

New Zealand Legislation for Cook Islands

Continental Shelf Act 1964

NEW ZEALAND

CONTINENTAL SHELF

[WITH AMENDMENTS INCORPORATED]
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ANALYSIS

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THE CONTINENTAL SHELF ACT 1964

1964, No. 28

An Act to make provision as to the, exploration and exploitation of the continental shelf of New Zealand and for matters connected with that purpose -

[3 November 1964

1. Short Title-This Act may be cited as the Continental Shelf Act 1964.

This Act is administered in the Ministry of Foreign Affairs; see s. 5 (b) of the Foreign Affairs and Overseas Service Act 1983.

As to the Submarine Cables and Pipelines Protection Act 1966, see s. 10 of that Act:

As to the application of this Act to the Cook Islands and Niue, see s. 9.

2. Interpretation-(1) In this Act, unless the context otherwise requires,-

["Continental shelf" means the seabed and subsoil of those submarine areas that extend beyond the territorial limits of New Zealand, throughout the natural prolongation of the land territory of New Zealand, to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured (as described in sections 5 and 6 of the Territorial Sea and Exclusive Economic Zone Act 1977) where the outer edge of the continental margin does not extend to that distance;]

["Mineral" includes coal;]

"Natural resources" means-

(a) The mineral and other natural non-living resources of the seabed and subsoil; and

(b) Living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil.

[(2) For the purposes of implementing any international agreement, or for any other purpose in accordance with international law, the Governor-General may from time to time, by Order in Council, delineate the actual boundaries of the continental shelf].

In subs. (1):

"Continental shelf": The definition of this term was substituted for the original definition by s. 33 (1) of the Territorial Sea and Exclusive Economic Zone Act 1977, which came into force on 1st October 1977, see S.R. 1977/245.

"Mineral": The definition of this term was inserted by s. 33 (1) of the Territorial Sea and Exclusive Economic Zone Act 1977. See S.R. 1977/245.

Subs. (2) was added by s. 33 (1) of the Territorial Sea and Act 1977. See S.R. 1977/245.

As to the term "continental shelf", see s. 8 (2). As to the term "device", see s. 7 (5).

As to the Cook Islands, see s. 9 (2) (a).

3. Exploration and exploitation of continental shelf -All rights that are exercisable by New Zealand with respect to the continental shelf and its natural resources for the purpose of exploring the shelf and exploiting those resources are hereby vested in the Crown.

4. Mining for petroleum on continental shelf- (1) Subject to the provisions of subsection (2) of this section, the provisions of the Petroleum Act 1937 (except section 3) and of any regulations made under that Act, as far as they are applicable and with necessary modification, shall apply with respect to petroleum (as defined in that Act) in the seabed and subsoil of the continental shelf, as if-

(a) Every reference in that Act or those regulations to land included a reference to the seabed (including, where necessary, the subsoil) of the continental shelf; and

(b) Every reference in that Act or in those regulations to New Zealand included a reference to the continental shelf; and

(c) [The Minister of Transport] were, the appropriate Minister for the purpose of section 20;

(d) *Repealed by s. 9 of the Petroleum Amendment Act 1975.*

(2) The Governor-General may from time to time, by Order in Council, modify or exclude any provisions of the Petroleum Act 1937 to such extent as may be necessary for the purpose of giving full effect to the provisions of this section.

In subs. (1)(c) the reference to the Minister of Transport was substituted for a reference to the Minister of Marine by s.6(1) of the Ministry of Transport Amendment Act 1972.

5. Mining for minerals on continental shelf-(1) No person shall prospect or mine for, or carry on any operations for the recovery of, minerals in the seabed or subsoil of the continental shelf except in pursuance of a licence issued under this section.

(94s) 16 R.S. p. 84

S. 4(1) (that part before paragraph (a)).

READS as amended by s. 121-of 1991 No. 70:

"(1) Subject to the provisions of subsection (2) of this section, the provisions of the Crown Minerals Act 1991 (except section 10) and of any regulations made under that Act, as far as they are applicable and with any necessary modifications, shall apply with respect to petroleum (as defined in that Act) in the seabed and subsoil of the continental shelf, as if-"

S. 4(1) (e), (d) and (2). No. 70:-

READS as amended by s. 121 of 1991

"(c) The Minister of Transport were the appropriate Minister for the purposes of section 2 (2) of that Act.

