

**NIUE LAWS
LEGISLATION AS AT DECEMBER 2006**

CONTINENTAL SHELF ACT 1964

1964/28 (NZ) – 3 November 1964

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**To make provision as to the exploration and exploitation of the continental shelf
of Niue and for matters connected with that purpose**

1 Short title

This is the Continental Shelf Act 1964.

2 Interpretation

In this Act –

"continental shelf" means the seabed and subsoil of those submarine areas adjacent to the coast of Niue, but beyond the territorial limits of Niue, the surface of which lies at a depth no greater than 200 metres below the surface of the sea, or, where the natural resources thereof are capable of exploitation, at any greater depth;

"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.

3 Exploration and exploitation of continental shelf

All rights that are exercisable by Niue 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

The Mining Act 1977 shall, as far as applicable and with any necessary modification, apply with respect to petroleum in the seabed and subsoil of the continental shelf.

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) Cabinet may 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) Every licence granted under this section shall be subject to such conditions as the Cabinet, when granting the licence, thinks fit to impose in the circumstances of each particular case, including, but without limiting the generality of this section, conditions requiring the licensee –

(a) To comply with such conditions as to safety as are specified in the licence;

(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 Cabinet.

(5) Any number of licences under this section may be granted to the same person.

(6) [Repealed by 2004/270]

(7) Every person commits an offence, and is liable on conviction to a fine not exceeding 2 penalty units, 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).

6 [Repealed by 2004/270]

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 Niue –

(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 Niue; and

(b) Every such installation or device shall be deemed to be situated in Niue, and for the purposes of jurisdiction shall be deemed to be situated in that part of Niue above highwater mark at ordinary spring tides which is nearest to that installation or device; and

(c) Every court in Niue which would have jurisdiction (whether civil or criminal) in respect of that act or omission if it had taken place in Niue 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 Niue may be exercised on or in respect of any such installation or device as if the installation or device were in Niue; and

(e) Subject to the custom laws, 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 Niue 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) [Spent]

(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 Niue or the jurisdiction of any Niue 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 Niue have jurisdiction by virtue only of this section shall not be instituted in any court except with the certificate of Cabinet that it is expedient that the proceedings should be instituted:

(5) 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 Cabinet 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.

(6) In this section "device" includes any ship or floating platform or aircraft that is used in connection with any installation or device.

8 Regulations

(1) Cabinet may make regulations for all or any of the following purposes –

(a) Regulating the construction, erection, or use of installations or devices in, on, or above the continental shelf, or any specified part thereof, in connection with the exploration of the shelf or that part thereof or the exploitation of its natural resources;

(b) Prohibiting the construction, erection, placing, or use of installations or devices in, on, or above the continental shelf in places where they could cause interference with the use of recognised sea lanes essential to coastwise or international navigation;

(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 Cabinet 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) Prescribing measures to be taken in any such safety zone for the protection of the living resources of the sea and the natural resources of the continental shelf from harmful agents;

(g) Prescribing the notice to be given of the construction, erection, or placing of installations or devices in, on, or above the continental shelf;

(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) Providing for the removal of installations or devices constructed, erected, or placed in, on, or above the continental shelf which have been abandoned or become disused;

(j) Prohibiting or restricting any exploration of the continental shelf or any specified part thereof or any exploitation of its natural resources which in the opinion of the Cabinet could result in an 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;

(k) Providing for such matters as are necessary for giving full effect to this Act and for its due administration;

(1) Prescribing penalties for breaches of the regulations, not exceeding a fine of 10 penalty units.

(2) In this section "continental shelf" includes the seabed and subsoil of the submarine areas within the territorial limits of Niue.

9. [Spent]