties and have such powers as the Minister may from time to time direct.

“(3) There may from time to time be appointed by the Secretary, otherwise than under the State Services Act 1962, such additional number of persons to be Inspectors as may be required.

“(4) No person, by reason only of his appointment as an Inspector under subsection (3) of this section, shall be regarded as being employed in the State services for the purposes of the State Services Act 1962 or in the Government service for the purposes of the Superannuation Act 1956.

“42. **Obstructing Inspector**—Every person commits an offence against this Act who wilfully obstructs, hinders, or deceives, or wilfully causes to be obstructed, hindered, or deceived, any Inspector while the Inspector is exercising or performing any power, function, or duty under this Act.

“43. **Directions, etc., given by Inspector**—Any direction or consent given, or exemption granted, by an Inspector pursuant to this Act in connection with mining operations shall be in writing signed by the Inspector, and may be given or granted either absolutely or subject to such conditions as he imposes. Any such direction, consent, or exemption may at any time be altered or may be withdrawn or revoked.

“44. **Costs incurred by Inspector**—All costs incurred by an Inspector, or which may be awarded against him in any proceedings under this Act, shall be met from the Consolidated Revenue Account, out of money appropriated by Parliament for the purpose; and in no case shall an Inspector be personally liable for such costs.

“45. **Matters may be completed by different Inspectors**—Notwithstanding anything to the contrary in this Act, if an Inspector has given any direction, authorisation, or consent, whether on or subject to any conditions or not, the same or any other Inspector may take further steps thereon, or revoke or from time to time vary the direction, authorisation, or consent, or any condition on or subject to which it was given.

“46. **Powers and duties of Inspectors**—(1) Every Inspector may, at all reasonable times by day or by night, but so as not to impede or obstruct the operations, enter and inspect the area of any mining operations, and may from time to time make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act and the conditions of any licence are being complied with, and whether sufficient steps are being taken to ensure the safety of the persons employed in or about the operations; and it shall be the duty

of the licensee or person in charge of the operations and all persons in any way employed in or about the operations to afford such assistance as may be reasonably required for facilitating the inspection.

“(2) Inspectors shall have such other powers as may be reasonably necessary to carry into effect the provisions of this Act or as may be prescribed.

“(3) Every Inspector shall have all the powers of—

“(a) An Inspector under the Machinery Act 1950, with respect to any machinery to which that Act applies in or about any mining operations; and

“(b) An Engineer Surveyor under the Boilers, Lifts, and Cranes Act 1950, with respect to any machinery (other than steam engines and boilers) to which that Act applies in or about any mining operations:

“Provided that nothing in this Act shall abridge or annul any of the provisions of the Machinery Act 1950, or of the Boilers, Lifts, and Cranes Act 1950, or affect the duties of any Inspectors or Engineer Surveyors appointed under either of those Acts in relation to the inspection in or about mining operations of machinery and boilers to which either of those Acts apply.

“47. Inspector may stop mining operations in case of immediate danger—(1) If, in the opinion of an Inspector, any mining operations or any part of any mining operations or any practice existing in any mining operations, is immediately dangerous to life or injurious to health, he may by notice in writing addressed to the person in charge of the operations and delivered at the site of the operations require that person to forthwith—

“(a) Order the withdrawal of employees from the operations or that part of the operations that is immediately dangerous to life or injurious to health, except such employees as may be necessary to put the operations in a safe condition; or

“(b) Order the discontinuance of the dangerous practice— as the case may require.

“(2) Immediately after delivering a notice under subsection (1) of this section, the Inspector shall forward a copy of the notice to the Secretary, together with a written report stating the reasons for giving the notice.

“(3) Every person to whom a notice is given under subsection (1) of this section shall, on receiving the notice, immediately take active steps to comply with it.

