

LAWS OF FIJI
CHAPTER 149
CONTINENTAL SHELF

Act No. 9 of 1970.

**AN ACT TO MAKE PROVISION FOR THE PROTECTION, EXPLORATION AND EXPLOITATION
OF THE NATURAL RESOURCES OF THE CONTINENTAL SHELF OF FIJI AND OF AREAS
WITHIN THE TERRITORIAL LIMITS OF FIJI AND FOR MATTERS CONNECTED WITH THAT
PURPOSE**

[30th December, 1970]

Short title

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

Interpretation

2. In this Act, unless the context otherwise requires-

"continental shelf" means the seabed 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 section 3;

"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 seabed or subsoil or the exploitation of the natural resources thereof;

"minerals" has the same meaning as in the Mining Act;

(Cap. 146)

"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;

"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) that has been returned to a natural reservoir.

Exploration and exploitation of continental shelf

3.-(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 subsection (1) are exercisable.

(3) In relation to-

- (a) any petroleum with respect to which any rights referred to in subsection (1) 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) 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) 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 subsection (4), 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 a 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), 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), included a reference to the continental shelf and to to [sic] 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 subsection (3) to such extent as may be necessary for the purpose of giving full effect to the provisions of that subsection.

Application of laws

4.-(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 subsection (2) 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 sub-paragraph (ii).

(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 subsections (6) and (7) jurisdiction is conferred on the several courts of Fiji in all matters arising under the applied provisions.

(6) The jurisdiction conferred on courts by the provisions of subsection (5) is conferred within the limits, other than territorial, of their several jurisdictions, whether those limits are as to subject matter or otherwise.

(7) Subject to the provisions of this Act the laws in force in Fiji with respect to the arrest and custody of offenders or persons charged with offences and the procedures for-

(a) their trial and conviction; and

(b) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith; and

(c) for holding persons to bail,

shall apply to all persons who are charged in Fiji with any offence arising under the applied provisions.

(8) The Minister may from time to time by order-

(a) modify or exclude any of the applied provisions to such extent as he considers necessary for the proper application of the applied provisions to the superjacent waters of the continental shelf; or

(b) declare that any of the applied provisions with such modifications or exceptions as he thinks fit, shall apply with respect to a specified part or parts of a designated area.

(9) 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 to be done outside Fiji or the jurisdiction of any court in Fiji under any such enactment or rule of law.

(10) Notwithstanding anything contained in any other enactment, proceedings for the trial and punishment of any person charged with having committed any offence in respect of which the courts of Fiji have jurisdiction by virtue only of the provisions of this section shall not be instituted in any event except with the consent of the Director of Public Prosecutions 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 Director of Public Prosecutions 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.

Application of customs laws

5. 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 seabed within such designated area in connection with the exploration of the seabed or subsoil or the exploitation of the natural resources thereof.

Safety zones for protection of installations in designated areas

6.-(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 subsection (1) 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.

Safety of navigation

7.-(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 seabed; or

(b) remove any object or any material from any part of the seabed,

in such manner that any obstruction or danger to navigation is caused or is likely to arise.

(2) Any application made to the Minister for his consent, under the provisions of subsection (1) shall be supported by such plans and particulars as the Minister may consider necessary.

(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 cause or be likely to result.

(4) The consent of the Minister, under the provisions of this section, may be given so as to continue in force, unless renewed, only if the operation is begun or completed within such period as is specified in the consent and any renewal of the consent may be limited in like manner.

Enforcement

8.-(1) Any person who

(a) carries out any operation in contravention of the provisions of subsection (1) of section 7; 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 subsection (1), where any person has constructed, altered or improved any works in contravention of the provisions of section 7 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 subsection (2) 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 subsections (2) or (3) 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.

Discharge of oil

9.-(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 seabed 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.

Regulations

10.-(1) The Minister may from time to time make regulations not inconsistent with the provisions of this Act, prescribing all matters and things which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), regulations made thereunder may make provision for any of the following purposes:

(a) regulating the construction, erection, or use of installations or devices in any designated area, or any specified part thereof, in connexion with the exploration of the seabed or subsoil or the exploitation of the natural resources thereof;

(b) prescribing such measures as are considered necessary in any safety zone for the protection of any installation or device with respect to which the safety zone is established;

(c) prescribing measures to be taken in a safety zone for the protection of the living resources of the sea and the natural resources of the seabed and subsoil from harmful agents;

(d) prescribing the notice to be given of the construction, erection or placing of installations or devices in any designated area;

(e) prescribing the measures to be taken for the purpose of giving warning to shipping and aircraft of the presence of installations or devices in any designated area;

(f) providing for the removal of installations or devices constructed, erected or placed in any designated area which have become abandoned or disused;

(g) prohibiting or restricting exploration of any specified part of any designated area or the exploitation of the natural resources of the seabed or subsoil thereunder which in the opinion of the Minister could result in unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea or could interfere with national defence or with oceanographic or other scientific research or with submarine cables or pipelines;

(h) prescribing penalties for breaches of such regulations not exceeding two thousand dollars or a fine not exceeding that amount for each day on which the offence occurs.

Prosecution of offences

11.-(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 orf [sic] 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 subsection (2), "director" in relation to any statutory corporation, the affairs of which are managed by its members, means a member of that corporation.

Controlled by Ministry of Lands and Mineral Resources

Subsidiary Legislation

CHAPTER 149

CONTINENTAL SHELF

SECTION 3-DESIGNATION OF AREA

Order by the Minister

Order 16th Apr., 1971

The area lying between latitudes 15 degrees 30 minutes south and 21 degrees 30 minutes south as contained by meridians of longitude 176 degrees 30 minutes east and 178 degrees west has been designated as being an area to which the provisions of the Act applies, and, in respect of any areas of superjacent waters of the continental shelf included therein, within which the rights referred to in subsection (1) of section 3 of the Act are exercisable.

Controlled by Ministry of Lands Mineral Resources
