

National Seas Act (Chapter 361)

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 361.

National Seas Act.

Being an Act to describe and provide for the demarcation of—

- (a) the territorial sea; and
- (b) the internal waters; and
- (c) the offshore seas; and
- (d) the archipelagic waters,

for the purpose of asserting the rights of the State in relation to those areas.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

"baseline" means territorial sea baseline;

"low water elevation" means a naturally formed area of land surrounded by and above water at mean low water springs but submerged at high water;

"low water line" means the low water line at mean low water springs;

"miles" means international nautical miles.

(2) For the purposes of this Act—

(a) the eastern part of the island of New Guinea; and

(b) each island under the sovereignty of the State,
shall be deemed to have a separate continuous baseline.

PART II.—TERRITORIAL SEA.

2. Description of territorial sea.

The territorial sea of the State comprises all the waters, being waters forming part of the offshore seas, contained between the baselines and the outer-limit lines except for any such waters proclaimed under this section by the Head of State, acting on advice, not to form part of the territorial sea.

3. Location of limits of territorial sea.

(1) In this section "limit point" means a point that is 12 miles seaward from the nearest point on a baseline.

(2) For the purposes of Section 2—

(a) the location of a baseline or a part of a baseline may be determined by the Head of State, acting on advice, by notice in the National Gazette; and

(b) an outer-limit line is the line every point of which is a limit point.

4. Baselines where no determination made.

Where no determination has been made under Section 3 in relation to any part of the coast, then to that extent the location of the baseline shall be ascertained in accordance with Schedule 1.

PART III.—INTERNAL WATERS.

5. Description of internal waters.

(1) In this section, "waters" includes bays, gulfs, inlets of the sea, rivers, rivulets, streams, lakes and lagoons.

(2) The internal waters of the State comprise the waters in any part of the country including all waters on the landward side of the baselines.

PART IV.—OFFSHORE SEAS.

6. Description of offshore seas.

Subject to delimitation of boundaries in relation to neighbouring states, the offshore seas of the State—

- (a) extend to a distance of 200 miles seaward from the baselines; and
- (b) unless otherwise specified, shall be deemed to comprise all the waters outside the baselines and within a line proclaimed for the purposes of this section by the Head of State, acting on advice, in the National Gazette.

PART V.—ARCHIPELAGIC WATERS.

7. Description of archipelagic waters.

- (1) In this section—

"associated feature" means any—

- (a) islet; or
- (b) rock; or
- (c) drying reef; or
- (d) off-lying low water elevation,

that is within the area of the offshore seas and is adjacent to, near or associated with a feature of the coastline;

"feature of the coastline" includes promontory, cape, reef, mud bank, and sandbar;

"low water point" means the mark at mean low water springs on a feature of the coastline or on an associated feature;

"the Nukumanu Islands Archipelago" means all of the islands lying between the parallels 4° 20' and 4° 50' south latitude and between the meridians 159° and 160° east longitude;

"the Tauu Islands Archipelago" means all of the islands lying between the parallels 4° 30' and 5° south latitude and between the meridians 156° 30' and 157° 30' east longitude.

- (2) The archipelagic waters of the State comprise all the waters of the archipelagos under the sovereignty of the State, being waters which, subject to Subsection (3), form part of the offshore seas.

- (3) The internal waters of the Tauu Islands Archipelago and of the Nukumanu Islands Archipelago may form part of the archipelagic waters.

- (4) For the purposes of Subsection (2) the waters of an archipelago are the waters within a line delimited, for the purposes of this section, by the Head of State, acting on advice, by notice in the National Gazette.

- (5) Archipelagic waters may be delimited in relation to land areas by reference to low water points.

PART VI.—MISCELLANEOUS.

8. Location of lines in cases of doubt.

- (1) In any case where there is doubt as to the location of a baseline or any other line delimited under this Act the Minister may, by notice in the National Gazette, declare the location of the baseline or other line by whatever method appears to him to be appropriate.

- (2) A reference in Subsection (1) to a baseline or other line includes a reference to part of a baseline or other line.