“(4) Every licensee and person in charge of mining operations who directs or wilfully permits mining operations or any practice to be resumed or continued in breach of a notice given under subsection (1) of this section, commits an offence and shall be liable on summary conviction to a fine not exceeding \$500 for every day or part of a day during which the mining operations or practice has been resumed or continued, unless—

“(a) In respect of the resumption or continuation of mining operations, the Inspector has certified in writing that the mining operations or part thereof have or has been made safe to his satisfaction; or

“(b) A Magistrate’s Court has, under subsection (9) of this section, reversed the notice or modified it in such a way that the resumption or continuation of the mining operations or practice does not constitute a breach of the modified notice.

“(5) Within 7 days after receiving a notice under subsection (1) of this section, the licensee or person in charge of the mining operations in respect of which the notice was given may object to the notice by lodging a written notice of objection, stating the grounds of the objection, with the Registrar of the Magistrate’s Court nearest to the site of the operations or, with the consent of the Secretary, with the Registrar of any other Magistrate’s Court.

“(6) A copy of the notice of objection shall be served on the Secretary, and on the Inspector who gave the notice, either before or immediately after it is lodged with the Registrar.

“(7) The Registrar of the Court shall give notice of the time and place fixed for the hearing of the objection to the objector, the Secretary, and the Inspector.

“(8) The objector, the Secretary, and the Inspector, either personally or by their counsel, shall be entitled to be present and to be heard at the hearing of the objection.

“(9) On hearing the objection, the Court may by order confirm, reverse, or modify the notice; and the order shall be final and binding on all parties.

“(10) Until an order is made by a Magistrate’s Court under subsection (9) of this section, the notice shall have full effect; and the lodging of an objection under subsection (5) of this section shall not relieve any person from the obligation of complying with the notice.

“(11) Without limiting the liability of any person to be convicted of an offence against subsection (4) of this section, the Supreme Court shall have jurisdiction to restrain any breach or threatened breach of that subsection by injunction at the instance of the Secretary or an Inspector, and to make such order in the matter as to costs and otherwise as it thinks fit.

“(12) No person shall be precluded by any contract or agreement from doing or refraining from doing such acts as may be necessary to comply with the provisions of this section, or be liable under any contract or agreement to any penalty or forfeiture for doing or refraining from doing any such act.

“47A. **Inspector to inquire into complaints**—(1) If any person employed in mining operations makes a written complaint to an Inspector about any matter relating to the conduct of the operations, the Inspector shall forthwith inquire into the complaint and report on it to the Secretary.

“(2) The name of the person making any such complaint shall not be divulged.

“47B. **Notification of accidents**—(1) If, in connection with any mining operations, any accident occurs which—

“(a) Causes loss of life, or a fracture of the skull or of any limb, or any dislocation of a limb, or any other serious bodily injury to any person; or

“(b) Is caused by an explosion or ignition of gas or other explosive, or by electricity, or by fire, or by such other special cause as may be prescribed, and causes any bodily injury whatsoever to any person,—

the licensee or person in charge of the operations shall forthwith give notice to an Inspector of the accident by telephone or telegram and shall also forthwith send to the Inspector such particulars of the accident as may be prescribed.

“(2) Except for the purpose of saving life or of preventing injury or of preventing serious disruption to the operations, the place where the accident occurred shall, subject to subsection (3) of this section, be left as it was immediately after the accident until it has been inspected by an Inspector.

“(3) If an Inspector is not immediately available to make an inspection, the inspection shall be made by a committee, approved in that behalf by an Inspector, consisting of 2 persons, 1 representing the licensee or person in charge of the mining operations and 1 representing the persons employed in the operations. If the inspection is carried out by such a

committee, the committee shall forward a written report to the Inspector, and no further work shall be permitted in the place where the accident occurred, without the consent of both members of the committee, until that place has been inspected by the Inspector.

“(4) Within 7 days after the occurrence in connection with mining operations of any accident to which subsection (1) of this section does not apply which injures any person, the licensee or person in charge of the operations shall send to an Inspector such particulars of the accident as may be prescribed.

