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An Act to amend the Seabed Minerals Act 2009 to—

- (a) **make provision for approved exploration licences and related matters; and**
- (b) **to clarify and harmonise the operation of the Seabed Minerals Act 2009 with the provisions of the Environment Act 2003.**

(16 June 2015)

The Parliament of the Cook Islands enacts as follows—

- 1 Title**
This Act is the Seabed Minerals (Amendment) Act 2015.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the assent of the Queen's Representative.
- 3 Principal Act amended**
This Act amends the Seabed Minerals Act 2009.

Price \$1.50

4 Section 7 amended

(1) Section 7 is amended by adding the following defined terms—

“**UN Convention on the Law of the Sea** means the United Nations Convention on the Law of Sea of 10 December 1982; the 1994 Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, and any Annexes thereto;”

5 Section 51 amended

Section 51 is amended by repealing subsection (3).

6 New Section 53

Section 53 is repealed and the following section is substituted—

“53 Reservation of Blocks

“(1) This section applies in relation to a block over which—

“(a) there is no title; and

“(b) there are no pending applications for a title.

“(2) The responsible Minister shall, with the concurrence of Cabinet, by notice published in the Gazette and a national newspaper of the Cook Islands, declare that a block or blocks are—

“(a) not to be subject to the grant of a title under the Act:

“(b) reserved for the grant of one or more titles to a person with whom the Government has entered into a sponsorship arrangement for the purpose of Annex III, Article 4(3) of the United Nations Convention on the Law of the Sea; or

“(c) reserved for the grant of one or more titles authorising seabed minerals activity in which the Government has a financial, equitable or operational stake or benefit.

“(3) If a declaration under subsection (2) is in force in relation to a block, any title granted over that block that is inconsistent with the declaration is null and void.

“(4) Subsection (3) has effect despite any other provision of this Act.

“(5) The grant of a title in respect of a block that is reserved under subsection (2)(b) or (2)(c) remains subject to the requirements for the grant of titles under this Act.

“(6) Blocks declared as reserved under subsection (2) shall not be declared by or under any other enactment for any inconsistent purpose.”

7 New Section 55

Section 5 is repealed and the following section is substituted—

“55 Making of applications

“(1) An application for the grant (including renewal) of a title under this Act must be made—

“(a) by a body corporate or jointly by more than one body corporate; and

“(b) in the approved manner.”

8 New Section 60(2)

Section 60(2) is repealed and the following section is substituted—

“(2) Where a title under this Act will involve activity that requires a consent or permit under the Environment Act, no offer document shall be issued for that title until the Authority is satisfied that the relevant requirements under the Environment Act have been met.”

9 Section 77(1)(a) amended

Section 77(1)(a) is amended by omitting “Authority” and substituting “Government”.

10 Section 96 amended

- (1) Item 1 of the table in section 96 is amended by omitting “4 years” in the chapeau to the third column and substituting “5 years”.
- (2) Item 2 of the table in section 96 is amended by omitting “2 years” in the chapeau to the third column and substituting “5 years”.

11 Section 266(2) amended

Section 266(2) is amended by inserting the following after paragraph (d)—

“(da) The management by title holders of risks associated with seabed minerals activity including without limitation the holding of insurance and the payment of securities; and”.

12 New Section 302(2)

Section 302(2) is repealed and the following section is substituted—

“(2) Where a title under this Act will involve activity that requires a consent or permit under the Environment Act, no title shall be issued for that title until the Authority is satisfied that the relevant requirements under the Environment Act have been met.”

13 Section 303 amended

Section 303 is amended by omitting the word “licence” wherever occurring and substituting the word “title”.

14 Section 314 amended

Section 314 is amended by,—

- (a) repealing the heading and substituting **Statutory payments**; and
- (b) adding “(1)” before “Where”; and
- (c) inserting the following at the end of the section—

“(2) Subject to subsection (1), all other amounts payable or to be provided under this Act, including fees and any forms of security, are a debt due to the Authority and may be sued for accordingly.

“(3) Amounts payable under subsection (2) form part of the consolidated revenue of the Cook Islands.”

15 New Section 315

Section 315 is repealed and the following section is substituted—

“315 Annual Holding Fee

“The registered holder of a title must pay, at the prescribed rate, an annual holding fee in respect of the title area.”

16 Section 317 amended

Section 317 is amended by adding “(1)” before “A fee” and by inserting the following at the end of the section—

“(2) In any recovery proceedings a certificate of the Authority certifying that a specified sum of money constitutes a debt due to the Authority is evidence of that fact.

“(3) Any debt may, at the Court's discretion, be recovered from any security of the debtor held by the Authority in respect of the subject matter of the debt.

Note: Subsection (3) precludes a security provided in relation to a specific subject matter, such as remediation of harm to the Environment, from being used in relation to the non-payment of fees.

“(4) The Court may charge interest on any amount sued for under this section at a prescribed rate or, if no rate is prescribed, at the Government's official interest rate.”

17 Section 332 amended

(1) The following items are inserted into the table in section 332(2)—

“15 proper governance, transparency and accountability arrangements for the administration of the Act.

“16 additional evaluation criteria for the grant of titles under the Act.”

(2) Item 6 of the table in section 332(2) is repealed and the following item is substituted—

“6 The prescription of model exploration licences.”

This Act is administered by the Seabed Minerals Authority.
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