PART VII.—TRANSITIONAL.

9. Interim delimitation of archipelagic waters.

- (1) This section and Schedule 2 expire on the commencement of the first notice made under Section 7.

- (2) Until the archipelagic waters are delimited in accordance with Section 7 the archipelagic waters shall be deemed to have been delimited under that section in accordance with the line described in Schedule 2.

Schedule 1.—Principles for ascertaining baselines.

SCHEDULE 1.

Sec. 4.

PRINCIPLES FOR ASCERTAINING BASELINES.

Sch.1.1. Interpretation of Schedule 1.

(1) In this Schedule "bay" means an indentation in the coastline the area of which is at least as great as that of a semicircle with a diameter equal to the distance across the mouth of the indentation.

(2) For the purposes of this Schedule the outermost permanent harbour works that form an integral part of a harbour system shall be deemed to form part of the coast.

Sch. 1.2. General principle.

Subject to this Schedule, in respect of each part of the coast the baseline follows the low water line.

Sch. 1.3. Bays.

Where the distance between the low water line on each natural entrance point of a bay—

(a) does not exceed 24 miles, the baseline follows a straight line between those two points; or

(b) exceeds 24 miles, the baseline follows a straight line of 24 miles length within the bay positioned so as to enclose the maximum area of water.

Sch. 1.4. Low water elevations.

(1) Where low water elevation is situated wholly or partly within 12 miles of the coast the baseline follows the low water line of the elevation.

(2) A low water elevation does not become part of the coast by virtue of Subsection (1).

Sch. 1.5. Rivers.

In respect of the mouth or each mouth of a river which flows into the sea the baseline follows a straight line across the river mouth between the points on the low water line of each bank.

Schedule 2.—Interim delimitation of archipelagic waters.

SCHEDULE 2.

Sec.9(2).

INTERIM DELIMITATION OF ARCHIPELAGIC WATERS.

PART 1.

The Principal Archipelago.

A line commencing at the southernmost point of the land boundary with Indonesia and following that boundary to its northernmost point and then following the geodesic lines successively linking the outermost low water points of the following land areas, namely:—

- (a) Wuvulu Island;
- (b) Aua Island;
- (c) Manu Island;
- (d) Palitolla Island (Pellelehu Group);
- (e) Heina Islands;
- (f) Sae Islands;
- (g) Kaniet Islands
- (h) Marengan Island;
- (i) Ahet Island;
- (j) Ponam Island;
- (k) Andra Island;
- (l) Hapinbuch Island;
- (m) Hus Island;

- (n) Onpeta Island;
- (o) Mandrindr Island;
- (p) Pityilu Island;
- (q) Hauwei Island;
- (r) Ndrilo Island;
- (s) Koruniat Island;
- (t) Los Negros Island;
- (u) Pak Island;
- (v) Tong Island;
- (w) Towi Island;
- (x) Putuli Island
- (y) Mbatmanda Island;
- (z) Mussau Island;
- (za) Emirau Island;
- (zb) Elomusao Islarld;
- (zc) Enus Island;
- (zd) Simberi Island;
- (ze) Mahur Island;
- (zf) Boang Island;
- (zg) Malum Islands;
- (zh) Southern Nugaria Islands;
- (zi) Kilinailau Islands;
- (zj) Anusagaio Island;
- (zk) Islands and low water points around the south east and south coast of Bougainville to Kabukeai Island
- (zl) Motupena Point;
- (zm) Puruata Island;
- (zn) Islands and low water points along the north west coast of Bougainville to Cape Rungnoum;
- (zo) Cape St. George (New Ireland);
- (zp) Cape Orford (New Britain);
- (zq) Islands and low water points along the south coast of New Britain to Kauptimeti Island;
- (zr) Tami Island;
- (zs) Mitre Rock;
- (zt) Cape Nelson;
- (zu) Kanapu Island;
- (zv) Gwadarab Island;
- (zw) Kuaniagal Island;
- (zx) Simlindon Island;
- (zy) Kadai Island;
- (zz) Bomatu Point (Kiriwina Island);
- (zza) Iwa Island;
- (zzb) Dugumenu Island;
- (zzc) Cam Point (Madau Island);
- (zzd) Woodlark Island;
- (zze) Cannac Island;
- (zzf) Wabomat Island;
- (zzg) Budelun Island;
- (zzh) Bukulan Island;