“47c. **Inquests**—(1) If, on holding an inquest into the death of any person, the Coroner has reason to believe that the death may have been caused by an accident to which section 47B (1) of this Act applies, he shall adjourn the proceedings unless an Inspector or some other person appointed in that behalf by the Secretary is present at the proceedings.

“(2) Before adjourning any proceedings under subsection (1) of this section, the Coroner may hear and record evidence of identification and order the burial of the body.

“(3) Not less than 4 days before holding an adjourned inquest, the Coroner shall give written notice to the Inspector of the time and place at which the adjourned inquest is to be held.

“(4) If an accident has not caused the death of more than 1 person and the Coroner has given notice of the time and place at which the inquest is to be held at such time as to reach the Inspector not less than 48 hours before the time of holding the inquest, the Coroner need not adjourn the inquest pursuant to subsection (1) of this section if he considers it unnecessary to do so.

“(5) An Inspector or other person authorised by the Secretary who is present at an inquest pursuant to this section shall have the right to examine and cross-examine any witness, subject to the power of the Coroner to disallow any question that is in his opinion not relevant or that is otherwise not a proper question.

“(6) If an Inspector or person authorised by the Secretary is not present at an inquest to which this section applies and evidence is given to the effect that the accident was caused or contributed to by neglect or that there is a defect in or about the mining operations that appears to the Coroner to need remedying, the Coroner shall give written notice of the evidence to the Inspector.

“(7) In respect of an inquest to which this section applies—
“(a) Any relative of a person whose death may have been caused by the accident; and
“(b) The licensee and person in charge of the operations in or about which the accident occurred—
shall be deemed to have a sufficient interest in the result of the inquest for the purposes of section 17 of the Coroners Act 1951.

“General Provisions

“47D. **Officers not to have personal interest**—(1) Except as otherwise provided in this Act, no person holding any office under this Act or employed by or under the Crown in any capacity in the administration of this Act shall hold, directly or indirectly, any pecuniary interest whatever in any licence.

“(2) Every person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$500.

“47E. **Records and reports to be kept by licensees**—
(1) Every licensee shall keep detailed records and reports with material and data related thereto of all prospecting and mining operations conducted by him or on his behalf in relation to his licence in accordance with regulations for the time being in force under this Act. All such records and reports shall be open at all reasonable times to inspection or examination by the Secretary, by the Director of the New Zealand Geological Survey, by any Inspector, or by any other person authorised in writing by the Minister in that behalf.

“(2) Every licensee shall furnish in accordance with regulations for the time being in force under this Act certified copies or duplicates of such reports, records, and supporting data or material required to be kept under subsection (1) of this section.

“(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the Minister may at any time require a licensee to forward to him forthwith a certified copy of any report made by or for a licensee on any prospecting or mining operations conducted by or for the licensee in relation to his licence; and the Minister may at any time require a licensee to submit a special report on any aspect of his prospecting or mining operations specified by the Minister.

“(4) In every case where part of a licence has been surrendered under section 11 or section 26 of this Act or relinquished under section 6 of this Act, the licensee shall furnish to the Minister separate certified copies of all geological, geophysical, and other reports previously furnished or required to be furnished showing, separately, details in respect of the area of land held by the licensee at the time of surrender or relinquishment and in respect of the area of land surrendered or relinquished.

“(5) No information furnished by any licensee under this section shall, without the consent of the licensee, be made public, or be disclosed to any person other than a person employed by the Crown for the purposes of his official duties before—

“(a) The expiry of a period of 5 years after the date on which the information was obtained; or

“(b) The expiry, surrender, revocation, or relinquishment of the licence, or any part of it, in respect of which the information was furnished—

whichever first occurs.

“47F. **Delegation of powers by Minister**—(1) The Minister may from time to time, by writing under his hand, delegate to the Secretary or to any other officer or officers of the Mines Department any of his powers under this Act, other than the powers conferred by section 37 of this Act and the power to delegate under this section.

