



# Deep Sea Mining (Temporary Provisions) Act 1981

## 1981 CHAPTER 53

An Act to make provision with respect to deep sea mining operations; and for purposes connected therewith. [28th July 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Prohibition of unlicensed deep sea mining**

- (1) Subject to the following provisions of this Act, a person to whom this section applies shall not explore for the hard mineral resources of any part of the deep sea bed unless he holds an exploration licence granted under section 2 below in respect of that part of the deep sea bed or is the agent or employee of the holder of that licence (acting in his capacity as such).
- (2) Subject to the following provisions of this Act, a person to whom this section applies shall not exploit the hard mineral resources of any part of the deep sea bed unless he holds an exploitation licence granted under section 2 below in respect of that part of the deep sea bed or is the agent or employee of the holder of that licence (acting in his capacity as such).
- (3) Any person who contravenes subsection (1) or (2) above shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to a fine ;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (4) This section applies to any person who—
  - (a) is a citizen of the United Kingdom and Colonies, a Scottish firm or a body incorporated under the law of any part of the United Kingdom; and
  - (b) is resident in any part of the United Kingdom.

- (5) Her Majesty may by Order in Council extend the application of this section—
- (a) to all citizens of the United Kingdom and Colonies, Scottish firms and bodies incorporated under the law of any part of the United Kingdom who are resident outside the United Kingdom or to such citizens, firms and bodies who are resident in any country specified in the Order;
  - (b) to bodies incorporated under the law of any of the Channel Islands, the Isle of Man, any colony or an associated state.
- (6) In this Act—
- " deep sea bed " means that part of the bed of the high seas in respect of which sovereign rights in relation to the natural resources of the sea bed are neither exercisable by the United Kingdom nor recognised by Her Majesty's Government in the United Kingdom as being exercisable by another Sovereign Power or, in a case where disputed claims are made by more than one Sovereign Power, by one or other of those Sovereign Powers;
- " hard mineral resources " means deposits of nodules containing (in quantities greater than trace) at least one of the following elements, that is to say, manganese, nickel, cobalt, copper, phosphorus and molybdenum;
- and references in subsections (4) and (5) above to citizens of the United Kingdom and Colonies shall be read as including references to persons who are British subjects by virtue of section 2 of the British Nationality Act 1948 or British subjects without citizenship by virtue of section 13 or 16 of that Act or British subjects by virtue of the British Nationality Act 1965 or British protected persons within the meaning of the 1948 Act.
- (7) In any proceedings, a certificate issued by the Secretary of State certifying that sovereign rights are not exercisable in relation to any part of the sea bed by the United Kingdom or by any other Sovereign Power shall be conclusive as to that fact; and any document purporting to be such a certificate shall be received in evidence and shall, unless the contrary is proved, be deemed to be such a certificate.

## **2 Exploration and exploitation licences**

- (1) In this Act—
- " exploration licence" means a licence authorising the licensee to explore for the hard mineral resources of such part of the deep sea bed as may be specified in the licence; and
- " exploitation licence" means a licence authorising the licensee to exploit the hard mineral resources of such part of the deep sea bed as may be specified in the licence.
- (2) Subject to subsection (4) and section 3 below, the Secretary of State may on payment of such fee as may with the consent of the Treasury be prescribed grant to such persons as he thinks fit exploration or exploitation licences ; and in determining whether to grant a licence in any case he shall have regard to any relevant factors including in particular the desirability of keeping an area or areas of the deep sea bed free from deep sea bed mining operations so as to provide an area or areas for comparison with licensed areas in assessing the effects of such operations.
- (3) An exploration or an exploitation licence shall be granted for such period as the Secretary of State thinks fit and shall contain such terms and conditions as he thinks

fit and, in particular but without prejudice to the generality of the foregoing, a licence may include terms and conditions—