(d) *Repealed*

(2) The Governor-General may from time to time, by Order in Council, modify or exclude any of the provisions of the Crown Minerals Act 1991 to such extent as may be necessary for the purpose of giving full effect to the provisions of this section."

(4) The grant of a licence under this section shall in every case be in the absolute discretion of the [Minister of Energy].

(5) Any number of licences under this section may be granted to the same person.

(6) Subject to the provisions of subsection (3) of this section, nothing in [the Mining Act 1971] or in [the Coal Mines Act 1979] shall apply with respect to minerals in the seabed or subsoil of the continental shelf.

(7) Every person commits an offence, and is liable on summary conviction to a fine not exceeding [\$200], who prospects or mines for, or carries on operations for the recovery of, minerals in the seabed or subsoil of the continental shelf otherwise than pursuant to a licence under this section and in accordance with the conditions of the licence (not being a condition relating to the payment of royalties to the Crown).

6. Oysters, other shellfish, and sponges on continental shelf-(1) Subject to the provisions of subsection (2) of this section, the provisions of Part I of the Fisheries Act 1908 and of Part I of the Fisheries Amendment Act 1963 and of any regulations made pursuant to section 5 of the first-mentioned Act, as far as they are applicable and with any necessary modifications,

shall, to the extent that they apply with respect to oysters (as defined in section 2 of the first-mentioned Act) and to oyster beds within [New Zealand or New Zealand fisheries waters], apply with respect to oysters and oyster beds on the continental shelf and to persons taking oysters from the continental shelf and to ships used for that purpose, as if-

- (a) Every reference in those provisions to New Zealand or to [New Zealand fisheries waters] included a reference to the continental shelf and to the waters of the sea above that shelf;
- (b) For the words "tidal waters in New Zealand" in subsection (1) of section 15 there were substituted the words "any part of the continental shelf (as defined in the Continental Shelf Act 1964)".
- (c) *Repealed by s. 11 of the Territorial Sea and Fishing Zone Act 1965.*

(2) The Governor-General may from time to time, by Order in Council-

- (a) Modify or exclude any of the provisions of the enactments referred to in subsection (1) of this section to such extent as may be necessary for the purposes of giving full effect to the provisions of that subsection;
 - (b) Declare that the provisions of subsection (1) of this section shall apply with respect to any other sedentary species of shellfish or to sedentary sponges.
- In subs. (1) the Fisheries Act 1908 and the Fisheries Amendment Act 1963 were repealed and replaced by the Fisheries Act 1983.
- In subs. (1) the words in square brackets were substituted for the words "the territorial waters of New Zealand", and in subs. (1)(a) the words in square brackets were substituted for the words "New Zealand waters", by s.11 of the Territorial Sea and Fishing Zone Act 1965 (repealed by s. 33(3) of the Territorial Sea and Exclusive Economic Zone Act 1977).

7. Application of criminal and civil law-(1) Subject to the provisions of this Act, for the purposes of this Act and of every other enactment (whether passed before or after the passing of this Act) and of every rule of law for the time being in force in New Zealand,-

- (a) Every act or omission which takes place on or under or above or about any installation or device (whether permanent or temporary) constructed, erected, placed, or used in, on, or above the continental shelf in connection with the exploration of the continental shelf or the exploitation of its natural resources shall be deemed to take place in New Zealand; and
- (b) Every such installation or device shall be deemed to be situated in New Zealand, and for the purposes of jurisdiction shall be deemed to be situated in that part of New Zealand above highwater mark at ordinary spring tides which is nearest to that installation or device; and
- (c) Every Court in New Zealand which would have jurisdiction (whether civil or criminal) in respect of that act or omission if it had taken place in New Zealand shall have jurisdiction accordingly; and
- (d) Every power of arrest or of entry or search or seizure or other power that could be exercised under any enactment (whether passed before or after the passing of this Act) or under any rule of law in respect of any such act or omission or suspected act or omission if it had taken place or was suspected to have taken place in New Zealand may be exercised on or in respect of any such installation or device as if the installation or device were in New Zealand; and
- (e) Without limiting the provisions of the Customs Acts (as defined in [the Customs Act 1966]), every installation or device, and materials or parts used in the construction of an

installation or device, which are brought into the waters above the continental shelf from parts beyond the seas shall be deemed to have been imported into New Zealand when the installation or device is constructed, erected, or placed in, on, or above the continental shelf or the exploration of its natural resources.

