

2024

Seabed Minerals Amendment

No. 1

RECEIVED

Examined and certified by:



Clerk of the Parliament

22 FEB 2024

Crown Law Office
Rarotonga

In the name and on behalf of His Majesty King Charles III, I hereby assent to this Act
this 21st day of February, 2024



King's Representative

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An Act to amend the Seabed Minerals Act 2019 to improve its effectiveness and administrative efficiency and make other minor improvements and corrections.

The Parliament of the Cook Islands enacts as follows—

- 1 Title**
This Act is the Seabed Minerals Amendment Act 2024.
- 2 Commencement**
This Act comes into force on 1 March 2024.
- 3 Principal Act amended**
This Act amends the Seabed Minerals Act 2019.

Part 1
Amendments to principal Act

- 4 Section 6 amended (Interpretation)**
 - (1) In section 6(1), insert in its appropriate alphabetical order:
“**minerals harvesting** means the recovery of polymetallic nodules from the surface of the seabed using a method that does not involve cutting rock or sediment”
 - (2) In section 6(1), definition of **mining**, paragraph (b), after “jurisdiction”, insert “; and”.
 - (3) In section 6(1), definition of **mining**, after paragraph (b), insert:
“(c) to avoid doubt, includes minerals harvesting that is carried out for commercial purposes in the exclusive economic zone or other areas under the jurisdiction of the Cook Islands”
 - (4) In section 6(2), replace “regulations made under this Act” with “the regulations”.
- 5 Section 11 amended (Functions of Authority)**
In section 11(e), after “monitoring”, insert “, or supporting the regulation or monitoring of,”.
- 6 New section 13A inserted (Authority may issue standards and guidelines)**
After section 13, insert:
“**13A Authority may issue standards and guidelines**
“(1) The Authority may issue standards and guidelines for the purpose described in section 11(e).
“(2) The standards may provide for—
“(a) the methods, processes, or technology that may be used to carry out a regulated activity;
“(b) the methods that may be used to collect, analyse, classify, or report information, including samples of biological, mineral, or other materials;
“(c) other technical matters.
“(3) The guidelines may provide for technical and administrative matters that support the implementation of this Act, the regulations, or the terms and conditions of permits or licences.
“(4) Before issuing the standards or guidelines, the Authority must—
“(a) notify persons who are likely to be affected by the proposed standards or guidelines; and

- “(b) provide those persons with a reasonable opportunity to comment on the content of the proposed standards or guidelines; and
- “(c) consult persons who the Authority considers are recognised experts in the matters to which the proposed standards or guidelines relate; and
- “(d) consider any relevant standards or guidelines issued by the International Seabed Authority; and
- “(e) in the case of standards, obtain Cabinet’s approval of the proposed standards.
- “(5) The Authority must publish the standards or guidelines on its website.
- “(6) *See* section 178A in relation to incorporating material by reference in the standards or guidelines.”

7 Section 17 amended (Information management)

In section 17(5), replace “information supplied by third parties” with “restrictions on the disclosure of certain information”.

8 Section 18 amended (Information disclosure in respect of third party information)

- (1) Replace the heading to section 18 with “**Restrictions on disclosure of certain information**”.
- (2) Replace section 18(1) with:
 - “(1) Nothing in this Act permits any person to publicly disclose information in circumstances where—
 - “(a) the public disclosure of the information is prohibited by another law of the Cook Islands or a court order; or
 - “(b) the information is a trade secret or other commercially sensitive information the public disclosure of which, at that time, could reasonably be expected to adversely affect—
 - “(i) the financial affairs or business of the owner of the information; or
 - “(ii) the financial affairs or business of the person who supplied the information.”
- (3) In section 18(2) and (7), delete “third party”.
- (4) In section 18(6), delete “uses or”.
- (5) In section 18(6), delete “use or”.
- (6) In section 18(7), after “Act”, insert “.”.

9 Section 18A amended (Guidelines about confidential information)

- (1) Replace the heading to section 18A with “**Guidelines about classification and disclosure of information**”.
- (2) In section 18A, delete “confidential”.

10 Section 48 amended (Cadastre and register of titles)

- (1) Replace section 48(1)(a) with:
 - “(a) applications that have been made by title holders or, if made by any other persons, have been notified under section 66(1)(b); or
 - “(aa) titles; or”
- (2) Replace section 48(2) with:

