

Continental Shelf Act, No. 9 of 30 December 1970

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2. Interpretation

In this Act, unless the context otherwise requires:

"Continental Shelf" means the sea-bed and subsoil of those submarine areas adjacent to the coasts of the islands of Fiji, but beyond the territorial limits of Fiji, to a depth of two hundred metres below the surface of the sea, or beyond that limit, to where the depth of the superjacent waters admits of exploitation of the natural resources of those areas;

"Designated area" means an area designated by an order made under the provisions of subsection (2) of the next succeeding section;

"Installation or device" means any installation, or equipment or other property whatsoever that is constructed, erected or placed in a designated area for the purpose of the exploration of the sea-bed or subsoil or the exploitation of the natural resources thereof;

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"Natural resources" means:

- (a) The mineral and other natural non-living resources of the sea-bed 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 sea-bed or are unable to move except in constant physical contact with the sea-bed or subsoil;

"Petroleum" means:

- (a) Any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
- (b) Any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) Any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide, and includes any petroleum as defined in paragraph (a), (b), or (c) of this definition that has been returned to a natural reservoir.

3. Exploration and exploitation of continental shelf

(1) All rights exercisable with respect to the continental shelf appertaining to Fiji and its natural resources for the purpose of exploring that shelf and exploiting those resources are hereby vested in the Crown.

(2) The Minister may from time to time by order designate any area comprising:

- (a) Areas within the territorial limits of Fiji; and

(b) Areas of superjacent waters of the continental shelf,, as being an area to which the provisions of this Act apply and, in respect of any areas of superjacent waters of the continental shelf included therein, within which the rights referred to in the last preceding subsection are exercisable.

(3) In relation to:

(a) Any petroleum with respect to which any rights referred to in subsection (1) of this section are exercisable; the provisions of any Act for the time being in force relating to the exploration for, and exploitation of, petroleum in Fiji;

(b) Any minerals with respect to which any rights referred to in subsection (1) of this section are exercisable; the provisions of any Act for the time being in force relating to mining in Fiji; and

(c) Any sedentary species of shell-fish or sponges as to which any rights referred to in subsection (1) of this section are exercisable; the provisions of any Act for the time being in force relating to fisheries in Fiji, as far as they are applicable and with any necessary modifications shall, subject to the provisions of this Act and of any order made under the provisions of the next succeeding subsection, apply with respect to petroleum, minerals and sedentary species of shell-fish or sponges respectively in or on the continental shelf within a designated area as if:

(i) Every reference to Fiji in any of those Acts included reference to the continental shelf within that designated area;

(ii) Every reference to land in any of the Acts referred to in paragraph (a) or (b) of this subsection, included a reference to the continental shelf within that designated area; and

(iii) Every reference to the territorial waters of Fiji in any Act referred to in paragraph (c) of this subsection, included a reference to the continental shelf and to the waters of the sea above that shelf within that designated area.

(4) The Minister may from time to time by order modify or exclude any of the provisions of any of the Acts referred to in the last preceding subsection to such extent as may be necessary for the purpose of giving full effect to the provisions of that subsection.

4. Application of laws

(1) Subject to the provisions of this Act the provisions of all laws for the time being in force in Fiji and all instruments having effect under any such laws (hereinafter in this Act referred to as the ("applied provisions") shall apply as provided by this section, to the superjacent waters of the continental shelf within every designated area as if such waters were part of Fiji.

(2) The applied provisions shall apply to and in relation to all acts, omissions, matters, circumstances and things touching, concerning, arising out of or connected with the exploration of the continental shelf in a designated area and the exploitation of the natural resources of that shelf.

(3) Without limiting the operation of the last preceding subsection the applied provisions shall apply;

(a) To and in relation to:

(i) Any act or omission that takes place in, on, above, below or in the vicinity of; and

(ii) Any matter, circumstance or thing that exists or arises with respect to or in connexion with,

Any installation or device that is in a designated area for any reason touching, concerning, arising out of or connected with the exploration of the continental shelf in that designated area or the exploitation of the natural resources of that shelf;

(b) To and in relation to any person:

(i) Who is in, on, above, below or in the vicinity of any such installation or device; or

(ii) Who is in a designated area for any reason touching, concerning, arising out of or connected with the exploration of the continental shelf in a designated area or the exploitation of the natural resources of that shelf; or

(iii) In respect of his carrying on any operation or doing any work in a designated area for any reason of the kind referred to in the last preceding subparagraph.

(4) For the purposes of this section a law shall be taken to be a law in force in Fiji notwithstanding that that law applies to part only of Fiji.

