
Date of Introduction: 20 September 2012
Portfolio: Energy and Resources
Select Committee: As at 26 September, 1st reading interrupted

Published: 26 September 2012
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Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.
Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of the Bill is to amend the Crown Minerals Act 1991 (the CMA), the Conservation Act 1987, the Continental Shelf Act 1964, the Reserves Act 1977 and the Wildlife Act 1953 with the aim of:

- “encouraging the development of Crown owned minerals so that they contribute more to New Zealand’s economic development; and
- “streamlining and simplifying the permitting regime where appropriate, making it better able to deal with future developments; and
- “ensuring that better co-ordination of regulatory agencies can contribute to stringent health, safety, and environmental standards in exploration and production activities.

“This to this end, the stated purpose of the Bill is to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand, by providing for:

- “the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals; and
- “the effective management and regulation of the exercise of those rights; and
- “a fair financial return to the Crown for its minerals”^1.

Background


The Act sets out the legislative framework for prospecting, exploration and mining of Crown minerals in New Zealand. It also sets out the process for permit holders to negotiate land access arrangements to Crown lands. In 1997, the National Government added Schedule 4 to the Act to prohibit most access for exploration and mining of Crown minerals to particular tracts of conservation land and marine reserves on the basis of the high conservation values of those areas.

In August 2009, the Minister of Energy and Resources and the Minister of Conservation directed officials to carry out a stocktake of Schedule 4-listed land. The purpose of the stocktake was to identify areas where current knowledge of the geology of the area indicated that the potential high economic value of the minerals to New Zealand warranted a case-by-case consideration of proposals for exploration and mining in the area within the context of a discussion about the conservation, tourism, cultural and other values of the area.

After an extensive public consultation, the Cabinet agreed\(^2\) that:

- no areas be removed from Schedule 4 of the Crown Minerals Act 1991;
- newly created or classified areas equivalent to those currently listed in clauses 1 to 7 of Schedule 4 (national parks, nature and scientific reserves, wilderness areas, sanctuary areas, wildlife sanctuaries, marine reserves, and Ramsar\(^4\) wetlands) should automatically be included in Schedule 4;
- the classification decisions for the classes of conservation area listed in clauses 1 to 7 of Schedule 4 of the Crown Minerals Act 1991 that are currently the sole responsibility of the Minister of Conservation instead be made by Order in Council (subject to Cabinet consideration);
- in principle, significant applications to mine on public conservation land should be publicly notified;
- because of “current provisions in the Crown Minerals Act 1991 for mineral related access arrangements do not enable full account to be taken of the potential national significance and economic benefits of a proposal to explore or mine Crown-owned minerals, or recognise that the Crown has different interests in the surface values of Crown land and in any subsurface minerals, both of which it manages on behalf of, and for the benefit of, all New Zealanders” that Section 61(2) of the Crown Minerals Act 1991 be amended to provide for:
  - joint decision making on access arrangements under the Act by the landholding minister and the Minister of Energy and Resources; and
  - specific economic, mineral and national significance-related criteria to be considered in making a decision on mineral-related access under the Act”.


\(^4\) The Ramsar Convention on Wetlands.
Main policy decisions behind the Bill

Schedule 4

The amendments made in this Bill to the Conservation Act 1987, Reserves Act 1977, and Wildlife Act 1953 relate to Schedule 4 of the CMA, which will be replaced by this Bill. Currently, land can be added to Schedule 4 of the CMA only by the Governor-General by Order in Council made under that Act. After amendment by this Bill, land that acquires a certain status under the Conservation Act 1987, Reserves Act 1977, or Wildlife Act 1953 will automatically be included in Schedule 4 of the CMA.5

New permit system

“The Bill introduces a 2-tiered system for permit management. This will distinguish between the relatively small number of complex, higher-return petroleum and mineral activities (referred to as Tier 1) and the larger number of lower-return industrial, small business, and hobby mineral operations (referred to as Tier 2). Tier 1 activities will be subject to a more hands-on, co-ordinated management and regulatory regime, and Tier 2 to a simpler and more streamlined management regime.”6

