



## COVERSHEET

<b>Minister</b>	Hon Shane Jones	<b>Portfolio</b>	Resources
<b>Title of Cabinet paper</b>	Crown Minerals Act 1991 change of control of operator regulations	<b>Date to be published</b>	22 May 2024

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
24 April 2024	Crown Minerals Act 1991 change of control of operator regulations	Office of the Minister for Resources
2 May 2024	Crown Minerals Act 1991 change of control of operator regulations LEG-24-MIN-0064 Minute	Cabinet Office

### Information redacted

**YES / NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

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Office of the Minister for Resources  
Cabinet Legislation Committee

**Crown Minerals Act 1991 change of control of operator regulations**

**Proposal**

- 1 This paper seeks approval for the Cabinet Legislation Committee to authorise the submission of four sets of amendments to Crown Minerals Act 1991 regulations, to specify information requirements and set fees for change of control of Tier 1 permit operator applications, to the Executive Council, as the following:
  - 1.1 Crown Minerals (Petroleum) Amendment Regulations 2024;
  - 1.2 Crown Minerals (Minerals other than Petroleum) Amendment Regulations 2024;
  - 1.3 Crown Minerals (Petroleum Fees) Amendment Regulations 2024;
  - 1.4 Crown Minerals (Minerals Fees) Amendment Regulations 2024.

**Relation to government priorities**

- 2 These proposals do not relate to a specific Government priority. The proposed regulations are consequential in nature.

**Executive Summary**

- 3 The takeover of the Tui oil field by Tamarind Taranaki Ltd in March 2017 brought to light the significant financial risk around change of control of Tier 1 permit operators. (Tier 1 are more complex permits with higher risk and return.)
- 4 In 2019, the Crown Minerals Act 1991 (CMA) was amended to require the Minister's prior consent for changes of control of a Tier 1 permit operator. The requirement creates the requisite Ministerial oversight to ensure the permit is operated efficiently and effectively.
- 5 In 2021, Cabinet agreed to make minor and technical amendments to regulations to specify information requirements and set fees for change of control of Tier 1 permit operator applications [DEV-21-MIN-0059].
- 6 The regulations are also intended to reduce administrative inefficiencies which contribute to the minerals permitting queue. The regulations will better state the information required for a change of control or operator for a minerals' permit application, thus speeding up application processing times by reducing

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the back and forth between applicants and New Zealand Petroleum and Minerals when obtaining further information is required. They will also allow a fee to be charged for the processing of these applications, at an amount consistent with other similar application fees.

### Policy

*The proposed regulations will make the change of control of Tier 1 operator application process more efficient*

- 7 The CMA provides the scrutiny needed for change of control of Tier 1 operator applications. Section 41AE states that a Minister may consent to the change of control if satisfied that the permit holder:
  - 7.1 has the financial capability to meet its obligations under the permit;
  - 7.2 is likely to comply with, and give proper effect to, the work programme for the permit; and
  - 7.3 is likely to comply with the relevant obligations under the CMA or the regulations in respect of reporting and the payment of fees and royalties.
- 8 Section 41AC requires applications for change of control of operator be accompanied by information or documents that show how the test in section 41AE is satisfied.

*Amendments to the Petroleum Regulations and the Minerals Regulations will prescribe requirements for change of control of operator applications*

- 9 The Crown Minerals (Petroleum) Amendment Regulations 2024 and the Crown Minerals (Minerals other than Petroleum) Amendment Regulations 2024 set out what is required to be provided with each application type.
- 10 The proposed regulations would require change of control of operator applications to be:
  - 10.1 signed by each relevant person that makes the application, or a person authorised to sign on behalf of each of those persons; and
  - 10.2 accompanied by the prescribed fee or evidence of it having been paid; and
  - 10.3 accompanied by the information described in the regulations (consistent with information required under section 41AC of the CMA).
- 11 For the minerals regulations specifically, information requirements will be prescribed in detail to reduce the paperwork and time delays involved with applications lodged with inadequate information.
- 12 For minerals permits, the application process can be slow if inadequate information is provided, and further information is required. Further information requests affect the minerals permitting staff's ability to efficiently

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information requirements in regulations will assist the applicant in submitting a complete application.

- 13 The regulations would require specific information to be provided, such as information about:
- 13.1 the applicant's financial and technical capability;
  - 13.2 the applicant's capability to comply with relevant obligations under the CMA;
  - 13.3 the applicant's compliance history; and
- service the current minerals permit application queue. Having more explicit
- 13.4 any changes to the permit participant and permit holder's company's management structure.
- 14 For petroleum regulations, this extra level of detail on information requirements is not considered necessary, as general requirements under section 41AE of the CMA are seen as appropriate. Petroleum permits are held by a small number of companies and changes of control occur relatively infrequently, with single applications impacting on multiple permits.
- 15 Introducing detailed information requirements for petroleum applications would create an unnecessary regulatory burden in many instances without removing the need for permit holders to engage with officials directly on their applications.

