

2001/02

**IMO
INTERNATIONAL MARITIME LAW INSTITUTE
MALTA**

THE TERRITORIAL SEA AND MARITIME ZONES ACT, 2002

**A Legislative Drafting Project submitted in partial fulfilment of the
requirement for the award of the Degree of Master of Laws (LL.M.) at
the IMO International Maritime Law Institute, Malta**

April 2002

Supervisor: Mr. Norman Martinez

Syed Mahmood Akhter Hussain Gardezi

Lieutenant Commander Pakistan Navy

EXPLANATORY NOTE

Pakistan appeared on the map of the world as an independent State on August 14, 1947 after liberation from the colonial rule of Britain which lasted for about 100 years. Common law reigned supreme in the region and its impact is still visible on the legislative system of my country. Most laws with slight amendments are a prototype copy of the English laws and the same is true about the Maritime laws.

Pakistan adopted the Territorial Waters and Maritime Zones Act in 1976. However, it was limited in its scope due to various reasons. The prime and the foremost reason is that many changes took place since the legislation on the subject was adopted. Emergence of the 1982 United Nations Law of the Sea Convention is also a key factor which introduced some novel issues to the Territorial Sea and Maritime Zones regime.

Need was felt to bring about certain dynamic amendments into the Act to make this to keep pace with the time. Study of the existing Act and deliberations showed that the Act required a general over haul, in which many changes, amendments, additions, deletions and abrogation shall be required. The scheme of presentation of the sections has also been reviewed. Taking into account the golden thread of the law, that change is a law of nature, it is suggested to repeal the "Territorial Sea and Maritime Zones Act, 1976. During this process efforts have been made to bridge the gulf between the accustomed National style and modern drafting techniques. However, at some occasions I felt myself fettered in order to keep harmony with the peculiar legislative drafting legacy of my country.

Notwithstanding, the above I have tried my level best to stick to what in my view are the three basic elements required for legislative drafting; the A, B and C. A stands for accuracy; B for brevity and C for clarity. Since the quantum of changes made exceeds the original text of the Act, it has been considered to be most appropriate to repeal the existing Act and replace it with this new Act of 2002 which is hereby proposed.

Baselines notification is the essence of the maritime delimitations because various zones are measured from it and has been incorporated in sub-section 2 of Section 2. Section 3 of the existing Act has been amplified and many new provisions have been inserted under the title reading "Right of Innocent Passage". Amendments and additions have been introduced in sections 4, 5 & 6 namely Contiguous Zone, Exclusive Economic Zone and Continental Shelf of the prevailing Act to harmonize with the changes brought by the 1982 United Nations Law of the Sea Convention and the practices of the international community. They have now acquired section numbers 7, 8 & 9 respectively. In order to bring flexibility in some procedures and possible room for delegation of authority of the Federal Government, the words "Government, or any authority or any person duly authorized" have been used in sections 7(2), 8(3) & 9(4) of the proposed legislative draft.

Some new Provisions like Removal of off-shore installations (section 13), Arrest of the violators under this Act (section 14), Visit and search (section 15), Procedure after arrest (section 16), Disposal of arrested property (section 17), Punishment for the offences under this Act (section 18), Criminal jurisdiction on board foreign ship (section 19), Seaworthiness of the ships to avoid pollution/dumping (section 21), Attempts and abetments (section 23), Cognizance of offences (section 24), Forum for trial of offences under the Act (section 25), Hot pursuit (section 26) and law, procedure regarding warships and government operated ships for non commercial purposes (section 27), have been introduced in the proposed legislation.

Certain existing sections have been rephrased and even assigned new titles to afford clarity and ease in consulting them. Owing to the fact that "The General Clauses Act of Pakistan" designated to provide interpretations of various words and phrases, does not connote the words 'company' and 'corporate body, in the definition of 'person', these terms have been included in sections 8(2), 9(4), 13(1) and (2).

Section 14 empowers the Commanding Officers of Naval and Maritime Security Agency Ships to proceed to the arrest of any person or property following the commission of any of the offences under this Act. Section 16 provides that the arrested person (s) should be

brought before the Officer incharge of the police station called as “Station House Officer”, usually of the rank of Inspector, without unnecessary delay. The intention of the section is to avoid any wrongful restraint or imprisonment or miscarriage of justice and ensures that a First Information Report (FIR) may be lodged without an unnecessary delay.