- (a) relating to the safety, health or welfare of persons employed in the licensed operations or in the ancillary operations;
  - (b) relating to the processing or other treatment of any hard mineral resources won in pursuance of the licence which is carried out by or on behalf of the licensee on any ship;
  - (c) relating to the disposal of any waste material resulting from such processing or other treatment;
  - (d) requiring plans, returns, accounts or other records with respect to any matter connected with any licensed area or licensed operations or ancillary operations to be furnished to the Secretary of State ;
  - (e) requiring samples of any hard mineral resources discovered or won in any licensed area, or assays of such samples, to be furnished to the Secretary of State ;
  - (f) requiring any exploration or exploitation of the hard mineral resources of the licensed area to be diligently carried out;
  - (g) requiring the payment to the Secretary of State of such sums as may with the consent of the Treasury be prescribed at such times as may be prescribed ; and
  - (h) permitting the transfer of the licence in prescribed cases or with the written consent of the Secretary of State.
- (4) An exploration licence shall not be granted in respect of any period before 1st July 1981 and an exploitation licence shall not be granted in respect of any period before 1st January 1988.
- (5) Where the Secretary of State has granted an exploration licence he shall not grant an exploitation licence in respect of any part of the licensed area otherwise than to the licensee except with the licensee's written consent.
- (6) Any fees or other sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

### **3 Licences granted by reciprocating countries**

- (1) Where, in the opinion of Her Majesty, the law of any country contains provisions similar in their aims and effects to the provisions of this Act, Her Majesty may by Order in Council designate that country as a reciprocating country for the purposes of this Act.
- (2) Where a person holds a licence or other authorisation issued and for the time being in force under the law of a reciprocating country for the exploration or exploitation of the hard mineral resources of any area of the deep sea bed specified in that authorisation (the " authorised area ")—
  - (a) the Secretary of State shall not grant an exploration or exploitation licence in respect of any part of the authorised area; and
  - (b) if section 1 above applies to that person, he shall not be prohibited by that section from engaging in the exploration or, as the case may be, exploitation of the hard mineral resources of the authorised area.
- (3) Any reference in this Act to a reciprocal authorisation is a reference to an authorisation within subsection (2) above; and references in subsection (2) (b) above to any person

who holds a reciprocal authorisation include references to his agents or employees acting in their capacity as such.

- (4) For the purposes of any proceedings, a reciprocal authorisation may be proved by the production of a copy of the authorisation certified to be a true copy by an official of the government or other body which issued the authorisation; and any document purporting to be such a copy shall be received in evidence and shall, unless the contrary is proved, be deemed to be such an authorisation.

#### **4 Prevention of interference with licensed operations**

- (1) A person to whom section 1 above applies shall not intentionally interfere with any operations carried on in pursuance of an exploration or exploitation licence or a reciprocal authorisation.
- (2) Any person who contravenes subsection (1) above shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine ;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### **5 Protection of the marine environment**

- (1) In determining whether to grant an exploration or exploitation licence the Secretary of State shall have regard to the need to protect (so far as reasonably practicable) marine creatures, plants and other organisms and their habitat from any harmful effects which might result from any activities to be authorised by the licence; and the Secretary of State shall consider any representations made to him concerning such effects.
- (2) Without prejudice to section 2(3) above, any exploration or exploitation licence granted by the Secretary of State shall contain such terms and conditions as he considers necessary or expedient to avoid or minimise any such harmful effects.

#### **6 Variation and revocation of licences**

- (1) The Secretary of State may vary or revoke any exploration or exploitation licence—
- (a) where the variation or revocation is in the opinion of the Secretary of State required—
    - (i) to ensure the safety, health or welfare of persons engaged in any of the licensed operations or ancillary operations; or
    - (ii) to protect any marine creatures, plants or other organisms or their habitat; or
    - (iii) in pursuance of section 8 below ; or
    - (iv) to avoid a conflict with any obligation of the United Kingdom arising out of any international agreement in force for the United Kingdom ;
  - (b) in any case, with the consent of the licensee.
- (2) The Secretary of State may revoke an exploration or exploitation licence in any case where a term or condition of the licence or any regulation made under this Act has not been complied with.

## **7 Freedom of the high seas**

It shall be the duty of the licensee to exercise his rights under the licence with reasonable regard to the interests of other persons in their exercise of the freedom of the high seas.

## **8 Foreign discriminatory action**

- (1) This section applies to any ship which is registered in a country of which the government (or an agency or authority of the government), in the opinion of the Secretary of State, has adopted or is proposing to adopt discriminatory measures or practices prohibiting or otherwise restricting the use in connection with any deep sea bed mining operations of ships registered in the United Kingdom.
- (2) Without prejudice to section 2(3) above, the Secretary of State may include in any exploration or exploitation licence, either on granting the licence or by a subsequent variation, such terms and conditions as he considers expedient for prohibiting or otherwise restricting the use in connection with the licensed operations or any ancillary operations of any ship to which this section applies.
- (3) The Secretary of State may by order extend this section to ships which are registered in any country of which the government (or any agency or authority of the government), in his opinion, has adopted or is proposing to adopt discriminatory measures or practices prohibiting or otherwise restricting the use in connection with any deep sea bed mining operations of ships registered in the Channel Islands, the Isle of Man or any colony.
- (4) In this section, references to an agency or authority of a government include references to any undertaking appearing to the Secretary of State to be, or to be acting on behalf of, an undertaking which is in effect owned or controlled (directly or indirectly) by a State other than the United Kingdom.