- “(2) The Authority must maintain a register of titles that contains up-to-date and accurate records of—
 “(a) applications of the kind described in subsection (1)(a); and
 “(b) titles granted.”
- 11 Section 91 amended (Adherence to laws and rules)**
 Replace section 91(2)(a) with:
 “(a) this Act, the regulations, and standards issued under section 13A; and”
- 12 Section 144 amended (Monitoring powers)**
 In section 144(2)(a) and (3), replace “observer” with “inspector”.
- 13 Section 167 amended (Regulations giving effect to this Part)**
 In section 167(1), replace “Queen’s” with “King’s”.
- 14 New section 168A inserted (Change of name of title holder)**
 After section 168, insert:
“168A Change of name of title holder
 “(1) If a title holder changes its name, the title holder must—
 “(a) notify the Authority of the title holder’s new name; and
 “(b) provide the Authority with a copy of the certificate of incorporation that records the change in name; and
 “(c) pay the Authority the prescribed fee (if any) for updating the title holder’s name in the register of titles.
 “(2) The Authority must update the name of the title holder in the register of titles after receiving the information and fee (if any) required by subsection (1).”
- 15 Section 178 amended (Regulations)**
 (1) In section 178(1) and (2), replace “Queen’s” with “King’s”.
 (2) Replace section 178(2)(y) with:
 “(y) prescribing fees or charges, or a method for determining fees or charges, for the performance of the Authority’s functions or for any other matters under this Act or the regulations:”
- 16 New section 178A inserted (Incorporation by reference)**
 After section 178, insert:
“178A Incorporation by reference
 “(1) The following material may be incorporated by reference in the following instruments:
 “(a) standards or guidelines issued under section 13A may incorporate the standards or guidelines of any—
 “(i) international, regional, or national organisation; or
 “(ii) State or regional jurisdiction:
 “(b) the regulations or the terms and conditions of a permit or licence may incorporate standards or guidelines issued under section 13A.
 “(2) The material may be incorporated—
 “(a) in whole or in part:
 “(b) with or without modification.

- “(3) Material must not be incorporated under subsection (1)(a) unless it is readily available in the Cook Islands, either in hard copy or electronically, at no more than a reasonable cost.
- “(4) Subsection (5) applies if, after an instrument that incorporates material is made or issued, the material is changed in any of the following ways:
 - “(a) it is amended or replaced:
 - “(b) it expires or is revoked:
 - “(c) it otherwise ceases to have effect.
- “(5) The change has no effect as part of the instrument unless the change is incorporated by reference in a later amendment to, or replacement of, the instrument.”

17 Section 181 amended (Transitionals, savings, and orderly implementation of Act and related enactments)

In section 181(1), replace “Queen’s” with “King’s”.

18 New sections 181B and 181C inserted

After section 181A, insert:

“181B Transitional provision relating to Seabed Minerals Amendment Act 2024: standards and guidelines

- “(1) This section applies to standards and guidelines that are—
 - “(a) issued under regulation 50 of the Seabed Minerals (Exploration) Regulations 2020; and
 - “(b) in force immediately before the amendment Act comes into force.
- “(2) The standards and guidelines—
 - “(a) continue in force as if they were issued under section 13A; and
 - “(b) may be amended or revoked under that section.
- “(3) In this section and section 181C, **amendment Act** means the Seabed Minerals Amendment Act 2024.

“181C Transitional provision relating to Seabed Minerals Amendment Act 2024: application of new annual reporting requirement

- “(1) The new annual reporting requirement applies to a title holder, regardless of whether their title was issued before, on, or after the date on which the amendment Act comes into force.
- “(2) However, if a title holder held their title on 1 January 2024, the first annual report submitted by the title holder under the new annual reporting requirement must cover the period that—
 - “(a) starts on 1 January 2024; and
 - “(b) ends at the end of the reporting period that would otherwise apply under the new annual reporting requirement.
- “(3) In this section, **new annual reporting requirement** means the requirement under clause 15(5) of Schedule 2 (as replaced by the amendment Act).

19 Schedule 1 amended

- (1) In Schedule 1, clause 9(a) and (b), replace “Queen’s” with “King’s”.
- (2) In Schedule 1, clause 10(a), replace “Queen’s” with “King’s” in each place.
- (3) In Schedule 1, clause 11, replace “Queen’s” with “King’s”.

20 Schedule 2 amended

- (1) In Schedule 2, clause 15(1), replace “voyage” with “expedition leg”.
- (2) In Schedule 2, replace clause 15(5) with:
 - “(5) The title holder must submit to the Authority a written annual report for each year that the title holder has a title.
 - “(6) The annual report must—
 - “(a) contain any information that is prescribed or reasonably required by the Authority; and
 - “(b) be submitted within 3 months after the anniversary of the date on which the title holder’s title was issued.”

Part 2**Consequential amendments to Seabed Minerals (Exploration)
Regulations 2020****21 Principal regulations amended**

This Part amends the Seabed Minerals (Exploration) Regulations 2020.

22 Regulation 42 amended (Collection, record, analysis and keeping of samples)

Revoke regulation 42(2).

23 Part 3 revoked

Revoke Part 3.

This Act is administered by the Seabed Minerals Authority.
Printed under the authority of the Cook Islands Parliament—2024.