(2) The Governor-General may from time to time, by Order in Council,-

(a) Modify or exclude any of the provisions of any enactment (whether passed before or after the passing of this Act) to such extent as may be necessary for the purpose of giving full effect to the provisions of subsection (1) of this section:

(b) Declare that the provisions of any enactment (whether passed before or after the passing of this Act), with such modifications or exceptions as he thinks fit, shall apply with respect to the continental shelf or any specified part thereof, or to acts or omissions taking place in, on, or above the continental shelf or any specified part thereof, in connection with the exploration of the continental shelf or of that part or the exploitation of its natural resources, and thereupon the provisions of that enactment, with any such modifications or exceptions, shall apply as if the continental shelf or that part thereof were within New Zealand.

(3) Nothing in this section shall limit the provisions of any enactment or rule of law relating to the liability of persons in respect of acts done or omitted beyond New Zealand or the jurisdiction of any New Zealand Court under any such enactment or rule of law.

(4) Notwithstanding anything in any other enactment, proceedings for the trial and punishment of any person charged with having committed an offence in respect of which the Courts of New Zealand have jurisdiction by virtue only of this section shall not be instituted in any Court except with the consent of the Attorney-General and on his certificate that it is expedient that the proceedings should be instituted:

Provided that a person so charged may be arrested or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of proceedings for the offence has not been obtained; but no further or other proceedings shall be taken until that consent has been obtained.

(5) In this section the term "device" includes any ship or floating platform or aircraft that is used in connection with any installation or device.

In subs. (1)(e) the Customs Act 1966, being the corresponding enactment in force at the date of this reprint, has been substituted for the repealed Customs Act 1913.

8. 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) Regulating the construction, erection, or use of installations or devices in, on, or above the continental shelf, or any specified part thereof, in connection with the exploration of the shelf or that part thereof or the exploitation of its natural resources;

- (b) Prohibiting the construction, erection, placing, or use of installations or devices in, on, or above the continental shelf in places where they could cause interference with the use of recognised sea lanes essential to coastwise or international navigation;
- (c) Establishing safety zones, extending to a distance not exceeding 500 metres measured from each point of the outer edge of the installation or device, around any such installations or devices in, on, or above the continental shelf;
- (d) Prescribing such measures as the Governor-General considers necessary in any such safety zone for the protection of the installation or device with respect to which the safety zone is established;
- (e) Regulating or prohibiting the entry of ships into any such safety zone;
- (f) Prescribing measures to be taken in any such safety zone for the protection of the living resources of the sea and the natural resources of the continental shelf from harmful agents;
- (g) Prescribing the notice to be given of the construction, erection, or placing of installations or devices in, on, or above the continental shelf;
- (h) Prescribing the permanent means to be installed for the purpose of giving warning to shipping and aircraft of the presence of installations or devices in, on, or above the continental shelf;
- (i) Providing for the removal of installations or devices constructed, erected, or placed in, on, or above the continental shelf which have been abandoned or become disused;
- (j) Prohibiting or restricting any exploration of the continental shelf or any specified part thereof or any exploitation of its natural resources which in the opinion of the Governor-General could result in an unjustifiable interference with navigation, fishing, or the conservation of the living resources of the sea, or could interfere with national defence or with oceanographic or other scientific research or with submarine cables or pipelines;
- (k) Providing for such matters as are necessary for giving full effect to the provisions of this Act and for the due administration thereof;
- (l) Prescribing penalties for breaches of the regulations, not exceeding a fine of [\$1,000].

(2) In this section the term "continental shelf" includes the seabed and subsoil of the submarine areas within the territorial limits of New Zealand.

For regs. Under subs. (1)(c), see the Continental Shelf (Maui A Safety Zone) Regulations 1975 (S.R. 1975/300).

9. Act in force in Cook Islands-(1) This Act, except sections 4 and 6, shall be in force in the Cook Islands.

(2) In the application of this Act to the Cook Islands-

- (a) Every reference to New Zealand shall be read as a reference to the Cook Islands;
- (b) Every reference in section 5 to [the Minister of Energy] shall be read as a reference to [the High Commissioner of the Cook Islands] or [the Cabinet of Ministers of Niue], as the case may require;
- (c) The powers conferred on the Governor-General in Council may be exercised by the Legislative Assembly of the Cook Islands or [the Niue Assembly], as the case may require, by Ordinance.

The Continental Shelf Act 1964 is administered in the Ministry of Foreign Affairs.

University of the South Pacific

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