## **9 The Deep Sea Mining Levy**

- (1) Subject to the following provisions of this section, the holder of an exploitation licence shall, at the prescribed times, pay to the Secretary of State—
  - (a) an amount equal to 3-75 per cent, of the value of the hard mineral resources recovered in pursuance of the licence during any prescribed period ; or
  - (b) if the value of the hard mineral resources so recovered cannot be ascertained under paragraph (a) above, 0-75 per cent, of the value of any manganese, nickel, cobalt, copper, phosphorus or molybdenum, (" the elements") or any compound containing any of the elements, found in those hard mineral resources.
- (2) The value of any hard mineral resources, element or compound shall for the purposes of subsection (1) above be determined in accordance with such rules as may be prescribed.
- (3) If any hard mineral resources recovered by the licensee during any prescribed period contain less than the amount prescribed in relation to that period (by weight or proportion or otherwise) of any of the elements or any compound containing any of the elements, the licensee shall not be liable to make any payment in respect of that element or compound.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A licensee may elect, in writing and at the prescribed times, in respect of any element or compound specified in the election to defer payment under subsection (1) above until the element or compound is separated from any other matter with which it was recovered or, if earlier, until he disposes of the hard mineral resources containing that element or compound.
- (5) Where a licensee fails at the prescribed time to pay to the Secretary of State any amount which he is required by subsection (1) above to pay at that time, the amount due shall as from that time carry interest at the relevant rate until payment.

For the purposes of this subsection, " relevant rate " means such rate as the Secretary of State may with the consent of the Treasury prescribe.

- (6) Where any payment has been deferred under subsection (4) above and becomes due, the amount due shall be calculated in accordance with subsections (1) to (3) above, and, for the purposes of subsection (5) above, that amount shall be deemed to have become due on the date when it would have been due had the election not been made.

## **10 The Deep Sea Mining Fund**

- (1) There shall be established under the control and management of the Treasury a fund to be called the Deep Sea Mining Fund (" the Fund ") into which there shall be paid any sums paid to the Secretary of State under section 9 above.
- (2) Subject to subsection (3) below, the Treasury shall prepare accounts of the Fund and shall send them to the Comptroller and Auditor General not later than the end of the month of November following the financial year to which the accounts relate; and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies thereof, together with his report thereon, before Parliament.
- (3) Subsection (2) above shall not have effect until the first payment into the Fund is made in pursuance of subsection (1) above.
- (4) In subsection (2) above, " financial year " means a period of twelve months ending on 31st March except that the Secretary of State may direct that—
- (a) the first financial year for the Fund shall be of such period not exceeding two years and ending on 31st March as he may specify in the direction ; and
  - (b) where an order under subsection (7) below is made, the last financial year shall be of such period not exceeding twelve months as he may specify in the direction;
- and, where a direction is given under paragraph (b) above, subsection (2) shall apply in relation to the accounts for that last financial year with the substitution for the reference to the end of the month of November of a reference to the end of the eighth month following the end of that year.
- (5) If an international organisation for the deep sea bed is established in pursuance of an international agreement on the law of the sea which has been adopted by a United Nations Conference on the Law of the Sea and has entered into force for the United Kingdom, the Secretary of State may by order designate that organisation as the relevant international organisation for the purposes of this section.
- (6) An order designating an international organisation as the relevant international organisation for the purposes of this section may also make provision for the payment to that organisation of any sums for the time being standing to the credit of the Fund.

- (7) If within ten years of the coming into force of this section no organisation has been designated as the relevant international organisation the Secretary of State may by order made with the approval of the Treasury provide for the winding up of the Fund and the payment into the Consolidated Fund of any sums standing to its credit and for the repeal of section 9 above.
- (8) An order under subsection (7) above shall not be made unless a draft thereof has been approved by resolution of the Commons House of Parliament.
- (9) Until such time as an international organisation is so designated, any money in the Fund may from time to time be paid over to the National Debt Commissioners and invested by them, in accordance with such directions as may be given by the Treasury, in any such manner as may be specified by an order of the Treasury for the time being in force under section 22(1) of the National Savings Bank Act 1971.

