



ANALYSIS

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1977, No. 96

An Act to amend the Submarine Cables and Pipelines Protection Act 1966 [16 December 1977]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Submarine Cables and Pipelines Protection Amendment Act 1977, and shall be read together with and deemed part of the Submarine Cables and Pipelines Protection Act 1966 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate order, the following definitions:

“ ‘Master’ means any person (except a pilot) having command or charge of any ship:

“ ‘Minister’ means the Minister of Transport:

“ ‘Superintendent’ means a Superintendent of Mercantile Marine appointed pursuant to section 10 of the Shipping and Seamen Act 1952; and includes his deputy.”

3. Abandoned submarine cables and pipelines—The principal Act is hereby amended by inserting, after section 6, the following sections:

“6A. Owner of abandoned submarine cable or pipeline to notify Minister—(1) Where, after the commencement of this section, use of a submarine cable or submarine pipeline ceases and is unlikely to be resumed, the owner of the cable or pipeline shall, forthwith after use thereof ceases, notify the Minister in writing that the cable or pipeline is unlikely to be used again.

“(2) Every person who fails to comply with this section commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$1,000.

“6B. Magistrate may order removal of abandoned submarine cable or pipeline—(1) On the application of the Minister, a Magistrate’s Court may order that a submarine cable or submarine pipeline, or part thereof, that in its opinion—

“(a) Is unlikely to be used again; and

“(b) Constitutes a hazard to fishing operations or the anchoring of ships—

be removed by the owner thereof (at his own expense) from the sea or internal waters of New Zealand (as the case may be) within such time and in accordance with such conditions as are specified in the order.

“(2) If the owner of a submarine cable or submarine pipeline that has been ordered to be removed under this section fails to comply with the order, or any requirement thereof, within the time specified therein or within such further period as the Magistrate’s Court may allow, the Minister may carry out the work, or part of the work, ordered to be carried out, and do all things incidental thereto; and may recover the costs and expenses incurred in doing so from the owner, as a debt due to the Crown.”

4. Protected and restricted areas—Section 7 of the principal Act is hereby amended by repealing subsections (4) and (5), and substituting the following subsection:

“(4) The Minister may, by notice in the *Gazette*, declare that any Order in Council under this section shall not apply in respect of any specified ship or ships or class or classes of ships, and may in like manner vary or revoke any such notice. Any such declaration may be made unconditionally or upon or subject to such conditions as are prescribed in the notice. Notwithstanding the provisions of any Order in Council under this section, any such notice shall have effect according to its tenor.”

5. Further provisions relating to protected and restricted areas—The principal Act is hereby amended by inserting, after section 7, the following sections:

“7A. Certain activities prohibited in protected and restricted areas—(1) If—

“(a) Fishing operations are conducted from a ship in an area declared to be a protected or restricted area in respect of that ship under section 7 of this Act;
or

“(b) A ship is anchored in any such area—
the owner, and the master, of the ship commit an offence against this Act and are each liable on summary conviction to a fine not exceeding \$5,000.

“(2) Every person who fails to comply with or acts in contravention of any Order in Council under section 7 of this Act commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$5,000.

“(3) Notwithstanding the provisions of this section, it shall be a defence to a prosecution under this section if any anchoring to which the prosecution relates was necessary for the purpose of saving life or a ship in distress.

“7B. Ship may be ordered from protected or restricted area—(1) Where a Superintendent, or any person authorised in writing by a Superintendent to give orders under this section, believes on reasonable grounds that—

“(a) Fishing operations are being conducted from a ship in an area declared to be a protected or restricted area in respect of that ship under section 7 of this Act; or

“(b) A ship is anchored in any such area—
he may order the master of the ship to remove the ship from that area. Any such order may be given by any means of communication.

“(2) Without derogating from any other provision of this Act, any master who fails to comply with an order given under this section within a reasonable period of time commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$1,000.

“7c. **Fishing equipment in protected or restricted area may be seized**—(1) A Superintendent, or any person authorised in writing by a Superintendent to seize equipment under this section, may seize any fishing equipment that he finds in the water in an area declared to be a protected or restricted area under section 7 of this Act and that he believes, on reasonable grounds, has been left there by a ship to which that declaration applies.

“(2) When any equipment is seized under this section, the person making the seizure shall forthwith arrange for notice of the seizure to be posted at the police station nearest to where the seizure was made.

“(3) Subject to subsection (4) of this section, equipment seized under this section shall be returned (at the expense of the person) to any person who establishes his ownership thereof to the satisfaction of a Superintendent.

“(4) If no one establishes, to the satisfaction of a Superintendent, his ownership of equipment seized under this section within 60 days after the posting of the notice of seizure under subsection (2) of this section, the equipment shall become the property of the Crown subject only to those encumbrances, liens, and interests of which a Superintendent is then aware, and may be sold or otherwise disposed of as the Minister thinks fit.”