

Seas and Submerged Lands Act 1973, as amended by the Maritime Legislation Amendment Act 1994

An Act relating to Sovereignty in respect of certain Waters of the Sea and in respect of the Airspace over, and the Seabed and Subsoil beneath, those Waters and to Sovereign Rights in respect of the Continental Shelf and the Exclusive Economic Zone and to certain rights of control in respect of the Contiguous Zone.

Preamble

WHEREAS a belt of sea adjacent to the coast of Australia, known as the territorial sea, and the airspace over the territorial sea and the bed and subsoil of the territorial sea, are within the sovereignty of Australia.

AND WHEREAS Australia as a coastal State has:

- (a) Sovereign rights in respect of the waters, the seabed and the subsoil that constitute the exclusive economic zone of Australia for the purposes of:
 - (i) Exploring the zone; and
 - (ii) Exploiting, conserving and managing the natural resources of the zone; and
- (b) Sovereign rights with regard to other activities for the economic exploitation and exploration of the exclusive economic zone of Australia, such as the production of energy from water, currents and winds; and
- (c) Jurisdiction in accordance with international law in relation to:
 - (i) The establishment and use of artificial islands, installations and structures in the exclusive economic zone; and
 - (ii) Marine scientific research in the exclusive economic zone; and
 - (iii) The protection and preservation of the marine environment in the exclusive economic zone; and
- (d) Other rights and duties in relation to the exclusive economic zone provided for in the United Nations Convention on the Law of the Sea:

AND WHEREAS Australia as a coastal State has sovereign rights in respect of the continental shelf (that is to say, the seabed and subsoil of certain submarine areas adjacent to its coast but outside the area of the territorial sea) for the purpose of exploring it and exploiting its natural resources:

AND WHEREAS Australia as a coastal State has the right under international law to exercise control within a contiguous zone to:

- (a) Prevent infringements of customs, fiscal, immigration or sanitary laws within Australia or the territorial sea of Australia;
- (b) To punish infringements of those laws:

BE IT THEREFORE ENACTED by the Queen, the Senate and the House of Representatives of Australia, as

follows:

Interpretation

3. (1) In this Act, unless the contrary intention appears:

"Australia" includes the Territories to which this Act extends;

"continental shelf" has the same meaning as paragraph 1 of article 76 of the Convention;

"contiguous zone" has the same meaning as in article 33 of the Convention;

"exclusive economic zone" has the same meaning as in articles 55 and 57 of the Convention;

"territorial sea" has the same meaning as in articles 3 and 4 of the Convention;

"the Convention" means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 (Parts II, V and VI of which are set out in the Schedule).

(2) In this Act, including section 6, a reference to the territorial sea of Australia is a reference to that territorial sea so far as it extends from time to time.

(2A) In this Act, including section 10A, a reference to the exclusive economic zone of Australia is a reference to that zone so far as it extends from time to time.

(3) In this Act, including section 11, a reference to the continental shelf of Australia is a reference to that continental shelf so far as it extends from time to time.

(3A) In this Act, including section 13A, a reference to the contiguous zone of Australia is a reference to that zone so far as it extends from time to time.

(4) Where a Proclamation is in force under section 7, the territorial sea of Australia shall, for all purposes of this Act, be taken to extend to the limits declared by that Proclamation.

(4A) If a Proclamation is in force under section 10B, the exclusive economic zone of Australia is taken, for all purposes of this Act, to extend to the limits declared by that Proclamation.

(5) Where a Proclamation is in force under section 12, the continental shelf of Australia shall, for all purposes of this Act, be taken to extend to the limits declared by that proclamation.

(5A) If a Proclamation is in force under section 13B, the contiguous zone of Australia is taken, for all purposes of this Act, to extend to the limits declared by that Proclamation.

Extension to Territories

4. This Act extends to all the Territories.

PART II

SOVEREIGNTY, SOVEREIGN RIGHTS AND RIGHTS OF CONTROL

Division 1

The territorial sea

Interpretation

5. In this Division, "the territorial sea" means the territorial sea of Australia.

Sovereignty in respect of territorial sea

6. It is by this Act declared and enacted that the sovereignty in respect of the territorial sea, and in respect of the airspace over it and in respect of its bed and subsoil, is vested in and exercisable by the Crown in right of the Commonwealth.

Limits of territorial sea

7. (1) The Governor-General may, from time to time, by Proclamation, declare, not inconsistently with Section I of Part II of the Convention, the limits of the whole or of any part of the territorial sea.

(2) For the purposes of such a Proclamation, the Governor-General may, in particular, determine either or both of the following:

- (a) The breadth of the territorial sea;
- (b) The baseline from which the breadth of the territorial sea, or of any part of the territorial sea, is to be measured.

Declaration of historic bays and historic waters

8. Where the Governor-General is satisfied:

- (a) That a bay is an historic bay, he may, by Proclamation, declare that bay to be an historic bay and shall, by the same or another Proclamation, define the seaward limits of that bay; or
- (b) That waters are historic waters, he may, by Proclamation, declare those waters to be historic waters and shall, by the same or another Proclamation, define the limits of those waters.

Charts of limits of territorial sea

9. (1) The Minister may cause to be prepared and issued such charts as he thinks fit showing any matter relating to the limits of the territorial sea.

(2) In particular, the Minister may cause to be prepared and issued large-scale charts showing the low-water line along the coast and may cause to be shown on such a chart any other matter referred to in subsection (1).