## **11 Inspectors**

- (1) The Secretary of State may appoint as inspectors to discharge such functions as may be prescribed and generally to assist him in the execution of this Act such persons appearing to him to be qualified for the purpose as he considers appropriate from time to time.
- (2) The Secretary of State may make to or in respect of any inspector appointed under subsection (1) above such payments by way of remuneration or otherwise as the Secretary of State may determine with the approval of the Minister for the Civil Service.

## **12 Regulations and orders**

- (1) The Secretary of State may make regulations—
  - (a) prescribing anything required or authorised to be prescribed under this Act;
  - (b) generally for carrying this Act into effect;and, without prejudice to the generality of the foregoing, regulations may be made with respect to any of the matters mentioned in the Schedule to this Act.
- (2) Regulations under this section—
  - (a) may make different provision for different cases or classes of cases and may exclude the operation of any provision of the regulations in specified cases ; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power of the Secretary of State to make an order under this Act shall be exercisable by statutory instrument.

## **13 Disclosure of information**

- (1) A person shall not disclose any information which he has received in pursuance of this Act and which relates to any other person except—
  - (a) with the written consent of that other person ; or
  - (b) to the Treasury, the Commissioners of Inland Revenue or the Secretary of State ; or

- (c) with a view to the institution of or otherwise for the purposes of any criminal proceedings under this Act or regulations made under this Act; or
  - (d) in accordance with regulations made under this Act; or
  - (e) to the government of a reciprocating country or an agency of such a government or to any international organisation designated for the purposes of section 10 above as the relevant international organisation.
- (2) Any person who discloses any information in contravention of subsection (1) above shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### **14 Supplementary provisions relating to offences**

- (1) Proceedings for an offence under this Act or under regulations made under this Act may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.
- (2) Proceedings for such an offence shall not be instituted in England and Wales or Northern Ireland except—
- (a) in the case of proceedings in England and Wales, by or with the consent of the Director of Public Prosecutions ; or
  - (b) in the case of proceedings in Northern Ireland, by or with the consent of the Director of Public Prosecutions for Northern Ireland ; or
  - (c) in any case, by the Secretary of State or a person authorised by him in that behalf.
- (3) A person may be guilty of an offence under regulations made under this Act whether or not he is a citizen of the United Kingdom and Colonies or, in the case of a body corporate, it is incorporated under the law of any part of the United Kingdom.
- (4) Where an offence has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or 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 that offence and shall be liable to be proceeded against and punished accordingly.
- In this subsection " director ", in relation to a body corporate which—
- (a) is established by or under any enactment for the purpose of carrying on under public ownership any industry or part of an industry or undertaking; and
  - (b) is a body whose affairs are managed by its members,
- means a member of the body corporate.
- (5) In any proceedings for an offence of failing to comply with any provision of this Act or of regulations made under this Act, it shall be a defence to prove that the accused used all due diligence to comply with that provision.
- (6) In this Act, " the statutory maximum " means—
- (a) in England and Wales and Northern Ireland, the pre scribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (that is to say,



£1,000 or another sum fixed by order under section 143(1) of that Act to take account of changes in the value of money); and

- (b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (that is to say, £1,000 or another sum fixed by order under section 289D of that Act for that purpose);

and for the purposes of the application of this definition in Northern Ireland the provisions of the Magistrates' Courts Act 1980 which relate to the sum mentioned in paragraph (a) above shall extend to Northern Ireland.

## **15 Civil liability for breach of statutory duty**

- (1) Breach of a duty imposed on any person by a provision of regulations made in pursuance of section 12 above which state that this subsection applies to such a breach shall be actionable so far, and only so far, as the breach causes personal injury; and references in section 1 of the Fatal Accidents Act 1976 and in Article 3(1) of the Fatal Accidents (Northern Ireland) Order 1977 to a wrongful act, neglect or default shall include references to any such breach which is so actionable.
- (2) Nothing in subsection (1) above shall prejudice any action which lies apart from the provisions of that subsection.
- (3) A defence to a charge which is available by virtue of section 14(5) above or by virtue of regulations made under this Act shall not be a defence in any civil proceedings, whether brought in pursuance of this section or otherwise.
- (4) In subsection (1) above, " personal injury " includes any disease, any impairment of a person's physical or mental condition and any fatal injury.