- (zzi) Oburak Island;
- (zzj) Tokona Island;
- (zzk) Cape Henry (Misima Island);
- (zzl) Renard Islands;
- (zzm) Rossel Island;
- (zzn) Loa Boloba Island;
- (zzo) Tagula Island;
- (zzp) Duchateau Island;
- (zzy) Pana Boba Island;
- (zzr) Montemont Island;
- (zzs) Pana Waipona Island;
- (zzt) Punawan Island;
- (zzu) Duperre Islets;
- (zzv) Lejeune Island;
- (zzw) Long Reef Island;
- (zzx) Sable Island;
- (zzy) Quessant Island;
- (zzz) Steuers Island;
- (zzza) Dumoulin Island;
- (zzzb) Harikoia Island;
- (zzzc) Brumer Island;
- (zzzd) Baibesiga Island;
- (zzze) Suau Island;
- (zzzf) the southern coast of the island of New Guinea (in a westerly direction to the point of commencement).

PART 2.

The Tauu Islands Archipelago.

A line enclosing all islands, shoals, rocks and reefs (whether or not submerged) lying between the parallels 4° 30' and 5° south latitude and between the meridians 156° 30' and 157° 30' east longitude the line being a continuous line drawn between the outermost points of islands, shoals, rocks and reefs and shown on a chart designated by the Minister by notice in the National Gazette.

PART 3.

The Nukumanu Islands Archipelago.

A line enclosing all islands, shoals, rocks and reefs (whether or not submerged) lying between the parallels 4° 20' and 4° 50' south latitude and between the meridians 159° and 160° east longitude the line being a continuous line drawn between the outermost points of islands, shoals, rocks and reefs and shown on a chart designated by the Minister by notice in the National Gazette.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 361.

National Seas.

SUBSIDIARY LEGISLATION.

Act, Section 6—Offshore Seas Proclamation.

A proclamation—

- (a) to delimit the offshore seas of the State;
- (b) to provide that certain waters do not form part of the territorial sea of the State.

See National Gazette No 24 of 30 March 1978.

Offshore Seas Proclamation 1978

THE INDEPENDENT STATE OF PAPUA NEW GUINEA.

National Seas Act 1977.

OFFSHORE SEAS PROCLAMATION 1978.

Being a Proclamation—

- (a) to delimit the offshore seas of the State; and
- (b) to provide that certain waters do not form part of the territorial sea of the State, and for other purposes,

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the National Seas Act 1977.

1. Outer limit of offshore seas.

The line consecutively described in Schedules 1, 2 and 3 is the line for the purposes of Section 6 of the National Seas Act 1977 and, subject to Sections 3(2) and 4 of this Proclamation, the offshore seas of the State shall be deemed to comprise all the waters outside the baselines and within the line so described.

2. Line described in Schedules 1 and 3.

(1) That part of the line described in Schedules 1 and 3 is drawn—

- (a) to give effect to agreements with other states where agreement on the line has been reached; and
- (b) without prejudice to the ultimate location of appropriate boundary lines, to adopt an interim boundary in areas where no agreement with other states has been reached; and
- (c) to adopt limits of 200 miles from the baselines where no boundary lines with other states may appropriately be drawn.

(2) Subject to Subsection (3), the description contained in Schedules 1 and 3 is based on the nautical charts BA3250, BA3832, BA3830, BA214, BA3419, BA208 and BA2759a in respect of the areas covered by those charts.

(3) the points described in the Schedules as Points 30 to 42 inclusive, and the descriptions of those parts of the line commencing at point 30 and ending at Point 38 and commencing at Point 39 and ending at Point 42 respectively, have been based on the current World Aeronautical Charts of the area in which those points and parts of the line are located.