Section 24 is intended to provide that the offences under this Act are cognizable. This means that in these offences the Commanding Officers referred to in section 14 do not require any prior warrant from court to arrest the suspects or offenders. This section also strives to achieve a check and balance in the sense that the Government of Pakistan may compound with the owners or Flag State of the Ship or State of whose persons or property have been arrested. It also leaves the room open for diplomatic resolution and states that such persons or property may be released on bail provided that sufficient security is furnished. In case of arrested person(s), a bond or surety for the production of such person(s) before the competent court on demand. In the case of release of a ship or for damage or related expenses financial security may be accepted. It is important to note that it depends upon the discretion of the competent court to grant bail or demand security, decide the nature of security or otherwise. In order to hoist the level of trial, no Court below the Court of Session can have the jurisdiction and cognizance in the offences under this Act.

In Section 6 sub-section3, of the existing legislation, reference has been made to the effect that matters pertaining to Fisheries in the Exclusive Fisheries Zone shall be regulated by the Exclusive Fisheries Zone (Regulation of Fishing) Act, 1975. However, with the establishment of Exclusive Economic Zone under international law, Pakistan shall regulate such activities under the regime of UNCLOS. The provision has been deleted accordingly.

Sub-sections 5 of both, section 5 and 6 of the prevalent Act, which talk about the powers of the Federal Government to extend any law to whole or any part of the, Continental Shelf or Exclusive Economic Zone respectively, have been deleted being inconsistent with the spirit of the conventions on the issue and international practices.

Undoubtedly the paramount issue of today's world is pollution and dumping. Although it is recognized that the rules regulating pollution of the environment in the maritime zones are extremely essential, yet these fall outside the ambit and scope of this Act. It is, however, submitted that prompt steps should be taken by the legislative body of Pakistan to draft laws addressing issues concerning the environment.

Copy of the Territorial Sea and Maritime Zones Act, 1976 is annexed with the legislative draft as a ready reference.

TERRITORIAL SEA AND MARITIME ZONES
ACT, 2002

Section	Title
1.	Short Title and Commencement
2.	Territorial Sea
3.	Internal Waters
4.	Historic Waters
5.	Right of Innocent Passage
6.	Contravention of rules relating to innocent passage
7.	Contiguous Zone
8.	Exclusive Economic Zone
9.	Continental Shelf
10.	Safety Zones
11.	Delimitation of maritime boundaries
12.	Publication of charts
13.	Removal of off-shore installation
14.	Arrest without warrant
15.	Visit and search
16.	Procedure after arrest
17.	Disposal of perishable, dangerous, hazardous or noxious property
18.	Punishments
19.	Criminal jurisdiction on board a foreign ship
20.	Pollution/Dumping out of Internal Waters, Territorial Sea or Exclusive Economic Zone
21.	Seaworthiness of ships to avoid pollution/dumping
22.	Offences by companies

23. Attempts and abetments
24. Cognizance
25. Trial of offences
26. Hot Pursuit
27. Warships and Government ships operated for non-commercial purposes
28. Power to make rules
29. Repeal and savings

TERRITORIAL SEA AND MARITIME ZONES
ACT, 2002

1. Short Title and Commencement. (1) This Act may be called the Territorial Sea and Maritime Zones Act, 2002.

(2) This Act shall come into force at once.

2. Territorial Sea. (1) The sovereignty of Pakistan extends to the Territorial Sea of Pakistan, hereinafter referred to as "the Territorial Sea:" as well as to the air space over it, the water column, the sea bed and the sub-soil thereof.

(2) The breadth of the Territorial sea is twelve (12) nautical miles beyond the land territory and internal waters of Pakistan as measured from the baselines, set forth in the notification of the Ministry of Foreign Affairs published in the Gazette on 29 August 1996.

(3) In any legal proceedings a certificate duly issued by or under the authority of the Federal Government stating the location of any baseline established under this section shall be conclusive proof of what is stated therein.

3. Internal Waters. The internal waters of Pakistan shall comprise all waters that are on the landward side of the baseline.

4. Historic Waters. (1) The Federal Government may, by notification in the official Gazette, specify the limits of historic waters and bays adjacent to the land territory of Pakistan.

(2) The sovereignty of Pakistan extends, and has always extended, to the historic waters of Pakistan and to the seabed and subsoil underlying it, and the airspace over such waters or bays.

5. Right of Innocent Passage. (1) Without prejudice to the provisions of any other law for the time being in force, and subject to the provisions of sub-section (5) and sub-section (6) of this section, all foreign ships shall enjoy the right of innocent passage through the Territorial Sea.