“(2) The officer or officers referred to in subsection (1) of this section may be an officer or officers referred to by name, or the officer or officers who for the time being hold any specified position or positions in the Mines Department.

“(3) Subject to any general or special conditions attached by the Minister, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

“(4) Every person purporting to act pursuant to any such delegation shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

“(5) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Minister.

“(6) Every delegation under this section shall, until it is revoked, continue in force according to its tenor, notwithstanding that the Minister by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

“(7) Every reference to the Minister in any Act, regulation, order, application, notice, licence, or document whatsoever shall, in relation to any power that the Minister has delegated to the Secretary or to any other officer of the Mines Department under this section, be read as a reference to the Secretary or to that other officer, as the case may require.

“47G. **Service of notices**—(1) Every licensee shall give written notification to the Secretary of an address in New Zealand to which any notice required to be given to the licensee under this Act may be sent. A licensee may change that address at any time by giving written notification to the Secretary of the change.

“(2) Without limiting subsections (3) to (5) of this section, any notice which is required to be given to a licensee under this Act may be given by sending the notice by registered post to the address notified under subsection (1) of this section, and the notice shall be deemed to have been served on the licensee when it would have been delivered in the ordinary course of post. In proving service of the notice it shall be sufficient to prove that the letter was properly addressed and duly put into the post office as a registered letter.

“(3) Except as otherwise specially provided in this Act, any notice required to be given to any person for the purposes of this Act may be given by causing it to be delivered to that person, or to be left at his usual or last known place of residence or business or at the address specified by him in any application or other document under this Act, or to be posted in a registered letter addressed to him at that place of residence or business or address.

“(4) If any such notice is sent to any person by registered letter it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and duly put into the post office as a registered letter.

“(5) If any such person is absent from New Zealand the notice may be sent to his agent.

“(6) If any such person is not known or, being absent from New Zealand, has no known agent in New Zealand, the notice shall be published in a newspaper circulating in the district in which the matter of the notice arose.

“47H. **Application of deposits**—(1) Subject to the provisions of this section, section 46 of the Public Revenues Act 1953 shall apply in respect of all money deposited with the Secretary by licensees, or received by the Secretary under the terms of a bond, under this Act.

“(2) The amount of any deposit so made by a licensee together with the accrued interest (if any) thereon, shall be applied by the Minister, as he thinks fit, in or towards the payment of any money payable to the Crown by the licensee in relation to the licence in respect of which the deposit was made or in relation to any other licence held by him, or in or towards the restoration or protection of any property injuriously affected or endangered by reason of the failure of the licensee to comply with the terms and conditions of any licence held by him.

“(3) Subject to subsection (2) of this section, the licensee shall, during the currency of the licence in respect of which the deposit was made, be entitled to receive the interest (if any) from time to time earned on the deposit and available for payment to him.

“(4) On the termination (whether by effluxion of time or otherwise) or on the transfer of any licence in respect of which a deposit has been made the following provisions shall apply:

“(a) If the licensee has substantially complied with the terms and conditions of the licence throughout its currency, he shall be entitled to a refund of the deposit, with accrued interest (if any) thereon, reduced by any amount that may have been applied by the Minister in accordance with subsection (2) of this section:

“(b) If in the opinion of the Minister the licensee has failed to comply substantially with the conditions of his licence, the Minister may direct that the full deposit or such part of it as he thinks fit shall be paid into the Consolidated Revenue Account, and in any such case the balance (if any) of the deposit shall be refunded to the licensee.

“(5) The provisions of subsections (2) and (4) (b) of this section shall apply in respect of money received under this Act by the Secretary under the terms of a bond as if that money were a deposit.