Continental shelf mining licence applications

“The Bill amends the Continental Shelf Act 1964 by importing the minerals provisions of the CMA for all new Continental Shelf Act licence applications to bring the Continental Shelf Act regime for minerals into alignment with the current practice for petroleum in the exclusive economic zone and continental shelf. Regulation of environmental effects would fall under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.”7

Access to Crown land

“The Bill provides for automatic inclusion of certain areas into Schedule 4 of the CMA and updates the process for approval of mineral-related access arrangements over Crown land. The Bill makes amendments to the Conservation Act 1987, Reserves Act 1977, and Wildlife Act 1953 to provide for this.”8

Regulatory impact statements may be accessed at:

http://www.treasury.govt.nz/publications/informationreleases/ris

Main Provisions


New permit system

The Bill provides for the two tier permit system. The Tier 1 permits relate to Petroleum, Gold (other than alluvial gold unless, in the fifth and subsequent permit year where the royalty payment for the previous year exceeded $50,000), Silver, Coal, Ironsand and “Metallic minerals”, depending on whether or not specified royalty thresholds are reached or not reached (Part 1, Clause 9, inserting New Section 2A(2) into the CMA). A Tier 2 permit is a permit used for an activity demonstrating historical mining methods (a “special purpose mining activity”) or that falls outside the Tier 1 definition.

6 Ibid.
7 Ibid.
8 Ibid.
(Part 1, Clause 9, inserting New Section 2A(1) into the CMA). Extensive amendments are made for to the process for dealing with applications for permits (Part 1, Clauses 16-28).

Functions of Minister and chief executive and minerals programmes

The Bill makes amendments to the functions of the Minister of Energy and the chief executive (Part 1, Clauses 10-12) and replaces the requirements for minerals programmes (Part 1, Clauses 10-15).

Access to marine land and crown land

The Bill extends an exemption from the need to have an access arrangement in relation to land in order for the holder of a permit for petroleum or other minerals to prospect, explore, or mine on to land in the continental shelf. In relation to Crown land or land in the common marine and coastal marine areas, the Bill provides that:

- the Minister of Energy and Resources is also involved in making in decisions on access arrangements where another Minister is responsible for the land concerned;
- the Ministers must have regard to the economic and other benefits of the proposed activity concerned (Part 1, Clause 31).

Schedule 4

Section 61(4) of the CMA provides that the Governor-General may from time to time, by Order in Council made on the recommendation of the Minister and the Minister of Conservation, amend Schedule 4.

The Bill provides that an amendment to new Schedule 4 of the principal Act cannot be made under Section 61(4) if that amendment would result in land described in clauses 1 to 8 of that Schedule being excluded from that Schedule. The Bill replaces Schedule 4 (Part 1, Clause 31(9), amending Section 61 of the CMA by inserting new subclause (9); Clause 52 (headed: “Schedule 4 replaced”).

Access to land where Minister of Conservation is appropriate Minister

In relation to applications for access arrangements involving significant mining activities where the Minister of Conservation has responsibility for the land in question, the Bill provides that the Minister of Conservation and the Minister of Energy and Resources must jointly decide whether the mining activities will be significant. In such cases, public notification of the proposed activities has to be given in the manner set out in section 49 of the Conservation Act 1987 (Part 1, Clause 32, inserting New Section 61C into the CMA).

Information provision

The Bill makes extensive amendments in relation to information provision in relation to petroleum and mineral reserves, mineral production information and other matters such as the custody of information in registers kept by the Secretary (i.e. the chief executive of the Ministry of Economic Development) (Part 1, Clauses 33-39)

Conservation Act 1987

Schedule 4

The Bill makes amendments in relation to New Schedule 4 of the Crown Minerals Act 1991 as replaced by this Bill. Currently, land can be added to Schedule 4 of the Crown Minerals Act 1991 only by the Governor-General by Order in Council made under that Act.

This Bill provides that land that acquires a certain status under the Conservation Act 1987 will automatically be included in New Schedule 4 of the Crown Minerals Act 1991. However, the current
process where the Minister of Conservation is permitted to declare land to be of a certain status under the Conservation Act 1987 is removed and replaced by a process in which the Governor-General performs this role by Order in Council9 (Part 2, Clauses 55-57).

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