

Reprint
as at 13 January 2020



Continental Shelf Act 1964

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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

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Foreign Affairs and Trade.

1 Short Title

This Act may be cited as the Continental Shelf Act 1964.

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

Authority means the International Sea-Bed Authority established by article 156 of the Convention

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 seaward-side boundaries

Convention means the United Nations Convention on the Law of the Sea, done at Montego Bay, Jamaica on 10 December 1982

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

seaward-side boundaries, in relation to the continental shelf, means the actual boundaries (if any) delineated by an order under subsection (2) and, to the extent that no boundaries of that kind are delineated in that way, the boundaries that are—

- (a) a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured (as described in sections 5, 6, and 6A of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) where the outer edge of the continental margin does not extend beyond that distance; and
 - (b) at the outer edge of the continental margin where it extends beyond that distance.
- (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.

Section 2(1) subsection number: inserted, on 1 October 1977 (applying to the parts of New Zealand specified in Part B of the Schedule of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act Commencement Order 1977), by section 33(1) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (1977 No 28).

Section 2(1) **Authority**: inserted, on 1 August 1996, by section 2(1) of the Continental Shelf Amendment Act 1996 (1996 No 71).

Section 2(1) **continental shelf**: substituted, on 15 December 2005, by section 3(1) of the Continental Shelf Amendment Act 2005 (2005 No 96).

Section 2(1) **Convention**: inserted, on 1 August 1996, by section 2(3) of the Continental Shelf Amendment Act 1996 (1996 No 71).

Section 2(1) **mineral**: inserted, on 1 October 1977 (applying to the parts of New Zealand specified in Part B of the Schedule of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act Commencement Order 1977), by section 33(1) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (1977 No 28).

Section 2(1) **seaward-side boundaries**: added, on 15 December 2005, by section 3(2) of the Continental Shelf Amendment Act 2005 (2005 No 96).

Section 2(2): added, on 1 October 1977 (applying to the parts of New Zealand specified in Part B of the Schedule of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act Commencement Order 1977), by section 33(1) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (1977 No 28).

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), 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—
 - (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 purposes of section 2A of that Act; and
 - (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.

Section 4(1): amended, on 1 October 1991, by section 121 of the Crown Minerals Act 1991 (1991 No 70).

Section 4(1)(c): amended, on 24 May 2013, by section 4 of the Continental Shelf Amendment Act 2013 (2013 No 16).

Section 4(1)(c): amended, on 1 October 1991, by section 121 of the Crown Minerals Act 1991 (1991 No 70).

Section 4(1)(c): amended, on 1 September 1972, by section 6(1) of the Ministry of Transport Amendment Act 1972 (1972 No 4).

Section 4(1)(d): repealed, on 1 October 1975, by section 9 of the Petroleum Amendment Act 1975 (1975 No 43).

Section 4(2): amended, on 1 October 1991, by section 121 of the Crown Minerals Act 1991 (1991 No 70).

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.
- (2) The Minister of Energy and Resources may from time to time, on application in that behalf, grant to any person a licence authorising the licensee to prospect and mine for, and carry on operations for the recovery of, minerals or of minerals of any specified kinds in any specified area of the continental shelf.
- (3) Subject to section 5A, every licence granted under this section shall be subject to such conditions as the Minister, when granting the licence, thinks fit to impose in the circumstances of each particular case, including, but without limiting the generality of the foregoing provisions of this section, conditions requiring the licensee—
 - (a) to comply with such conditions as to safety as are specified in the licence, and for this purpose the Minister may require the licensee to comply with all or any of the provisions as to safety of the Mining Act 1926 or the Coal Mines Act 1925 or of any regulations under either of those Acts, with such modifications as the Minister considers necessary;
 - (b) to pay to the Crown in respect of minerals recovered by the licensee from the continental shelf such royalties as are specified in the licence.
- (4) The grant of a licence under this section shall in every case be in the absolute discretion of the Minister of Energy and Resources.
- (5) Any number of licences under this section may be granted to the same person.
- (6) Subject to the provisions of subsection (3), nothing in the Mining Act 1926 or in the Coal Mines Act 1925 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 conviction to a fine not exceeding £100, 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).
- (8) No licence may be granted under this section after the commencement of section 5AA, regardless of whether an application for the licence is made before that date. Instead, clause 5 of Schedule 1 of the Crown Minerals Act 1991

applies to the application as if it were an application described in subclause (1) of that clause.

- (9) A person granted a licence to prospect for minerals under this section before the commencement of section 5AA may apply for a subsequent exploration or mining permit in accordance with section 32 of the Crown Minerals Act 1991 as if the licence to prospect were a prospecting permit or exploration permit granted under that Act by operation of section 5AA.

Section 5(2): amended, on 13 January 2020, by section 14 of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

Section 5(2): amended, on 1 April 1978, by section 25 of the Ministry of Energy Act 1977 (1977 No 33).

Section 5(3): amended, on 1 August 1996, by section 3 of the Continental Shelf Amendment Act 1996 (1996 No 71).

Section 5(4): amended, on 13 January 2020, by section 14 of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

Section 5(4): amended, on 1 April 1978, by section 25 of the Ministry of Energy Act 1977 (1977 No 33).

Section 5(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 5(8): inserted, on 24 May 2013, by section 5 of the Continental Shelf Amendment Act 2013 (2013 No 16).

Section 5(9): inserted, on 24 May 2013, by section 5 of the Continental Shelf Amendment Act 2013 (2013 No 16).

5AA Mining for minerals on continental shelf on or after commencement of this section

From the commencement of this section, the Crown Minerals Act 1991 (except section 10) and any regulations made under that Act, as far as they are applicable and with any necessary modifications, apply to minerals other than petroleum in the seabed or 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 those regulations to New Zealand included a reference to the continental shelf; and
- (c) the Minister of Transport were the appropriate Minister for the purposes of section 2A of that Act.

