

Version
as at 28 October 2021



Antarctica Act 1960

Public Act 1960 No 47
Date of assent 21 October 1960
Commencement see section 1

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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 of Foreign Affairs and Trade.

Schedule 2
**Agreed Measures for the Conservation of Antarctic Fauna and
Flora**

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[Repealed]

An Act to confer jurisdiction on the courts of New Zealand to deal with offences committed in the Ross Dependency and certain other parts of Antarctica, and to restrict the jurisdiction of the courts in respect of acts or omissions in Antarctica of certain nationals of other countries

1 Short Title and commencement

- (1) This Act may be cited as the Antarctica Act 1960.
- (2) Sections 4 to 6 shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.
- (3) Except as provided in subsection (2), this Act shall come into force on its passing.
- (4) A Proclamation under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 1(2): sections 4–6 brought into force, on 27 June 1961, by clause 2 of the Antarctica Act Commencement Order 1961 (SR 1961/72).

Section 1(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

2 Interpretation

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

Antarctica means the area south of 60° south latitude, including all ice shelves in that area

exchanged scientist means a person exchanged pursuant to subparagraph (b) of paragraph 1 of Article III of the Treaty (which relates to the exchange of scientific personnel between expeditions and stations in Antarctica)

New Zealand aircraft means any aircraft that is registered or required to be registered in New Zealand under the Civil Aviation Act 1990; and includes any aircraft for the time being used as an aircraft of any of the armed forces of New Zealand

New Zealand ship means a ship registered in New Zealand, or recognised by the law of New Zealand as a ship belonging to New Zealand; and includes any ship for the time being used as a ship of any of the armed forces of New Zealand

observer means an observer designated as such under Article VII(1) of the Treaty or under Article 14(2) of the Protocol on Environmental Protection to the Treaty, a copy of the English text of which is set out in Schedule 2 of the Antarctica (Environmental Protection) Act 1994

Treaty means the Antarctic Treaty, signed at Washington on 1 December 1959, of which a copy is set out in Schedule 1.

- (2) For the purposes of this Act, a person shall be deemed to be ordinarily resident in New Zealand if—
- (a) his home is in New Zealand; or
 - (b) he is residing in New Zealand with the intention of residing therein indefinitely; or
 - (c) having resided in New Zealand with the intention of establishing his home therein, or with the intention of residing in New Zealand indefinitely, he is outside New Zealand but has an intention to return to establish his home therein or to reside in New Zealand indefinitely.

Section 2(1) **New Zealand aircraft**: amended, on 1 September 1990, pursuant to section 101(1) of the Civil Aviation Act 1990 (1990 No 98).

Section 2(1) **observer**: replaced, on 23 January 1998, by section 56(1) of the Antarctica (Environmental Protection) Act 1994 (1994 No 119).

Section 2(1) **Treaty**: amended, on 29 October 1970, by section 3(a) of the Antarctica Amendment Act 1970 (1970 No 34).

3 Offences committed in the Ross Dependency or in certain other parts of Antarctica

- (1) This section applies to any act done or omitted—
- (a) in the Ross Dependency, by any person; or
 - (b) in any part of Antarctica, other than the Ross Dependency, that is not within the jurisdiction of any country, by any person who is a New Zealand citizen or a person ordinarily resident in New Zealand.
- (2) Subject to the provisions of this Act, where any person does or omits any act to which this section applies, and that act or omission would, if it occurred in New Zealand, be an offence under any enactment, whether passed before or after the passing of this Act, he commits an offence and is liable to be proceeded against and punished in the same manner in all respects as if the act or omission had occurred in New Zealand; and the courts of New Zealand shall have jurisdiction accordingly.
- (3) Notwithstanding anything in any other enactment, proceedings for the trial and punishment of any person who,—

- (a) not being a New Zealand citizen or a person ordinarily resident in New Zealand, is charged with having committed an offence in the Ross Dependency; or
- (b) being a New Zealand citizen or a person ordinarily resident in New Zealand, is charged with having committed, in the Ross Dependency, an offence on board any ship or aircraft which is not a New Zealand ship or a New Zealand aircraft; or
- (c) being a New Zealand citizen or a person ordinarily resident in New Zealand, is charged with having committed an offence in any other part of Antarctica, otherwise than on board a New Zealand ship or a New Zealand aircraft—

shall not, by virtue only of the provisions of this Act, 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 a prosecution for the offence has not been obtained; but no further or other proceedings shall be taken until that consent has been obtained.

Section 3 heading: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 3(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 3(3)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 3(3)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 3(3)(c): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 3(3) proviso: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

4 Offences committed by certain New Zealand citizens in other parts of Antarctica

- (1) This section applies to any act done or omitted in any part of Antarctica, other than the Ross Dependency, that is within the jurisdiction of any country by any New Zealand citizen who is an observer or exchanged scientist or a member of the staff accompanying any observer or exchanged scientist, while he is in that part of Antarctica for the purpose of exercising his functions.
- (2) Subject to the provisions of this Act, where any person does or omits any act to which this section applies, and that act or omission would, if it occurred in New Zealand, be an offence under any enactment, whether passed before or after the commencement of this section, he commits an offence and is liable to be proceeded against and punished in the same manner in all respects as if the

act or omission had occurred in New Zealand; and the courts of New Zealand shall have jurisdiction accordingly.

- (3) The provisions of subsection (3) of section 3, so far as they are applicable, shall apply to proceedings for the trial and punishment of any person in respect of any act or omission to which this section applies.

Section 4 heading: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 4(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

5 Restriction of jurisdiction over certain nationals of other countries

- (1) Notwithstanding anything in section 3 or in any other enactment (whether passed before or after the commencement of this section) or in any rule of law, but subject to subsection (1) of section 7, the courts of New Zealand shall not have any jurisdiction, whether civil or criminal, in respect of any act done or omitted by any person who is a national of any Contracting Party to the Treaty, other than New Zealand, and who is an observer or exchanged scientist or a member of the staff accompanying any observer or exchanged scientist, while he is in any part of Antarctica, including the Ross Dependency, for the purpose of exercising his functions.
- (2) In respect of any act or omission to which this section applies, the Contracting Party of which the person who did or omitted the act is a national may waive any immunity of that person under this section; and thereupon, to the extent of the waiver, the courts of New Zealand shall have such jurisdiction as they would have had if subsection (1) had not been passed.

6 Certificate of Minister of Foreign Affairs and Trade to be evidence of certain facts

If in any proceedings there arises any question whether or not any person is or was at any time an observer or exchanged scientist, or a member of the staff accompanying any observer or exchanged scientist, within the meaning of this Act, or whether or not any immunity has been waived under section 5, a certificate issued by the Minister of Foreign Affairs and Trade stating any fact relevant to that question shall be conclusive evidence of that fact.

Section 6: replaced, on 1 July 1993, by section 6(1) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

6A Regulations for conservation of Antarctic fauna and flora

[Repealed]

Section 6A: repealed, on 23 January 1998, by section 56(1) of the Antarctica (Environmental Protection) Act 1994 (1994 No 119).