

Version
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Antarctic Marine Living Resources Act 1981

Public Act 1981 No 53
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Commencement 1 January 1982

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry for Primary Industries.

Schedule

11

An Act to give effect to the Convention on the Conservation of Antarctic Marine Living Resources**1 Short Title, commencement, and application**

- (1) This Act may be cited as the Antarctic Marine Living Resources Act 1981.
- (2) This Act shall come into force on 1 January 1982.
- (3) The provisions of this Act shall apply in respect of—
 - (a) any matter or thing done, to be done, or omitted to be done within New Zealand or New Zealand fisheries waters:
 - (b) any act or omission occurring on any New Zealand ship or aircraft, or by any New Zealand citizen, wherever that ship or aircraft or person may be.

2 Interpretation

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

aircraft has the same meaning as in section 2 of the Civil Aviation Act 1990

another contracting party means a contracting party to the Convention other than New Zealand

Antarctic Convergence has the meaning given to it by Article I of the Convention

conservation measures means measures for the conservation of Antarctic marine living resources that are adopted from time to time by the Commission for the Conservation of Antarctic Marine Living Resources under Article IX of the Convention

Convention means the Convention on the Conservation of Antarctic Marine Living Resources that was opened for signature at Canberra on 1 August 1980, a copy of the English text of which is set out in Schedule 1

Convention Area means the area south of the Antarctic Convergence

hovercraft means a machine designed to be supported in the atmosphere, wholly or partly by air expelled from the machine to form a cushion extending beneath the machine to the surface of any ground, water, or other portion of the earth's surface

inspector means a person who is a high seas fishery inspector by virtue of section 113Q of the Fisheries Act 1996

marine organism means any organism in the Convention Area that belongs to any species of living organisms that are found in the Convention Area

Minister means the Minister of Fisheries; and includes any person authorised by the Minister to exercise all or any of his powers under this Act

New Zealand includes the Ross Dependency

New Zealand fisheries waters has the same meaning as in section 2(1) of the Fisheries Act 1996

New Zealand national means—

- (a) a New Zealand citizen; or
- (b) an individual who is ordinarily resident in New Zealand, as defined in section 6(2) and (3) of the Overseas Investment Act 2005; or
- (c) a body corporate established by or under New Zealand law

New Zealand ship has the same meaning as in section 2(1) of the Maritime Transport Act 1994

permit means a permit issued under this Act

take includes—

- (a) to take, catch, kill, injure, attract, poison, tranquilise, herd, harass, disturb, or possess:
- (b) to brand, tag, mark, or do any similar thing:
- (c) to attempt to do any act specified in paragraph (a) or paragraph (b)

vessel means any ship, boat, steamer, lighter, launch, raft, barge, punt, or ferry boat; and includes every description of vessel, whether used in navigation or in any way kept or used as a hulk or storeship or for any other purpose.

- (2) Terms and expressions used in this Act but defined in the Convention shall, unless the context otherwise requires, have the same meaning as in the Convention.

Section 2(1) **aircraft**: substituted, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 2(1) **hovercraft**: substituted, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 2(1) **inspector**: inserted, on 1 May 2001, by section 2(2) of the Antarctic Marine Living Resources Amendment Act 1999 (1999 No 104).

Section 2(1) **inspector of sea fishing**: repealed, on 1 May 2001, by section 2(2) of the Antarctic Marine Living Resources Amendment Act 1999 (1999 No 104).

Section 2(1) **New Zealand fisheries waters**: amended, on 1 May 2001, by section 2(1) of the Antarctic Marine Living Resources Amendment Act 1999 (1999 No 104).

Section 2(1) **New Zealand national**: inserted, on 1 May 2001, by section 2(3) of the Antarctic Marine Living Resources Amendment Act 1999 (1999 No 104).

Section 2(1) **New Zealand national** paragraph (b): substituted, on 19 December 2002, by section 3 of the Antarctic Marine Living Resources Amendment Act 2002 (2002 No 56).

Section 2(1) **New Zealand national** paragraph (b): amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **New Zealand ship**: substituted, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

3 Act to bind the Crown

This Act shall bind the Crown.

4 Restrictions on taking marine organisms

Subject to this Act, no person shall in the Convention Area take any marine organism, whether alive or dead, without first obtaining a permit to do so from the Minister.

5 Permits

- (1) Subject to this section, upon application made to the Minister in writing, accompanied by the prescribed fee (if any), the Minister may grant to a person a permit in writing authorising the person to take marine organisms of a specified kind or kinds in, or in a specified part of, the Convention Area.
- (2) In considering any application for a permit, the Minister shall have regard to—
 - (a) the need to conserve marine organisms in accordance with the Convention:
 - (b) the object and principles of the Convention.
- (3) The Minister may attach to any permit such conditions as he thinks fit, including conditions relating to—
 - (a) the taking of marine organisms solely for the purposes of research:
 - (b) the designation of the quantity of any species of marine organisms which may be taken in the Convention Area:
 - (c) the designation of regions and subregions in the Convention Area:
 - (d) the designation of the quantity of any species of marine organisms which may be taken from the populations of regions and subregions:
 - (e) the designation of protected species of marine organisms:
 - (f) the designation of the size, age, and, as appropriate, sex of the species of marine organisms which may be taken:
 - (g) the designation of open and closed seasons for taking marine organisms:
 - (h) the designation of the opening and closing of areas, regions or subregions for purposes of scientific study or conservation, including special areas for protection and scientific study:
 - (i) the regulation of the effort employed and methods of taking (including the vessels, gear, and equipment to be used):
 - (j) the implementation of any system or interim arrangement relating to observation and inspection established under Article XXIV of the Convention:
 - (k) the taking of any other conservation measures:

- (1) the records that are to be kept and the data that is to be collected by the permit holder in relation to activities conducted under the permit, and any information which is to be supplied to the Minister.
- (4) Any permit may be revoked or suspended, and the conditions attached to it amended, at any time by the Minister.
- (5) No permit shall be transferred to any other person except with the consent in writing of the Minister.
- (6) The decision of the Minister as to whether or not to grant a permit, to impose or amend the conditions attached to a permit, or to revoke, suspend, or transfer a permit under this section shall be final.
- (7) The Minister shall give notice in the *Gazette* of any permit granted under this section.

6 Register of permits

- (1) The Minister shall cause to be kept, in such manner and at such place or places as he directs, a register of permits in force from time to time, showing the purpose for which the permit was granted and the conditions (if any) to which each permit is from time to time subject, and such other matters relating to each permit as the Minister thinks fit.
- (2) The register shall be open to the public, and shall be available for inspection during ordinary office hours on payment of the prescribed fee (if any).

7 Offence to take marine organism without permit

- (1) Subject to subsection (2), every person commits an offence against this Act and is liable on conviction to a fine not exceeding \$250,000 who, in the Convention Area, takes any marine organism otherwise than under or pursuant to this Act or a permit.
- (2) No offence is committed against this Act by reason of any act or omission by a person—
 - (a) to the extent that the act or omission is authorised under or pursuant to any enactment other than this Act; or
 - (b) in the case of an act or omission by any person who is not a New Zealand national (otherwise than on board a New Zealand ship or aircraft), to the extent that the act or omission is authorised, whether expressly or impliedly, by another contracting party.
- (3) Upon the conviction of any person for an offence against subsection (1), any marine organism unlawfully taken, and all vessels, vehicles, aircraft, hovercraft, gear, nets, tackle, equipment, and apparatus used in respect of the commission of the offence shall be forfeit to the Crown, and shall be disposed of as the Minister thinks fit.