3. Temporary limit.

(1) In this Section "Secondary Area" means the area of sea bounded by the temporary line described in Schedule 2 and a more southerly line between Points 38 and 39 provisionally agreed upon between the State and Australia to be proclaimed after an opportunity for further consultation between the two governments on outstanding matters of substance concerning the nature and manner of exercise of jurisdiction in that area so as to safeguard the interests of all affected parties.

(2) For the purposes of this Proclamation, so much of the waters of the sea as are within three miles of the land of the islands specified in Schedule 5 that would not, but for this section, fall within the Secondary Area shall be deemed to be within the Secondary Area.

(3) Nothing in Subsection (2) shall be construed as indicating that the State abandons its seabed resources jurisdiction associated with the islands specified in Schedule 5, but that subsection shall be read as indicating only that the State intends to suspend temporarily the exercise of such jurisdiction over and in respect of so much of the area of those waters as lies north of the temporary line described in Schedule 2 pending the outcome of further negotiations between the State and Australia.

4. Certain waters not included in offshore seas.

The offshore seas of the State shall not be deemed to include the waters described in Schedule 4.

5. Certain waters not included in territorial sea.

For the purposes of Section 2 of the National Seas Act 1977, so much of the waters of the sea in the area described in Schedule 6 as are contained between the baselines and the 12 mile outer-limit line that are more than three miles seaward from the nearest point on the baselines do not form part of the territorial sea.

Secs. 1. and 2.

SCHEDULE 1.

PART OF PROCLAIMED LINE.

Commencing at the point of the intersection of the meridian 141° east longitude with the mean low water line on the northern coast of the island of New Guinea (Point 1) thence along straight lines successively linking that point and the following points:—

Point 2: the intersection of the parallel $2^{\circ} 08' 30''$ south latitude with the meridian $141^{\circ} 01' 30''$ east longitude.

Point 3: the intersection of the parallel $1^{\circ} 04' 00''$ south latitude with the meridian $141^{\circ} 23' 42''$ east longitude.

Point 4: the intersection of the parallel $0^{\circ} 55' 54''$ south latitude with the meridian $141^{\circ} 20' 30''$ east longitude.

Point 5: the intersection of the parallel $0^{\circ} 47' 00''$ north latitude with the meridian $140^{\circ} 49' 00''$ east longitude,

thence along a straight line towards the intersection of the parallel $2^{\circ} 41' 00''$ north latitude with the meridian $140^{\circ} 46' 00''$ east longitude to the most northerly point on that line (Point 6) that is 200 miles from the nearest point on a baseline, thence in a generally easterly direction along a line every point on which is 200 miles from the nearest point on a baseline to the first point (Point 7) on that line that is 200 miles from a base point in the Caroline Islands (hereinafter called "the Micronesian base point") which base point shall be deemed to be the intersection of the parallel $1^{\circ} 02' 00''$ north latitude with the meridian $154^{\circ} 46' 00''$ east longitude; thence in a generally easterly direction along a median line between the nearest points on the baselines and the Micronesian base point to the next point on that median line (Point 8) that is 200 miles from the nearest point on a baseline; thence in a generally easterly and southerly direction along a line every point on which is 200 miles from the nearest points on the baselines to the first point on that line (Point 9) that is 200 miles from the nearest point of land in the Solomon Islands; thence in a generally westerly direction along a median line between the nearest points on the baselines and the nearest points of land in the Solomon Islands to the point on-that median line (Point 10) that is 20 miles in a generally south easterly direction from the nearest point on a baseline of Nukumanu Atoll; thence along the geodesics successively linking Point 10 and the following points:—

Point 11: the intersection of the parallel $4^{\circ} 48' 30''$ south latitude with the meridian $158^{\circ} 46' 30''$ east longitude.

Point 12: the intersection of the parallel $4^{\circ} 45' 00''$ south latitude with the meridian $158^{\circ} 26' 00''$ east longitude.

Point 13: the intersection of the parallel $4^{\circ} 47' 00''$ south latitude with the meridian $158^{\circ} 09' 00''$ east longitude.