*Amendments to the Petroleum fees Regulations and the Minerals Fees Regulations will enable an application processing fee to be charged*

- 16 The Ministry of Business, Innovation and Employment (MBIE) charges fees under the CMA and associated regulations to recover the costs of processing permit applications, applications for changes to permits, and administering permits and licences. However, no charges are applied for processing change of control of operator applications.
- 17 I am proposing to set the following fees for processing change of control of a Tier 1 permit operator applications:
- 17.1 \$3,000 for petroleum; and
  - 17.2 \$2,200 for minerals.
- 18 These fees are consistent with fees that exist for similar applications under the CMA, such as for consent to the transfer of an interest in a permit.
- 19 There are no other financial implications.

**Timing and 28-day rule**

- 20 The Crown Minerals Act 1991 change of control of operator regulations will

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come into force on 6 June 2024, which means it will comply with the 28-day rule.

### Compliance

- 21 The regulations comply with each of the following:
- 21.1 the principles of the Treaty of Waitangi;
  - 21.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 21.3 the principles and guidelines set out in the Privacy Act 2020;
  - 21.4 relevant international standards and obligations; and
  - 21.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### Regulations Review Committee

- 22 There do not appear to be any grounds for the Regulations Review Committee to draw these regulations to the attention of the House under Standing Order 327.

### Certification by Parliamentary Counsel

- 23 The proposed regulations (see list below) have been certified by the Parliamentary Council Office as being in order for submission to Cabinet:
- 23.1 The Crown Minerals (Petroleum Fees) Amendment Regulations 2024;
  - 23.2 The Crown Minerals (Minerals Fees) Amendment Regulations 2024;
  - 23.3 The Crown Minerals (Petroleum) Amendment Regulations 2024;
  - 23.4 The Crown Minerals (Minerals other than Petroleum) Amendment Regulations 2024.

### Impact Analysis

- 24 The Regulatory Quality Team at the Treasury determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no, or minor, impacts on businesses, individuals or not for profit entities [DEV-21-MIN-0059].

### Publicity

- 25 MBIE will arrange appropriate notification of the making of these regulations, such as through their industry and iwi newsletters.

### Proactive release

- 26 I intend to proactively release a copy of this paper within 30 business days of

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decisions being confirmed by Cabinet.

### Consultation

- 27 The Treasury, The Inland Revenue Department, WorkSafe New Zealand, and the Audit Office's Guidelines to Costing and Charging for Public Sector Goods and Service were consulted. WorkSafe New Zealand suggested minor wording changes and this feedback has been incorporated.
- 28 MBIE undertook targeted consultation with Tier 1 permit operator groups and other Tier 1 permit participant groups on the drafted regulations. MBIE received two submissions, one from an industry group and one from an interested lawyer. From an upstream petroleum perspective, the industry group supports the changes as they are technical in nature and essentially codify what is already happening in the petroleum sector. The second submission made suggestions to change the CMA outside the scope of the regulations.

### Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that on 7 April 2021, Cabinet agreed to make minor and technical amendments to regulations under the Crown Minerals Act 1991 to specify application requirements and the recovery of fees for change of control of Tier 1 operator applications [DEV-21-MIN-0059];
- 2 note that the Crown Minerals (Petroleum Fees) Amendment Regulations 2024, the Crown Minerals (Minerals Fees) Amendment Regulations 2024, the Crown Minerals (Petroleum) Amendment Regulations 2024, and the Crown Minerals (Minerals other than Petroleum) Amendment Regulations 2024 will give effect to the decision referred to in paragraph 1 above;
- 3 authorise the submission to the Executive Council of the Crown Minerals (Petroleum Fees) Amendment Regulations 2024, the Crown Minerals (Minerals Fees) Amendment Regulations 2024, the Crown Minerals (Petroleum) Amendment Regulations 2024, and the Crown Minerals (Minerals other than Petroleum) Amendment Regulations 2024;
- 4 note that the Crown Minerals (Petroleum Fees) Amendment Regulations 2024, the Crown Minerals (Minerals Fees) Amendment Regulations 2024, the Crown Minerals (Petroleum) Amendment Regulations 2024, and the Crown Minerals (Minerals other than Petroleum) Amendment Regulations 2024 will come into force on 6 June 2024;

Authorised for lodgement

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Hon Shane Jones

Minister for Resources

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