Section 5AA: inserted, on 24 May 2013, by section 6 of the Continental Shelf Amendment Act 2013 (2013 No 16).

5A Payments and contributions with respect to exploitation of continental shelf beyond 200 nautical miles

- (1) This section applies to—

- (a) every licence granted under section 5 in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured; and
 - (b) every permit granted under section 25 of the Crown Minerals Act 1991 in respect of the exploration for or the mining of petroleum in the seabed and subsoil of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured; and
 - (c) every permit granted under section 25 of the Crown Minerals Act 1991, in respect of the exploration for or the mining of minerals other than petroleum in the seabed and subsoil of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
- (2) The Minister of Energy and Resources shall impose in every licence to which this section applies the condition that the licensee pay to the Crown royalties at the rate specified in the licence.
 - (3) The Minister of Energy and Resources shall impose in every permit to which this section applies the condition that the holder of the permit pay to the Crown royalties at the rate specified in the permit.
 - (4) In specifying the rate of royalties for the purposes of subsection (2) or subsection (3), the Minister shall have regard to New Zealand's rights and obligations under article 82 of the Convention.
 - (5) The Crown shall make all payments or contributions in kind required to be made to the Authority from time to time under the terms of article 82 of the Convention.

Section 5A: inserted, on 1 August 1996, by section 4 of the Continental Shelf Amendment Act 1996 (1996 No 71).

Section 5A(1)(b): amended, on 13 January 2020, by section 15(1) of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

Section 5A(1)(b): amended, on 24 May 2013, by section 7(1) of the Continental Shelf Amendment Act 2013 (2013 No 16).

Section 5A(1)(c): amended, on 13 January 2020, by section 15(2) of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

Section 5A(1)(c): inserted, on 24 May 2013, by section 7(2) of the Continental Shelf Amendment Act 2013 (2013 No 16).

Section 5A(2): amended, on 13 January 2020, by section 15(3) of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

Section 5A(3): amended, on 13 January 2020, by section 15(4) of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

Section 5A(4): amended, on 13 January 2020, by section 15(5) of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

6 Oysters, other shellfish, and sponges on continental shelf

- (1) Subject to the provisions of subsection (2), the provisions of Part 1 of the Fisheries Act 1908 and of Part 1 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]*
- (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) 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) shall apply with respect to any other sedentary species of shellfish or to sedentary sponges.

Section 6(1): amended, on 1 January 1966, by section 11 of the Territorial Sea and Fishing Zone Act 1965 (1965 No 11).

Section 6(1)(a): amended, on 1 January 1966, by section 11 of the Territorial Sea and Fishing Zone Act 1965 (1965 No 11).

Section 6(1)(c): repealed, on 1 January 1966, by section 11 of the Territorial Sea and Fishing Zone Act 1965 (1965 No 11).

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 situ-

- ated in that part of New Zealand above high-water 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 any 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 in connection with the exploration of the continental shelf or the exploitation 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);
 - (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.

Section 7(1)(e): amended, on 1 January 1967, pursuant to section 311(1) of the Customs Act 1966 (1966 No 19).

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) *[Repealed]*
- (b) *[Repealed]*
- (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) *[Repealed]*
- (g) *[Repealed]*
- (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) *[Repealed]*
- (j) *[Repealed]*
- (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 £500.

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

Section 8(1)(a): repealed, on 28 June 2013, by section 171 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 8(1)(b): repealed, on 28 June 2013, by section 171 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 8(1)(f): repealed, on 28 June 2013, by section 171 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 8(1)(g): repealed, on 28 June 2013, by section 171 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 8(1)(i): repealed, on 28 June 2013, by section 171 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 8(1)(j): repealed, on 28 June 2013, by section 171 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

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 and Resources shall be read as a reference to the Council of State 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.

Section 9(2)(b): amended, on 13 January 2020, by section 16 of the Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62).

Section 9(2)(b): amended, on 1 April 1978, by section 25 of the Ministry of Energy Act 1977 (1977 No 33).

Section 9(2)(b): amended, at 11 pm on 19 October 1974, pursuant to section 2(2)(c) of the Niue Amendment Act 1974 (1974 No 43).

Section 9(2)(b): amended, at 10.30 pm on 4 August 1965, pursuant to section 57(3) of the Cook Islands Amendment Act 1964 (1964 No 70).

Section 9(2)(c): amended, at 11 pm on 19 October 1974, pursuant to section 2(2)(d) of the Niue Amendment Act 1974 (1974 No 43).

Reprints notes

1 *General*

This is a reprint of the Continental Shelf Act 1964 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Regulatory Systems (Economic Development) Amendment Act 2019 (2019 No 62): Part 3

Continental Shelf Amendment Act 2013 (2013 No 16)

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72): section 171

Criminal Procedure Act 2011 (2011 No 81): section 413

Continental Shelf Amendment Act 2005 (2005 No 96)

Continental Shelf Amendment Act 1996 (1996 No 71)

Crown Minerals Act 1991 (1991 No 70): section 121

Ministry of Energy Act 1977 (1977 No 33): section 25

Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (1977 No 28): section 33(1)

Petroleum Amendment Act 1975 (1975 No 43): section 9

Niue Amendment Act 1974 (1974 No 43): section 2(2)(c), (d)

Ministry of Transport Amendment Act 1972 (1972 No 4): section 6(1)

Customs Act 1966 (1966 No 19): section 311(1)

Territorial Sea and Fishing Zone Act 1965 (1965 No 11): section 11

Cook Islands Amendment Act 1964 (1964 No 70): section 57(3)