(5) Subject to the provisions of the two next succeeding subsections jurisdiction is conferred on the several courts of Fiji in all matters arising under the applied provisions.

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5. Application of customs laws

Without limiting the provisions of any law relating to the Customs, every installation or device, and any materials or parts used in the construction of an installation or device, which is brought into a designated area from any port or place beyond the seas shall be deemed to have been imported into Fiji when the installation or device is constructed, erected or placed in, on or above the sea-bed within such designated area in connection with the exploration of the sea-bed or subsoil or the exploitation of the natural resources thereof.

6. Safety zones for protection of installations in designated areas

(1) The Minister may, for the purpose of protecting any installation or device in any designated area, by order prohibit ships, subject to any exceptions provided by such order, from entering or remaining in any area specified in such order (hereinafter in this Act referred to as a "safety zone") without the permission of the Minister.

(2) A safety zone specified in an order made under the provisions of the last preceding subsection may extend to a distance of five hundred metres around the installation or device specified in such order measured from each point of the outer edge of the installation or device.

(3) If any ship enters or remains in any part of a safety zone in contravention of an order made under this section, the owner or master of such ship shall be guilty of an offence and shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding six months or to both such fine and imprisonment unless he proves that the prohibition was not, and could not on reasonable inquiry have become, known to the master.

7. Safety of navigation

(1) No person shall without the consent in writing of the Minister in any designated area:

(a) Construct, alter or improve any works on, under or over any part of the sea-bed; or

(b) Remove any object or any material from any part of the sea-bed in such manner that any obstruction or danger to navigation is caused or is likely to arise.

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(3) If the Minister is of the opinion that any operation in respect of which an application is made to him under the provisions of this section will cause or is likely to cause any obstruction or danger to navigation he may either refuse his consent or may give his consent subject to such conditions as he thinks fit having regard to the nature and extent of the obstruction or danger which appears to him would otherwise be caused or be likely to result.

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8. Enforcement

(1) Any person who:

- (a) Carries out any operation in contravention of the provisions of subsection (1) of the last preceding section; or
- (b) Fails to comply with any condition subject to which the consent of the Minister has been given under that section,

shall be guilty of an offence and liable to a fine not exceeding three thousand dollars.

(2) Without prejudice to any proceedings under the provisions of the last preceding subsection, where any person has constructed, altered or improved any works in contravention of the provisions of the last preceding section or has failed to comply with any condition subject to which the consent of the Minister was given under that section, the Minister may serve a notice on such person requiring him within such period, not being less than thirty days, as may be specified in the notice, or if it appears to the Minister urgently necessary so to do, the Minister may himself arrange for the works to be removed or altered, as the case may be.

(3) If within the period specified in any notice served under the provisions of the last preceding subsection the person upon whom the notice is served fails to comply therewith, the Minister may himself arrange for the works to be removed or altered, as the case may be.

(4) In any case in which the Minister, exercising the powers conferred by either of the two last preceding subsections, arranges for the works to be removed or altered he shall be entitled to recover as a civil debt the expenses thereof, as certified by him, from the person by whom the works were constructed, altered or improved.

9. Discharge of oil

(1) If in any designated area any oil to which the provisions of this section apply or any mixture containing not less than one hundred parts of such oil in a million parts of the mixture is discharged or escapes into any part of the sea:

- (a) From a pipeline; or
- (b) As a result of any operations for the exploration of the sea-bed or subsoil or the exploitation of the natural resources thereof in a designated area,

the owner of the pipeline or, as the case may be, the person carrying on the operations, shall be guilty of an offence unless he proves, in the case of a discharge from a place in his occupation, that it was due to the act of a person who was there without his permission, express or implied, or, in the case of an escape, that he took all reasonable care to

prevent it and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

(2) The provisions of this section apply to crude oil, fuel oil, lubricating oil and heavy diesel oil, as the same may be defined by the Minister by order made under the provisions of this section, and to any other description of oil which may be so defined by the Minister having regard to the persistent character of that oil and the likelihood that it would cause pollution if discharged or allowed to escape into the sea.

(3) Any person guilty of an offence under the provisions of this section shall be liable, on conviction, to a fine of three thousand dollars.

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11. Prosecution of offences

(1) Proceedings for any offence under this Act (including an offence under any of the applied provisions) may be taken, and such offence may for all incidental purposes be treated as having been committed, in any place in Fiji.

(2) Where a body corporate is guilty of such an offence and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of the last preceding subsection, "director" in relation to any statutory corporation, the affairs of which are managed by its members, means a member of that corporation.

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