



Tonga

CONTINENTAL SHELF ACT

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Arrangement of Sections

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CONTINENTAL SHELF ACT

Act No. 6 of 1970

**AN ACT TO MAKE PROVISION AS TO THE PROTECTION,
EXPLORATION AND EXPLOITATION OF THE CONTINENTAL
SHELF, THE PREVENTION OF POLLUTION IN CONSEQUENCE OF
WORKS IN CONNECTION WITH THE SHELF, AND FOR MATTERS
CONNECTED WITH THOSE PURPOSES**

Commencement [22nd December 1970]

1 Short title.

This Act may be cited as the Continental Shelf Act.

2 Exploration and exploitation of Continental Shelf.

- (1) Any rights exercisable by the Kingdom either inside or outside the limits of the Kingdom with respect to the sea bed and subsoil and their natural resources are hereby vested in His Majesty.
- (2) In relation to any petroleum outside the limits of the Kingdom and with respect to which those rights are exercisable, the Petroleum Mining Act shall apply, subject to this Act, as it applies in relation to petroleum inside the limits of the Kingdom.
- (3) In relation to any minerals outside the limits of the Kingdom and with respect to which those rights are exercisable, the Minerals Act shall apply,

subject to this Act, as it applied in relation to minerals inside the limits of the Kingdom.

- (4) His Majesty may from time to time by Order-in-Council designate any area as an area within which the rights mentioned in subsection (1) of this section are exercisable, and any area so designated is in this Act referred to as a designated area.
- (5) In this section “petroleum” has the same meaning as in the Petroleum Mining Act and “minerals” has the same meaning as in the Minerals Act.

3 Protection of installations in designated areas.

- (1) The Prime Minister may for the purpose of protecting any installation in a designated area by order published in the Gazette prohibit ships, subject to any exceptions provided by the order, from entering without his consent such part of that area as may be specified in the order.
- (2) If any ship enters any part of a designated area in contravention of an order made under this section its owner or master shall be liable on conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding one year, or to both, unless he proves that reasonable inquiry have become, known to the master.
- (3) Any order made under this section maybe varied or revoked by a subsequent order, and any order may be annulled by the Legislative Assembly.

4 Applications of criminal and civil law.

- (1) Any act or omission which—
 - (a) takes place on, under or above an installation in a designated area outside the limits of the Kingdom or any waters within 500 metres of such an installation; and
 - (b) would, if taking place inside the limits of the Kingdom, constitute an offence under the law in force inside those limits, shall be treated for the purposes of that law as taking place inside those limits.
- (2) His Majesty may by Order-in-Council make provision for the determination of questions arising out of acts or omissions taking place in a designated area, or in any part of such an area, in connection with the exploration of the seabed or subsoil or the exploitation of their natural resources, and for conferring jurisdiction with respect to such questions on courts in the Kingdom.

- (3) Any jurisdiction conferred on any court under this section shall be without prejudice to any jurisdiction exercisable apart from this section by that or any other court.
- (4) Any Order-in-Council under this section may be varied or revoked by a subsequent Order-in-Council and such an Order may be annulled by the legislative Assembly.

5 Safety of navigation.

- (1) No person shall without the consent in writing of the Prime 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, so that any obstruction or danger to navigation is caused or is likely to result.
- (2) Any application made to the Prime Minister for such consent shall be supported by such plans and particulars as the Prime Minister may consider necessary.
- (3) If the prime Minister is of opinion that any operation in respect of which an application is made to him under this section will cause or is likely to result in any obstruction or danger to navigation he shall either refuse his consent or give this consent subject to such conditions as he may think fit having regard to the nature and extent of the obstruction or danger which it appears to him would otherwise be caused or be likely to result.
- (4) A consent of the Prime Minister under this section may be given so as to continue in force, unless renewed, only if the operation for which the consent is given is begun or completed within such period as may be specified in the consent; and any renewal of the consent may be limited in the like manner.

6 Enforcement.

- (1) Any person who—
 - (a) carries out any operation in contravention of the provisions of subsection (1) of section 5 of this Act; or
 - (b) fails to comply with any condition subject to which a consent of the Prime Minister has been given under the section,commits an offence and is liable on conviction to a fine not exceeding \$2000.

