Crown Minerals (Permitting and Crown Land) Amendment Bill 2012 (Supplementary Order Paper No 205)

**Date of Introduction:** 20 September 2012
**Portfolio:** Energy and Resources
**Select Committee:** Commerce
**Date report presented:** 18 March 2013
**2nd reading:** 21 March 2013
**SOP No 205 released:** 2 April 2013 (Hon Simon Bridges – Minister)

Published: 9 April 2013  
by John McSorley BA LL.B, Barrister Legislative Analyst  
P: (04) 817-9626 (Ext. 9626)  

**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 Bill amends 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. It has the aims of:

- "encouraging the development of Crown owned minerals so that they contribute more to New Zealand’s economic development;
- "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.

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;
Main changes proposed

New offences

SOP No 205 proposes that five new offences be added to the Act as follows:

- damaging or interfering with a “structure” (i.e. any fixed, moveable, or floating structure or installation including a petroleum pipeline, petroleum pumping station, petroleum tank station, or petroleum valve station) or ship that is in an “offshore area” (i.e. any area within the territorial sea or exclusive economic zone that is on or above the continental shelf) and that is used or is to be used in mining operations or for the processing, storing, preparing for transporting, or transporting of minerals (maximum penalty: 2 years prison or a fine of $50,000 for an individual; fine of $100,000 for a body corporate);
- damaging or interfering with any equipment on, or attached to, such a structure or ship (maximum penalty: 2 years prison or a fine of $50,000 for an individual; fine of $100,000 for a body corporate);
- interfering with any operations or activities being carried out, or any works being executed, on, by means of, or in connection with such a structure or ship (maximum penalty: 2 years prison or a fine of $50,000 for an individual; fine of $100,000 for a body corporate);
- (as a strict liability offence) being a master of a ship entering an area specified by notice published in a fortnightly edition of the New Zealand Notices to Mariners (under Part 25 of the Maritime Rules) as an area into which a ship must not enter without reasonable excuse (called a “specified non-interference zone” – see below) (maximum penalty a fine of $10,000);
- (as a strict liability offence) leaving a ship and entering such an area without reasonable excuse (maximum penalty a fine of $10,000)

SOP No 205 proposes that no proceedings for any of these offences may be brought in a New Zealand Court in respect of a contravention on board, or by a person leaving, a foreign ship, without the consent of the Attorney-General (inserting a new clause 46A into the Bill, inserting New Sections 101A and 101B(1)-(5) and (9) into the Act).

Comment

The last two offences listed above are strict liability offences (a strict liability offence is one where mens rea (or intention) need not be proved).

Non-interference zones

SOP No 205 proposes “specified non-interference zones”. They are specified by notice published in a fortnightly edition of the New Zealand Notices to Mariners (under Part 25 of the Maritime Rules). A notice must specify:

- permitted prospecting, mining, or exploration activity to which the non-interference zone relates;

---

• the locality of the activity; and
• the area of the non-interference zone to which the activity relates (which may be up to 500 metres from any point on the outer edge of the structure or ship to which the activity relates or, if there is any equipment attached to the structure or ship, 500 metres from any point on the outer edge of the equipment); and
• the period (which may be up to 3 months) for which the notice has effect.

The chief executive, when determining the area of a non-interference zone for the purposes of a notice, must take into account the nature of the activity, including the size of any structure or ship to which the activity relates and any equipment attached to the structure or ship necessary for the carrying out of the activity (inserting a new clause 46A into the Bill, inserting New Section 101B(6)-(8) into the Act).

Powers of enforcement officer

SOP No 205 proposes that an enforcement officer (i.e. a constable; every person in command of a ship of the New Zealand Defence Force or every person acting under the command of a person in charge of such a ship) who has reasonable cause to suspect that a person is committing, has committed, or is attempting to commit an offence against the above provision may do 1 or more of the following things:

• stop a ship within a specified non-interference zone and detain the ship;
• remove any person or ship from a specified non-interference zone;
• prevent any person or ship from entering a specified non-interference zone;
• board a ship (whether within a specified non-interference zone or otherwise), give directions to the person appearing to be in charge, and require the person to give his or her name and address;
• without warrant, arrest a person (inserting a new clause 46A into the Bill, inserting New Section 101C into the Act).