(3) The mere production of a copy of a paper purporting to be certified by the Minister to be a true copy of a chart prepared under this section is prima facie evidence of any matter shown on the chart relating to the limits of the territorial sea.

Sovereignty in respect of internal waters

10. It is by this Act declared and enacted that the sovereignty in respect of the internal waters of Australia (that is to say, any waters of the sea on the landward side of the baseline of the territorial sea) so far as they extend from time to time, and in respect of the airspace over those waters and in respect of the seabed and subsoil beneath those waters, is vested in and exercisable by the Crown in right of the Commonwealth.

Division 1A **The exclusive economic zone**

Sovereign rights in respect of exclusive economic zone

10A. It is declared and enacted that the rights and jurisdiction of Australia in its exclusive economic zone are vested in and exercisable by the Crown in right of the Commonwealth.

Limits of exclusive economic zone

10B. The Governor-General may, from time to time, by Proclamation declare, not inconsistently with:

- (a) Article 55 or 57 of the Convention; or
- (b) Any relevant international agreement to which Australia is a party;

the limits of the whole or of any part of the exclusive economic zone of Australia.

Charts of limits of exclusive economic zone

10C. (1) The Minister may cause to be prepared such charts as he or she thinks fit showing any matter relating to the limits of the exclusive economic zone of Australia.

(2) The mere production of a copy of a paper purporting to be certified by the Minister to be a true copy of such a chart is prima facie evidence of any matter shown on the chart relating to the limits of the exclusive economic zone of Australia.

Division 2 **The continental shelf**

Sovereign rights in respect of continental shelf

11. It is by this Act declared and enacted that the sovereign rights of Australia as a coastal State in respect of the continental shelf of Australia, for the purpose of exploring it and exploiting its natural resources, are vested in and exercisable by the Crown in right of the Commonwealth.

Limits of continental shelf

12. The Governor-General may, from time to time by Proclamation, declare, not inconsistently with article 76 of the Convention or any relevant international agreement to which Australia is a party, the limits of the whole or any part of the continental shelf of Australia.

Charts of limits of continental shelf

13. (1) The Minister may cause to be prepared and issued such charts as he thinks fit showing any matter relating to the limits of the continental shelf of Australia.

(2) The mere production of a copy of a paper purporting to be certified by the Minister to be a true copy of a chart prepared under this section is prima facie evidence of any matter shown on the chart relating to the limits of the continental shelf of Australia.

Division 2A The contiguous zone

Rights of control in respect of contiguous zone

13A. It is declared and enacted that Australia has a contiguous zone.

Note: The rights of control that Australia, as a coastal State, has in respect of the contiguous zone of Australia are exercisable in accordance with applicable Commonwealth, State and Territory laws.

Limits of contiguous zone

13B. The Governor-General may, from time to time, by Proclamation declare, not inconsistently with:

- (a) Section 4 of Part II of the Convention; or
- (b) Any relevant international agreement to which Australia is a party;

the limits of the whole or of any part of the contiguous zone of Australia.

Charts of limits of contiguous zone

13C. (1) The Minister may cause to be prepared such charts as he or she thinks fit showing any matter relating to the limits of the contiguous zone of Australia.

(2) The mere production of a copy of a paper purporting to be certified by the Minister to be a true copy of such a chart is prima facie evidence of any matter shown on the chart relating to the limits of the contiguous zone of Australia.

Division 3
Savings

Part II does not affect waters, etc., within State limits

14. Nothing in this Part affects sovereignty or sovereign rights in respect of any waters of the sea that are waters of or within any bay, gulf, estuary, river, creek, inlet, port or harbour and:

- (a) Were, on 1 January 1901, within the limits of a State; and
- (b) Remain within the limits of the State,

or in respect of the airspace over, or in respect of the seabed or subsoil beneath any such waters.

Certain property not vested in Commonwealth

15. Nothing in this Part shall be taken to vest in the Crown in right of the Commonwealth any wharf, jetty, pier, breakwater, building, platform, pipeline, lighthouse, beacon, navigational aid, buoy, cable or other structure or works.

Saving of other laws

16. (1) The preceding provisions of this Part:

- (a) Do not limit or exclude the operation of any law of the Commonwealth or of a Territory other than the Northern Territory, in force at the date of commencement of this Act or coming into force after that date; and
- (b) Do not limit or exclude the operation of any law of a State or of the Northern Territory in force at the date of commencement of this Act or coming into force after that date, except in so far as the law is expressed to vest or make exercisable any sovereignty or sovereign rights otherwise than as provided by the preceding provisions of this Part.

(2) A law of a State or of the Northern Territory shall not be taken to be within the words of exception in paragraph (b) of subsection (1):

- (a) By reason that the law makes provision with respect to, or touching or concerning, any seabed or subsoil that is declared by Division 1 to be within the sovereignty of the Crown in right of the Commonwealth, or the living or non-living resources of any such seabed or subsoil, if proprietary rights in respect of that seabed or subsoil have become vested in the Crown in right of the State or of the Northern Territory, as the case may be, by or under a law of the Commonwealth; or
- (b) By reason that the law makes provision with respect to, or touching or concerning, any seabed or subsoil referred to in Division 1 or Division 2 but in respect of which paragraph (a) does not apply, or the living or non-living resources of any such seabed or subsoil, if the law is otherwise within powers with respect to particular matters that are conferred on the legislature of the State or of the Northern Territory, as the case may be, by the *Coastal Waters (State Powers) Act 1980* or the *Coastal Waters (Northern Territory Powers) Act 1980*.