Point 14: the intersection of the parallel $5^{\circ} 04' 30''$ south latitude with the meridian $158^{\circ} 07' 00''$ east longitude.

Point 15: the intersection of the parallel $5^{\circ} 37' 00''$ south latitude with the meridian $157^{\circ} 59' 00''$ east longitude.

Point 16: the intersection of the parallel $5^{\circ} 52' 00''$ south latitude with the meridian $157^{\circ} 56' 00''$ east longitude.

Point 17: the intersection of the parallel $5^{\circ} 54' 00''$ south latitude with the meridian $157^{\circ} 20' 00''$ east longitude.

Point 18: the intersection of the parallel $5^{\circ} 40' 00''$ south latitude with the meridian $156^{\circ} 30' 00''$ east longitude.

Point 19: the intersection of the parallel $5^{\circ} 54' 00''$ south latitude with the meridian $156^{\circ} 26' 00''$ east longitude.

Point 20: the intersection of the parallel $6^{\circ} 19' 00''$ south latitude with the meridian $156^{\circ} 16' 30''$ east longitude;

thence along the geodesic to Point 21 that is the first point 12 miles seaward and equidistant from the nearest point on the baseline of OTUA Island and the nearest point of land in the Solomon Islands; thence along a line passing to the south of Bougainville Island being a median line between the nearest points on the baselines and the nearest points of land in the Solomon Islands, to a point on that line (Point 22) 12 miles in a generally south easterly direction from the nearest point on the baseline of KABUKEA Island; thence along the geodesics successively linking Point 22 and the following points:—

Point 23: the intersection of the parallel $7^{\circ} 15' 00''$ south latitude with the meridian $155^{\circ} 13' 30''$ east longitude.

Point 24: the intersection of the parallel $7^{\circ} 29' 00''$ south latitude with the meridian $154^{\circ} 52' 00''$ east longitude.

Point 25: the intersection of the parallel $9^{\circ} 20' 00''$ south latitude with the meridian $155^{\circ} 31' 00''$ east longitude.

Point 26: the intersection of the parallel $10^{\circ} 41' 00''$ south latitude with the meridian $156^{\circ} 40' 00''$ east longitude.

Point 27: the intersection of the parallel $11^{\circ} 14' 00''$ south latitude with the meridian $157^{\circ} 05' 00''$ east longitude.

Point 28: the intersection of the parallel $12^{\circ} 52' 00''$ south latitude with the meridian $157^{\circ} 25' 00''$ east longitude.

Point 29: the intersection of the parallel $13^{\circ} 43' 00''$ south latitude with the meridian $157^{\circ} 07' 30''$ east longitude.

Point 30: the intersection of the parallel $14^{\circ} 05' 00''$ south latitude with the meridian $156^{\circ} 40' 00''$ east longitude.

Point 31: the intersection of the parallel $14^{\circ} 45' 00''$ south latitude with the meridian $154^{\circ} 15' 00''$ east longitude.

Point 32: the intersection of the parallel $14^{\circ} 38' 00''$ south latitude with the meridian $152^{\circ} 07' 00''$ east longitude.

Point 33: the intersection of the parallel $13^{\circ} 15' 00''$ south latitude with the meridian $148^{\circ} 10' 00''$ east longitude.

Point 34: the intersection of the parallel $13^{\circ} 10' 00''$ south latitude with the meridian $148^{\circ} 03' 00''$ east longitude.

Point 35: the intersection of the parallel $12^{\circ} 35' 00''$ south latitude with the meridian $147^{\circ} 05' 00''$ east longitude.

Point 36: the intersection of the parallel $12^{\circ} 20' 00''$ south latitude with the meridian $146^{\circ} 30' 00''$ east longitude.

Point 37: the intersection of the parallel $9^{\circ} 51' 00''$ south latitude with the meridian $144^{\circ} 44' 00''$ east longitude.

Point 38: the intersection of the parallel 9° 30' 00" south latitude with the meridian 144° 15' 00" east longitude.

Sec. 1.

SCHEDULE 2.

TEMPORARY LINE.