## **16 Dumping at Sea Act 1974**

Nothing in the Dumping at Sea Act 1974 shall apply in relation to anything done in pursuance of an exploration or exploitation licence or a reciprocal authorisation.

## **17 Interpretation**

In this Act—

" ancillary operations ", in relation to any licensed operations, means any activity carried on by or on behalf of the licensee which is ancillary to the licensed operations (including the processing and transportation of any substances recovered);

" deep sea bed " has the meaning given by section 1 above;

" deep sea bed mining operations " means any exploration or exploitation of the hard mineral resources of the deep sea bed;

" exploitation " means commercial exploitation;

" exploitation licence " has the meaning given by section 2 above;

" exploration ", in relation to the hard mineral resources of any part of the deep sea bed, means the investigation of that part of the deep sea bed for the purpose of ascertaining whether or not the hard mineral resources of that part of the deep sea bed can be commercially exploited;

" exploration licence " has the meaning given by section 2 above;

" hard mineral resources " has the meaning given by section 1 above;

- " inspector " means a person appointed as inspector under section 11 above ;
- " licensed area " means any part of the deep sea bed in respect of which there is in force an exploration or exploitation licence;
- " licensed operations" means any activities which the licensee may carry on by virtue of his licence;
- " licensee " means the holder of an exploration or exploitation licence;
- " prescribed " means prescribed by regulations under section 12 above;
- " reciprocal authorisation" has the meaning given by section 3 above;
- " reciprocating country " means a country designated as such by an Order under section 3 above ; and
- " ship " includes every description of vessel used in navigation.

## **18 Short title, etc.**

- (1) This Act may be cited as the Deep Sea Mining (Temporary Provisions) Act 1981.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed under this subsection for different purposes.
- (3) If it appears to the Secretary of State that an international agreement on the law of the sea which has been adopted by a United Nations Conference on the Law of the Sea is to be given effect within the United Kingdom the Secretary of State may by order provide for the repeal of this Act.
- (4) An order under subsection (3) above shall not be made unless a draft thereof has been approved by resolution of each House of Parliament.
- (5) Such an order may contain such incidental, supplementary and transitional provisions as the Secretary of State thinks fit.
- (6) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such modifications (if any) as may be specified in the Order, to the Channel Islands, the Isle of Man or any colony.
- (7) It is hereby declared that this Act extends to Northern Ireland.

## SCHEDULE

Section 12.

### SUBJECT MATTER OF REGULATIONS

#### *General*

- 1 Form and content of applications.
- 2 Evidence to be submitted in support of applications, the form in which it is to be submitted and the time within which it is to be submitted.
- 3 The safety, health or welfare of persons employed in any licensed operations or in any ancillary operations.
- 4 The holding of inquiries into accidents occurring in the course of any licensed operations.
- 5 The prohibition of any method of working which in the opinion of the Secretary of State is or is likely to be harmful to any marine creatures, plants or other organisms or their habitat.

#### *Provisions relating to inspectors*

- 6 Powers of inspectors to board, and to obtain access to all parts of, any ship used for exploration or exploitation, and to obtain information and to inspect and take copies from any log book or other document.
- 7 Powers of inspectors to test equipment and, in special circumstances, to dismantle, test to destruction or take possession of any article of equipment.
- 8 Powers of inspectors to require, in connection with the survey or inspection of any equipment, the carrying out of procedures by such persons as may be specified in the regulations.
- 9 Rights of inspectors to require, on payment of reasonable costs, conveyance to and from any ship used in connection with any licensed operations, together with any equipment required by an inspector for testing, or any equipment of which he has taken possession in special circumstances.
- 10 Duties to provide inspectors with reasonable accommodation and means of subsistence while on any ship in exercise of their functions under this Act
- 11 Powers to be exercisable by inspectors in case of immediate or apprehended danger.

#### *Offences*

- 12 Regulations may provide that any prescribed breach of regulations shall be an indictable offence or a summary offence or an offence triable either way and punishable with a fine of such amount as may be prescribed but not exceeding, in the case of summary conviction, the statutory maximum.
- 13 Regulations may afford such defence, if any, as may be prescribed in relation to any offence created by regulations made under this Act.