- (2) Without prejudice to any proceedings under subsection (1) of this section, where any person has constructed, altered or improved any works in contravention of the provisions of section 5 of this Act or has failed to comply with any condition subject to which a consent of the Prime Minister was given under that section, the Prime Minister may serve a notice on that person requiring him within such period, not being less than 30 days, as may be specified in the notice, to remove the works or make such alterations therein as may be specified in the notice, or, if it appears to the Prime Minister urgently necessary so to do, the Prime 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 under subsection (2) of this section the person upon whom the notice is served fails to comply therewith, the Prime Minister may himself arrange for the works to be removed or altered, as the case may be.
- (4) In any case in which the Prime Minister, exercising the powers conferred by either subsection (2) or subsection (3) of this section, arranges for 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.

7 Discharge of oil

- (1) If any oil 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 pipe-line; or
 - (b) (otherwise than from a ship) as a result of any operations for the exploration of the sea bed and subsoil or the exploitation of their natural resources in a designated area,

the owner of the pipe-line 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) This section applies to crude oil, fuel oil, lubricating oil and heavy diesel oil, as the same may be defined by the Prime Minister by order made under this section, and to any other description of oil which may be so defined by the Prime 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.

Penalty: \$2000 or imprisonment for 2 years or both.

8 Submarine cables and pipe-lines

- (1) No person shall unlawfully and wilfully, or by culpable negligence, break or injure any submarine cable or pipe-line to which this section applies:

Provided that in the application of this subsection to any submarine cable which is not a high-voltage power cable this subsection shall have effect as if there were added thereto immediately after the word “applies” the words “in such manner as might interrupt or obstruct in whole or in part telegraphic or telephonic communication.”

- (2) Any person who acts or attempts to act in contravention of subsection (1) of this section commits an offence and is liable on conviction—
- (a) if he acted wilfully, to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$5000 or to both such imprisonment and fine;
 - (b) if he acted by culpable negligence, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$100 or to both such imprisonment and fine.
- (3) Where a person does any act with the object or preserving the life or limb or himself or of any other person, or of preserving the vessel to which he belongs or any vessel, and takes all reasonable precautions to avoid injury to a submarine cable or pipe-line, that person shall not be deemed to have acted unlawfully and wilfully within the meaning of subsection (1) of this section.
- (4) A person shall not for the purposes of subsection (1) of this section be deemed to have unlawfully and wilfully broken or injured any submarine cable or pipe-line, where in the bona fide attempt to repair another submarine cable or pipe-line injury has been done to such first-mentioned cable or pipe-line, or the same has been broken; but this subsection shall not apply so as to exempt such person from any liability arising whether by virtue of subsection (5) of this section or otherwise, to pay the cost of repairing such breakage or injury.
- (5) In relation to any submarine cable or pipe-line to which this section applies the provisions of Article IV and paragraph 1 of Article VII of the Submarine Telegraphs Convention set out in the Schedule to the Submarine Telegraph Act, 1885 (U.K.) as in force in Tonga shall have effect as those provisions have effect in relation to submarine cables to which that Act (as so in force) applies.

- (6) In this section “vessel” means every description of vessel used in navigation, in whatever way it is propelled; and any reference to a vessel shall include a reference to a boat belonging to such vessel.
- (7) This section applies to any submarine cable or pipe-line laid in a designated area.

9 Agreements and licences.

The Prime Minister with the prior approval of His Majesty in Council may enter into agreements with or grant licences to any person for the exploration by that person of the sea bed or subsoil or the exploration of the resources thereof in any designated area upon such terms and conditions not inconsistent with the provisions of this Act as may appear to the Prime Minister to be proper.

10 Prosecutions of offences etc.

- (1) Proceedings for any offence under this Act (including an offence under any other law applied by or under this Act and anything which is an offence by virtue of section 4(1) of this Act) may be taken, and such offence may for all incidental purposes be treated as having been committed, inside the limits of the Kingdom.
- (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 or 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) In 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.
- (4) A police officer shall on any installation in a designated area outside the limits of the Kingdom have all the powers, protection and privileges which he has inside the limits of the Kingdom.