“47I. As to what constitutes substantial compliance with conditions of licence—(1) Where any of the rights or privileges of a licensee under this Act are contingent or dependent on his having substantially complied with the terms and conditions of his licence, a licensee who has not fully complied with those terms and conditions shall be deemed to have substantially complied with them if—

“(a) The licensee has been duly exempted from compliance with any term or condition and has substantially complied with all other terms and conditions; or

“(b) The licensee has substantially complied with any term or condition that has been duly substituted for any of the original terms and conditions and has substantially complied with all other terms and conditions; or

“(c) The Minister is satisfied that the failure of the licensee to comply with such terms and conditions has been due to causes beyond the control of the licensee, or that for any other reason the failure of the licensee to comply with any term or condition should be excused.

“(2) Where an application is made to the Minister under section 6 of this Act for an extension of the term of a prospecting licence, and the Minister has reason to believe that the licensee has not substantially complied with the terms and conditions of the licence, or should not be deemed under this section to have substantially complied with those terms and conditions, the Minister shall give written notice to the licensee accordingly, and the licensee may, within 28 days after the date of receipt of the notification, refer the matter to arbitration in accordance with section 47J of this Act.

“47J. Arbitration—(1) Where any matter is referred to arbitration under section 11 (3), section 18 (2), section 18 (3), or section 47I (2) of this Act, this section, for the purposes of the arbitration, shall be deemed to be a submission within the meaning of the Arbitration Act 1908.

“(2) If a licensee fails to refer any matter to arbitration within the time limited in that behalf by section 11 (3) or section 47I (2) of this Act, the Minister, after making such further inquiries as he thinks fit, shall make such decision in the matter as he considers just and equitable in the circumstances.

“(3) 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.

“47K. **Recovery of fees and other money**—(1) All fees, royalties, and other money payable under this Act 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) Except as otherwise provided in this Act, all such money shall be paid into the Consolidated Revenue Account.

“47L. **Offences and penalties**—(1) Every person commits an offence against this Act who acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations for the time being in force under this Act.

“(2) Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable on summary conviction to a fine not exceeding \$200 or, if the offence is knowingly committed, to a fine not exceeding \$500, and, if the offence is a continuing one, to a further fine not exceeding \$10 for every day or part of a day during which the offence has continued.

“(3) If any body corporate is convicted of an offence against this Act, every director and every other officer concerned in the management of the body corporate shall be guilty of the offence if it is proved that the act or omission that constituted the offence took place with his authority, permission, or consent.

“(4) For the purposes of this section, the continued existence of anything in a state contrary to any provision of this Act or of any regulations for the time being in force under this Act shall be deemed to be a continuing offence.

“47M. **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 the Secretary to prescribe or provide forms of applications, licences, and other documents for the purposes of this Act, and prescribing the manner in which any such forms are to be executed:

- “(b) Prescribing conditions upon or subject to which licences may be applied for, granted, or renewed:
- “(c) Prescribing the manner in which persons desiring to apply for licences over any land are to mark out or identify the land, and authorising surveys for that purpose, and prescribing a graticular system for the purpose of defining areas or parts of areas comprised in licences or in applications for licences or for extensions of licences:
- “(d) Prescribing registers to be kept under this Act, the form of such registers, the matters to be entered therein, and the means by which entries therein shall be verified:
- “(e) Providing for the keeping of records and the furnishing of information and returns by licensees for any purpose under this Act, and prescribing the nature of the records, information, and returns, and the form, manner, and times in or at which they shall be kept or furnished:
- “(f) Prescribing matters in respect of which fees are to be payable under this Act, the amount of the fees, and the persons liable to pay them:
- “(g) Authorising the refund or remission, in such circumstances as in accordance with the regulations the Minister thinks fit, of any fees payable under this Act:
- “(h) Prescribing the amount of monetary deposits or bonds required with applications for licences:
- “(i) Prescribing the duties of licensees and the operations to be carried out under licences:
- “(j) Prescribing the qualifications of persons in charge of mining operations or any class thereof, and, in particular, of persons employed as well-managers, and providing for the examination of and grant of certificates to qualified persons:
- “(k) Providing for the prevention or abatement of nuisances in or about mining operations, for the prevention of pollution by mining operations and the removal of pollutants resulting from mining operations, and for cleansing and keeping clean the equipment used for mining operations:
- “(l) Prescribing safety precautions in mining operations, and the treatment of water above and below the ground, and providing for the prevention of waste or loss of petroleum:

