

Continental Shelf (Living Natural Resources)
(National Seas), Act 1977,
Act No. 5 of 7 February 1977 Amending the Continental Shelf
(Living Natural Resources) Act 1974

1. Interpretation (Amendment of Section 2):
 - "continental shelf".
 - "high water line".
 - "sedentary species".
 - "the shelf area".
 2. Repeal and replacement of Section 3:
 3. Declaration of sedentary organisms to which this Act Applies.
 3. Repeal and replacement of Section 6:
 6. Declaration that organisms not sedentary organisms in respect of an area.
 4. Notice of prohibition (Amendment of Section 7).
 5. Licences (Amendment of Section 8).
 6. Powers of officers (Amendment of Section 10).
 7. Offences in relation to licences and unlicensed operations (Amendment to Section 11).
 8. Evidentiary certificates (Amendment of Section 17).
 9. Description of areas by reference to larger area, etc. (Amendment to Section 21).
 10. Regulations (Amendment of Section 22).
 11. Minor and consequential amendments.
 12. Saving of regulations and instruments.
- ...
- (a) to substitute a new definition of "the continental shelf" as a result of the making of the National Seas Act 1977; and
 - (b) to provide for the application of the Act in respect of declared sedentary organisms on or in any part of the continental shelf,

MADE by the National Parliament to come into operation in accordance with a notice published in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. Interpretation (Amendment of section 2)

Section 2 of the Principal Act is amended:

(a) by omitting from Subsection (1) the definitions of "continental shelf" and "controlled area" and inserting in their place the following definition:

"continental shelf" means the seabed and subsoil -

- (a) underlying the waters between the high water lines and the baselines; and
- (b) underlying the territorial sea; and

(c) adjacent to the coasts of Papua New Guinea which underlies the offshore seas to a depth not exceeding 200m or, beyond that limit, to a depth where the superjacent waters admit of the exploitation of the natural resources of that area; and

(b) by inserting in that subsection after the definition of "foreign ship" the following definition:

"high water line" means the high water line on a coast of Papua New Guinea at mean high high water springs; and

(c) by inserting in the definition of "sedentary organism" in that subsection after the word "means" the words ", subject to Section 6; and

(d) by inserting after that definition the following definitions:

"sedentary species" means marine organisms which, at the harvestable stage, are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil;

"the shelf area" means the area of the continental shelf; and

(e) by inserting after Subsection (2) the following subsection:

(2A) In any case where there is doubt as to the location of a high water line the Minister may, by notice published in the National Gazette, declare the location of the line by whatever method appears to him to be appropriate.

2. Repeal and replacement of section 3

Section 3 of the Principal Act is repealed and the following section inserted in its place:

3. Declaration of sedentary organisms to which this act applies

Where the Minister is satisfied that a marine organism of any kind -

- (a) forms part of the living natural resources of the continental shelf; and
- (b) belongs to a sedentary species,

he may, by notice published in the National Gazette, declare the organisms to be a sedentary organism to which this Act applies.

3. Repeal and replacement of section 6

Section 6 of the Principal Act is repealed and the following section inserted in its place:

6. Declaration that organisms not sedentary organisms in respect of an area

(1) Notwithstanding anything contained in any notice under Section 3, the Minister may, by notice published in National Gazette, declare that organisms of a specified kind are not sedentary organisms in respect of a specified part of the continental shelf.

(2) On publication of a notice under Subsection (1) and until it expires or is revoked the specified organisms shall not be sedentary organisms in respect of the specified part of the continental shelf.

(3) In this section "specified" means specified in the notice under Subsection (1).

4. Notice of prohibition (Amendment of section 7)

Section 7 of the Principal Act is amended:

(a) by omitting Subsection (1) and inserting in its place the following subsections:

(1) The Minister may, by notice published in the National Gazette -

- (a) prohibit the taking, during a specified period, of sedentary organisms of a specified kind in, or in a specified part of, the shelf area; or
- (b) prohibit the taking of any sedentary organism of a specified kind that is less than a specified size, or has a part having, a dimension less than a specified dimension, in, or in a specified part of the shelf area; or
- (c) prohibit the taking, by a method or equipment of a specified kind, of any sedentary organisms of a specified kind in, or in a specified part of, the shelf area; or
- (d) prohibit the taking by any one ship, during a specified period, of a quantity of sedentary organisms of a specified kind that is in excess of a specified quantity in, or in a specified part of, the shelf area; or
- (e) prohibit the searching for or taking of sedentary organisms of a specified kind in a specified part of the shelf area except by a person who holds a licence under Section 8(1) that, by virtue of an endorsement under Subsection (2) of that section, extends to authorizing that searching or taking, as the case may be; or
- (f) prohibit the use of ships for searching for or taking sedentary organisms of a specified kind in a specified part of the shelf area, other than ships in respect of which there are licences under Section 8(3) that, by virtue of an endorsement under Subsection (4) of that section, extend to authorizing that use; or
- (g) prohibit the taking by any one person, during a specified period, of a quantity of sedentary organisms of a specified kind that is in excess of a specified quantity in, or in a specified part of, the shelf area;

or

- (h) prohibit the removal of sedentary organisms of a specified kind from the continental shelf, unless the organisms are dead; and
- (b) by adding at the end of the section the following subsection:
- (3) In this section "specified" means specified in the notice under Subsection (1).