Commencing at Point 38 described in Schedule 1 and proceeding in a northerly direction along the meridian 144° 15' 00" east to the intersection of that meridian with a longitude composite line being the line every point of which is on—

(a) the seaward limit of the declared offshore area under the Petroleum (Submerged Lands) Act 1975 as at 16th September 1975; or

(b) the seaward limit of the declared fishing zone described in Section 2 of the Fisheries Act 1974, as in force on 16th September 1975, as if the baseline within the meaning of the National Seas Act 1977 were the baseline referred to in that section, whichever limit is, on any meridian of longitude, the more southern; thence in a generally westerly direction along that composite line to its intersection with the meridian 141° 20' 00" east longitude; and thence along that meridian of longitude south to Point 39 being the intersection of that meridian with the parallel 10° 10' 30" south latitude.

Sec. 1.

SCHEDULE 3.

PART OF PROCLAIMED LINE.

Commencing at Point 39 described in Schedule 2 and thence along the geodesics successively linking that point and the following points:—

Point 40: the intersection of the parallel 10° 59' 00" south latitude with the meridian 140° 00' 00" east longitude.

Point 41: the intersection of the parallel 11° 09' 00" south latitude with the meridian 139° 23' 00" east longitude.

Point 42: the intersection of the parallel 10° 50' 00" south latitude with the meridian 139° 12' 00" east longitude;

thence along straight lines successively linking Point 42 and the following points:—

Point 43: the intersection of the parallel 10° 24' 00" south latitude with the meridian 139° 46' 00" east longitude.

Point 44: the intersection of the parallel 9° 52' 00" south latitude with the meridian 140° 29' 00" east longitude.

Point 45: the intersection of the parallel 9° 24' 30" south latitude with the meridian 140° 49' 30" east longitude.

Point 46: the intersection of the parallel 9° 23' 00" south latitude with the meridian 140° 52' 00" east longitude;

and thence along a straight line between Point 46 and a point described as "point B3" in Articles 3 and 4 of the Agreement set forth in the Schedule to the Indonesian Border Agreement Act 1973, to the point where that line crosses the southern coast of the island of New Guinea, or if that line does not cross that coast, to that point B3 and thence by a straight line between that point and the position of the marker described as "MM14" in Article 1 of that Agreement to the point where that line first crosses the coast or enters the internal waters of the State, as the case may be.

Sec. 4.

SCHEDULE 4.

WATERS NOT INCLUDED IN OFFSHORE SEAS.

1. The waters of the sea contained in the area bounded by a line every point on which is three miles seaward from the nearest points on the coast of the islands of

SAIBAI (including for this purpose, KAUAMAG) and DAUAN, except where such a line is less than three miles from any other land, where the line shall be a median line between those islands and that other land.

2. The waters of the sea contained in the area bounded by a line every point on which is three miles seaward from the nearest point on the coast of BOIGU Island (including for this purpose, AUBUSI and MOIMI), except where such a line is less than three miles from any other land, where the line shall be a median line between that island and that other land.

Sec. 3(2).

SCHEDULE 5.

ISLANDS.

1. Deliverance Island.
2. Black Rocks.
3. Bramble Cay.
4. Anchor Cay.
5. East Cay.

Sec. 5.

SCHEDULE 6.

AREA FOR PURPOSES OF SECTION 5.

The area bounded by a line commencing at the intersection of the parallel 9° 21' 30" south latitude with the meridian 142° 33' 15" east longitude; thence along the geodesic to the intersection of the parallel 9° 08' 15" south latitude with the meridian 143° 52' 00" east longitude; thence south along that meridian of longitude to the parallel 9° 40' 00" south latitude; thence west along that parallel of latitude to the meridian 142° 03' 30" east longitude; thence north along that meridian of longitude to its point of intersection with the southern coastline of the island of New Guinea at mean low water springs; thence in a generally easterly direction along the coastline to its intersection with the meridian 142° 33' 15" east longitude; and thence south along that meridian to the point of commencement.

Dated this 28th day of March, 1978.

TORE LOKO

GOVERNOR-GENERAL.