- “(m) Prescribing drilling machinery, materials, and casing to be used in mining operations, and prohibiting the use of other classes thereof:
- “(n) Regulating the storage, transportation, and utilisation of petroleum produced in New Zealand and products of such petroleum, and, in particular, the spacing of storage tanks:
- “(o) Prohibiting or regulating mining operations by licensees near the boundaries of the land comprised in their licences, and near land comprised in other licences:
- “(p) Regulating the cessation of mining operations and the abandonment of petroleum wells; and prescribing precautions against flooding:
- “(q) Providing for mining operations to be carried out with due diligence and by safe and satisfactory methods:
- “(r) Requiring licensees and other persons owning or operating pipelines to convey therein any petroleum belonging to the Crown, and prescribing the rates payable therefor:
- “(s) Generally regulating mining operations:
- “(t) Providing for the exemption of licensees, either wholly or partially, and either absolutely or conditionally, from any of the conditions of their licences or from the provisions of any regulations for the time being in force under this Act:
- “(u) Prescribing the powers and duties of Inspectors, and requiring compliance by all persons with any directions lawfully given by them:
- “(v) Requiring offshore installations used in connection with prospecting for or mining of petroleum or any part or parts thereof to be certified in such respects, by such persons, and in such manner as may be prescribed:
- “(w) Imposing requirements as to the survey, testing, and inspection of such offshore installations or any part or parts thereof, and providing for the issue of certificates of fitness in respect thereof:
- “(x) Prohibiting or restricting the use of any such offshore installations or any part or parts thereof which fail to comply with any regulations:

“(y) Requiring the appointment of persons to act as managers of such offshore installations, and prescribing the duties and obligations of managers and the qualifications required of persons appointed as managers:

“(z) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

“(2) Any regulations made under this section may be so made that different regulations shall apply in respect of different classes of licences or licensees or mining operations or petroleum works, or in respect of the same class of licences, licensees, operations, or works, in different circumstances.

“(3) Any regulations made under this section may apply generally throughout New Zealand and the continental shelf, or within New Zealand only, or within the continental shelf only, 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.

“(4) The operation of any regulations made under this section may, if it is so provided in the regulations, be wholly suspended until they are applied by the Minister by notice in the *Gazette*. Any such notice may at any time in like manner be revoked.

“47N. **Entry on land for geological, etc., surveys**—(1) Any person employed by the Crown and authorised either specially or generally in writing by the Minister may in the course of his employment, during the daytime,—

“(a) Enter and re-enter on any land, with such assistants as he thinks fit, for the purpose of making a geological, geophysical, or geochemical survey of the land for mining purposes:

“(b) Extract and remove any sample of petroleum from the land:

“(c) Affix to or set up on the land such pegs, marks, poles, or other equipment as may be required for the purposes of the survey; and

“(d) Do all such other things as he considers necessary for the purposes of the survey or for any inspection or alteration of it.

“(2) Before entering on any land under this section, the person authorised to do so shall, if practicable, give reasonable notice to the owner and occupier of the land of his intention

to enter, and shall, if required by the owner or occupier, produce the authority under which he claims to enter or to have entered the land.

“(3) The owner and occupier of the land shall be entitled to compensation (according to their respective interests) for any damage caused by a survey made under this section. In default of agreement, the amount of compensation shall be assessed under section 39 of this Act.

“47o. Effect of Act on coal mining rights and mining privileges—(1) Except where otherwise specially provided, nothing in this Act shall be construed to affect any coal mining right under the Coal Mines Act 1925, or any mining privilege under the Mining Act 1971, or the granting thereof.

“(2) Nothing in the Coal Mines Act 1925, or in the Mining Act 1971, or in any coal mining right or mining privilege, (whether granted before or after the commencement of this section) shall be construed to authorise any interference with or injury to any mining operations or petroleum works under this Act.”

