Transitional provisions under new Crown Minerals Amendment Act 2013

The Crown Minerals Amendment Act 2013 comes into force on 24 May 2013. It contains a number of transitional arrangements which will affect existing permit holders.

New notification requirements must be complied with and certain actions by permit holders will trigger the application of the Amendment Act and new minerals programmes.

We look at the content of these new provisions and their trigger points.

Notification of permit operator

Where a permit is held by two or more participants, the Minister must be notified by 5 December 2013 of which participant is responsible for the day-to-day management of activities under the permit.

On and from the date of notification, that participant is the permit operator. Responsibility for compliance with all regulatory obligations on site, including health and safety requirements, will sit with the permit operator.
Which mineral programme applies?

The existing minerals programmes will continue to have effect for existing permits, until the earlier of the following:

- an application to change or surrender an existing permit, or an application for a subsequent permit
- an application for consent to transfer a participating interest or application for consent to a dealing (including supply agreements)
- notification of a change in control of a permit participant, or
- an application to change the permit operator.

Once the new minerals programmes have been issued, permit operators will be able to opt in at any time.

Pending applications for permits or for changes to permits

Where a final decision is still pending on any of the following matters, the provisions of the Amendment Act and new minerals programme will apply to:

- permit applications (except for certain petroleum exploration permit (PEP) applications, discussed below)
- applications to change or extend the duration of a permit
- applications for consent to a transfer or dealing with the permit, or
- surrender of a permit.

Applicants may be required to produce additional information to comply with the Amendment Act’s requirements. For example, the transferee of a participating interest may be required to produce a statement of financial capability.

PEP applications before 30 August 2011

PEP applications made before 30 August 2011 and still awaiting final decision at the commencement of the Amendment Act, will be dealt with under the previous legislation (the old Crown Minerals Act) and the 2005 Minerals Programme for Petroleum (before it was revised in January 2012). There is no equivalent provision for other (non-petroleum) mineral exploration permits.

Extension of PEPs

Existing PEPs may be extended for up to 15 years, but the time will run from the original commencement date of the PEP (previously, PEPs expired five years after the permit’s commencement date). Extensions are not as of right and permit holders will need to apply to the Minister for the extension, whereas new PEPs issued under the Amendment Act will automatically be issued for 15 years in most circumstances.

In addition, existing PEP holders can apply to the Minister for an appraisal extension at least six months before the expiry of the PEP where more time is needed to appraise the discovery or where a discovery is likely to lead to the granting of a mineral permit. Applications for appraisal extensions need to be accompanied by a new work programme.

Royalties

Royalties will continue to be calculated in accordance with the minerals programme in place at the time the initial permit was granted. This will continue to be the case after any of the trigger events listed above.
Relinquishments of permit areas

Relinquishments of permit areas made under the old Act are deemed to be relinquishments under the Amendment Act. Previously, there weren’t any conditions around relinquishments.

Now, the Minister may only impose a relinquishment obligation twice in relation to a permit. For PEPs the total area relinquished must not exceed 75% of the permit area. In the case of an exploration permit for minerals that are not petroleum, the total area relinquished must not exceed 50% of the permit area.

Longer confidentiality protection for speculative prospectors

Non-exclusive petroleum prospecting permit holders (and current applicants) have 90 days from the date the Amendment Act commences to obtain a determination from the Minister that they are a “speculative prospector”. If successful, the speculative prospector will get the benefit of the new longer period of confidentiality (15 years rather than five years) over all information provided to the Chief Executive on or after 1 October 2012, rather than from the date the Amendment Act comes into force.

Access arrangements

Applications for access arrangements to Crown land will be determined according to the provisions of the Amendment Act.

Reservations of land

Notices from the Minister that areas of land have been reserved for possible allocations by public tender will be treated as complying with the amended Act, and will be effective from the date the Amendment Act commences.
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Every effort has been made to ensure accuracy in this newsletter. However, the items are necessarily generalised and readers are urged to seek specific advice on particular matters and not rely solely on this text.

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