

Historic Shipwrecks Amendment Act 1980

No. 88 of 1980

An Act to amend the *Historic Shipwrecks Act 1976*

[Assented to 29 May 1980]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, etc.

1. (1) This Act may be cited as the *Historic Shipwrecks Amendment Act 1980*.

(2) The *Historic Shipwrecks Act 1976*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Preamble

3. The Preamble to the Principal Act is amended by omitting "Australia" first occurring in the second paragraph and substituting "the Commonwealth and the States, in co-operation,".

Commencement and application of Act

4. Section 2 of the Principal Act is amended by adding at the end thereof the following sub-sections:

"(2) A Proclamation under sub-section (1) may be expressed to relate only to a specified part of the waters adjacent to the coast of a State and, where a Proclamation so expressed is made, this Act shall commence to apply in relation to that part of those waters only.

"(3) Proclamations under sub-section (1) in relation to waters adjacent to the coasts of New South Wales, Queensland and Western Australia having been made, before the commencement of this sub-section, at the request or with the consent of the Governments of those States respectively, no further Proclamation under that sub-section shall be made except at the request or with the consent of the Government of the State concerned.

“(4) If, after this Act has commenced to apply in relation to any waters adjacent to the coast of a State, the Government of the State notifies the Government of the Commonwealth that it desires that this Act shall cease to apply in relation to those waters or a specified part of those waters, the Governor-General shall, by Proclamation, declare that this Act shall, on a date specified in the Proclamation, cease to apply accordingly and, upon that date, this Act shall cease to apply in relation to the waters specified in the Proclamation or to or in relation to remains of ships, and articles, that are in those waters or have been removed from those waters, and section 8 of the *Acts Interpretation Act* 1901 has effect as if this Act, to the extent that it so ceases to apply, had been repealed on that date by another Act.

“(5) A Government of a State may, in a notification to the Government of the Commonwealth under sub-section (4), request that this Act shall continue to be applicable to and in relation to specified articles, or articles of a specified class, removed from the waters referred to in the notification and, in that event, the Proclamation under that sub-section shall provide, and have effect, accordingly.

“(6) Nothing contained in, or done under, sub-section (4) affects the application of this Act to or in relation to a Dutch shipwreck or Dutch relic, and a Proclamation under that sub-section in relation to waters adjacent to Western Australia shall declare that the Proclamation does not affect the application of this Act to or in relation to any wrecked vessel or article that is a Dutch shipwreck or Dutch relic within the meaning of this Act.

“(7) Where he is satisfied that arrangements made, apart from this Act, with respect to Dutch shipwrecks or Dutch relics make it appropriate for him to do so, the Governor-General may, by Proclamation, declare that this Act shall, on a date specified in the Proclamation, cease to apply to and in relation to all Dutch shipwrecks and Dutch relics, or such Dutch shipwrecks and Dutch relics as are in, or have been removed from, a specified part of the waters adjacent to Western Australia and, where such a Proclamation is made, section 8 of the *Acts Interpretation Act* 1901 has effect as if this Act, to the extent that it is so declared to cease to apply, had been repealed by another Act on the date specified in the Proclamation.

“(8) A Proclamation under sub-section (7) may provide that this Act shall continue to be applicable to and in relation to specified Dutch relics, or Dutch relics of a specified class, removed from the waters to which the Proclamation relates and in that event this Act shall have effect accordingly.

“(9) Sub-sections (4) and (5) have effect as if the Northern Territory were a State.

“(10) Where a Proclamation is expressed to be made in accordance with a specified sub-section of this section, it shall be conclusively presumed that any request or consent of, or notification by, the Government of a State, or any other condition precedent, that is necessary or applicable under that sub-section has been duly made, given or complied with.”.

Interpretation

5. Section 3 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(5) For the purpose of this Act, and of any Proclamation under this Act (whether made before or after the commencement of this sub-section), the waters adjacent to the coast of a State or of the Northern Territory shall be deemed to comprise so much of the waters within the area the boundary of which is described under the heading referring to that State or Territory in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* as in force immediately before the commencement of this sub-section as are within the outer limit of the continental shelf of Australia.”

Defences

6. (1) Section 16 of the Principal Act is amended by adding “or was done with any other reasonable excuse” after paragraph (c).

(2) The amendment made by this section applies in relation to charges in respect of offences committed before the commencement of this Act as well as charges in respect of offences committed after that commencement.

Arrangements for State and Northern Territory authorities to perform certain functions

7. Section 19 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “or the Administrator of the Northern Territory” after “State” (first occurring); and
- (b) by inserting in that sub-section “or of the Northern Territory” after “State” (second occurring).

NOTE

1. No. 190, 1976, as amended. For previous amendments, see No. 19, 1979.