4. Pipelines—Section 48 of the principal Act (as added by section 3 of the Petroleum Amendment Act 1962) is hereby amended by adding the following subsection:

“(3) Sections 41 to 47c of this Act shall apply in respect of the construction and operation of a pipeline as if such construction and operation were mining operations.”

5. Metrication—Section 49 (1) of the principal Act (as added by section 3 of the Petroleum Amendment Act 1962) is hereby amended by omitting from paragraph (d) of the definition of the term “pipeline” the words “ten miles”, and substituting the words “16 kilometres”.

6. Validation—Every act or thing done by the Minister before the commencement of this Act that would have been lawful if section 37 of the principal Act (as substituted by section 3 of this Act) had been in force at the time when it was done is hereby validated and declared to have been lawfully done by him.

7. Transitional provisions relating to certain prospecting licences—(1) All prospecting licences granted for a term commencing on or after the 4th day of May 1972 shall expire 3 months after the date of commencement of this Act.

(2) At any time within 3 months after the date of the commencement of this Act, the licensee of any prospecting licence to which subsection (1) of this section applies may apply for the grant of a new prospecting licence in respect of the area of land contained in the expired licence or such lesser area as the licensee may specify.

(3) On receiving any such application the Minister shall grant a prospecting licence to the licensee in accordance with the provisions of Part I of the principal Act (as substituted by section 3 of this Act) for a term expiring not earlier than the date on which the expired licence would, but for the provisions of subsection (1) of this section, have expired.

8. Retrospective effect of Act—(1) Except as provided in section 7 of this Act and in subsections (2) to (4) of this section, every prospecting licence and every mining licence in force on the commencement of this Act shall have effect in all respects as if sections 2 and 3 of this Act had been in force at the time the licence was granted.

(2) Sections 5A, 6, 7, 9A, and 12 of the principal Act shall continue to apply in respect of every prospecting licence in force at the commencement of this Act (other than a prospecting licence to which section 7 of this Act applies), until the expiry of the licence, as if they had not been repealed by section 3 of this Act.

(3) Sections 9 (7), 9A, 10, 11, and 12 of the principal Act shall continue to apply in respect of every mining licence in force at the commencement of this Act, and in respect of every mining licence received in exchange for a prospecting licence in force at the commencement of this Act (other than a prospecting licence to which section 7 of this Act applies), until the expiry of the mining licence, as if they had not been repealed by section 3 of this Act.

(4) For the purposes of section 12 of the principal Act (as continued in force by subsections (2) and (3) of this section), section 2 of the principal Act shall, so far as it relates to the definitions of "casinghead spirit" and "petroleum", continue to apply as if it had not been repealed by section 2 of this Act.

9. Consequential repeals—The enactments specified in the Schedule to this Act are hereby repealed.

Section 9

SCHEDULE**ENACTMENTS REPEALED**

- 1939, No. 39—The Statutes Amendment Act 1939: Section 55. (1957 Reprint, Vol. 11, p. 730.)
- 1941, No. 26—The Statutes Amendment Act 1941: Sections 59 to 63. (1957 Reprint, Vol. 11, p. 730.)
- 1953, No. 21—The Petroleum Amendment Act 1953. (1957 Reprint, Vol. 11, p. 731.)
- 1955, No. 43—The Petroleum Amendment Act 1955. (1957 Reprint, Vol. 11, p. 731.)
- 1962, No. 127—The Petroleum Amendment Act 1962: Section 2.
- 1964, No. 28—The Continental Shelf Act 1964: Section 4 (1) (d).
- 1965, No. 14—The Petroleum Amendment Act 1965.
- 1967, No. 132—The Petroleum Amendment Act 1967.
- 1971, No. 15—The Marine Reserves Act 1971: Section 25.
- 1971, No. 25—The Mining Act 1971: So much of the First Schedule as relates to the Petroleum Act 1937.
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This Act is administered in the Mines Department.