5. Licences (Amendment of section 8)

Section 8 of the Principal Act is amended:

- (a) by omitting from Subsection (1) the words "an area of the Papua New Guinea continental shelf that is a controlled area in relation to sedentary organisms of that kind", and inserting in their place the words "the shelf area"; and
- (b) by omitting from Subsection (3) the words "an area of the Papua New Guinea continental shelf that is a controlled area in relation to sedentary organisms of that kind", and inserting in their place the words "the shelf area"; and
- (c) by omitting from paragraph (a) of Subsection (6) the words "a controlled area" and inserting in their place the words "an area"; and
- (d) by omitting from paragraph (b) of that subsection the words "a controlled area" and inserting in their place the words "an area"; and
- (e) by omitting from paragraph (c) of that subsection the words "a controlled area" and inserting in their place the words "an area".

6. Powers of officers (Amendment of section 10)

Section 10 of the Principal Act is amended:

- (a) by omitting from paragraph (a) the words "a controlled area" (twice occurring) and inserting in their place the words "the shelf area"; and
- (b) by omitting from paragraph (c) the words "a controlled area" and inserting in their place the words "the shelf area"; and
- (c) by omitting from paragraph (l) the words "a controlled area" and inserting in their place the words "the shelf area"; and
- (d) by omitting from paragraph (m) the words "a controlled area" and inserting in their place the words "the shelf area".

7. Offences in relation to licences and unlicensed operations (Amendment of section 11)

Section II of the Principal Act is amended by omitting Subsections (1) to (7) (inclusive) and inserting in their place the following subsections:

- (1) A person shall not, in the shelf area, whether on his own account, or as the partner, agent or employee of

another person, search for or take sedentary organisms except as authorized by a licence granted to him under Section 8(1).

(2) A person shall not, in the shelf area, use a ship (other than an exempt boat) in searching for or taking sedentary organisms except as authorized by a licence granted to him, or to a person on whose behalf he is acting under Section 8(3).

(3) A person shall not, in the shelf area, have in his possession or in his charge a ship (other than an exempt boat) for use in searching for or taking sedentary organisms unless there is in force in respect of the ship a licence under Section 8(3) authorizing the use of the ship by him, or by a person on whose behalf he is acting, in searching for and taking sedentary organisms in that area.

(4) A person shall not, in the shelf area, use a foreign ship in searching for or taking sedentary organisms unless there is in force a licence under Section 8(3) authorizing the use of the ship in that area.

(5) A person shall not, in the shelf area, have in his possession or in his charge a foreign ship for use in searching for or taking sedentary organisms unless there is in force a licence under Section 8(3) authorizing the use of the ship in that area.

(6) Except by virtue of an endorsement under Section 8(8)(b), or with the consent of the Minister subject to such conditions as he thinks fit, a person shall not, in the shelf area, trans-ship sedentary organisms to or from a ship in respect of which there is not in force a licence under Section 8 in relation to that area.

(7) A person shall not, in the shelf area, employ or have on board a ship, for the purpose of searching for or taking any sedentary organisms, a diver, trial diver or diver's tender unless there is in force in respect of him a licence granted under Section 8(6) authorizing his employment, in that area, as a diver, trial diver or diver's tender, as the case may be.

8. Evidentiary certificates (Amendment of section 17)

Section 17 of the Principal Act is amended:

(a) by omitting Subsection (2) and inserting in its place the following subsection:

(2) The Minister or a person authorized in writing by him to give a certificate under this subsection may give a certificate -

- (a) that a specified submarine area is, or was at a time so specified, within the shelf area; or
- (b) that, at a specified time, a specified person was, or was not, the holder of a licence under Section 8(1) authorizing him to search for and take sedentary organisms of a specified kind in, or in a specified part of, the shelf area; or
- (c) that, at a specified time, a specified person was, or was not, the holder of a licence under Section 8(1) endorsed under Subsection (2) of that section so as to authorize him to search for and take sedentary organisms of a specified kind in a specified part of the shelf area; or
- (d) that, at a specified time, a specified person was, or was not, or no person was, the holder of a licence under Section 8(3) authorizing the use of a ship by him or by a person acting on his behalf in searching for and taking sedentary organisms of a specified kind in, or in a specified part of, the shelf area; or

- (e) that, at a specified time, a specified person was, or was not, or no person was, the holder of a licence in respect of a ship under Section 8(3) endorsed under Subsection (4) of that section so as to authorize the use of the ship by him or by a person acting on his behalf in searching for and taking sedentary organisms of a specified kind in a specified part of the shelf area; or
 - (f) that, at a specified time, a licence under Section 8(6) was not in force authorizing the employment of a specified person, in a specified area, as a diver, as a trial diver or as a diver's tender, as the case may be.; and
- (b) by adding at the end the following subsection:
- (7) In this section "specified" means specified in the certificate under Subsection (2).

9. Description of areas by reference to larger area, etc. (Amendment of section 21)

Section 21(1) of the Principal Act is amended:

- (a) by omitting the words "a controlled area" and inserting in their place the words "the shelf area"; and
- (b) by omitting the words "the controlled area" (twice occurring), and inserting in their place the words "the shelf area".

10. Regulations (Amendment of section 22)

Section 22(1) of the Principal Act is amended:

- (a) by omitting from paragraph (b) the words "in controlled areas", and inserting in their place the words "in the shelf area"; and
- (b) by omitting from paragraph (e) the words "in controlled areas", and inserting in their place the words "in the shelf area"; and
- (c) by omitting from paragraph (f) the words "in controlled areas" (thrice occurring), and inserting in their place the words "in the shelf area"; and
- (d) by omitting from paragraph (g) the words "in controlled areas" (twice occurring), and inserting in their place the words "in the shelf area".

11. Minor and consequential amendments

The Principal Act is further amended in accordance with the Schedule.

12. Saving of regulations and instruments

For the avoidance of doubt it is hereby declared that the amendments effected by this Act do not impliedly repeal or otherwise affect any regulation, notice, licence, certificate or other instrument made under the Principal Act.

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