(2) Passage of a foreign ship shall be considered innocent so long as it is not prejudicial to the peace, good order or security of Pakistan.

(3) Passage shall not be considered innocent if the foreign ship while in the Territorial Sea engages, inter alia, in any of the following activities:

- (a) any threat or use of force against the sovereignty, territorial integrity or political independence of Pakistan or in any other manner in violation of the principles of international law;
- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information to the prejudice of the defence or security of Pakistan;
- (d) any act of propaganda aimed at affecting the defence, or security of Pakistan;
- (e) the launching, landing or taking on board of any aircraft or military device;
- (f) the loading or unloading of any person, commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of Pakistan;
- (g) any willful act of pollution which causes or is likely to cause, or is intended to cause damage or harm to Pakistan or its resources or its marine environment;
- (h) any fishing activities;
- (j) the carrying out of research or survey activities;
- (k) any act aimed at interfering with any system of communication or any other facilities or installations of Pakistan;
- (m) any other activity not having a direct bearing on passage.

(4) In exercising the right of innocent passage, a foreign ship shall comply with the generally accepted international regulations, procedures and practices for safety at sea which have effects on the Territorial Sea, or any part thereof:

- (a) the safety of navigation and the regulation of maritime traffic, including the use of sea-lanes and the operation of traffic separation schemes;
- (b) the protection of navigational aids and facilities and other facilities or installation;
- (c) the protection of cables and pipelines;
- (d) the conservation of resources of the sea;

- (e) fishing and fisheries;
- (f) the preservation of the environment and the prevention, reduction and control of pollution thereof;
- (g) marine scientific research and hydrographic surveys;
- (h) control or prohibition in relation to customs, excise, immigration or sanitation;
- (i) any right which accrues to Pakistan as her inherent right as a Sovereign State or through usage or any rule of customary law.

(5) Passage shall be continuous and expeditious. Cessation or anchoring shall be permitted only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons and ships or aircrafts in danger or distress.

(6) Foreign warships, including submarines and other under water vehicles, may enter or pass through the Territorial Sea with the prior permission of the Federal Government. Submarines and other under water vehicles shall navigate on the surface and show their flag while entering, exiting or passing through such sea.

(7) Foreign tankers, nuclear powered ships and ships carrying nuclear or other inherently dangerous or hazardous or noxious substances or materials may enter or pass through the Territorial Sea after giving prior notice to the Federal Government and shall carry documents and observe special precautionary measures internationally recognized for such ships.

(8) The Federal Government or any authority or person duly authorised in this behalf by the Government, may in the interest of safety, peace, good order or security of Pakistan or any part thereof, suspend, by notification subject to such exceptions and qualification, if any, as may be specified in the notification, the entry of all or any class of foreign ships into such area of the Territorial Sea as may be specified in the notification.

(9) The Federal Government, or any authority or person duly authorised in this behalf by the Government shall have the right to order an immediate eviction of a foreign warship or other foreign Government ship operated for non commercial purposes that violates the laws or regulations of Pakistan while passing through the territorial sea of Pakistan. The Flag State of such ship shall be liable for any loss or damage caused to Pakistan resulting from any act or omission or the non-compliance by such ship with the laws and regulations of Pakistan concerning passage through the Territorial Sea or other generally accepted rules of international law.

6. Contravention of rules relating to innocent passage. Contravention of any provision of this Act relating to the innocent passage shall be an offence punishable under section 18 of this Act.

7. Contiguous Zone. (1) The contiguous Zone of Pakistan, hereinafter referred to as the Contiguous Zone, is an area adjacent to and beyond the Territorial Sea, the limit of which is twenty four nautical miles measured from the baselines referred to in sub-section (2) of section 2 of this Act.

(2) The Federal Government or any authority or person duly authorised in this behalf may exercise such powers and take such measures in or in respect of the Contiguous Zone as may be considered necessary to prevent and punish the contravention or any attempt to contravene any law for the time being in force relating to:

- (a) the security of Pakistan;
- (b) immigration and sanitation;
- (c) customs and other fiscal matters; or
- (d) wrecks and objects of an archaeological, cultural or historical nature found in the zone, seabed or subsoil thereof.

(3) The Federal Government may, by notification in the official gazette:

- (a) extend to the Contiguous Zone any law relating to any matter referred to in clauses (a), (b), (c) or (d) of sub-section (2) of this section, for the time being in force or any part thereof, with such modifications, if any, as may be specified in the notification; and
- (b) make such provisions, as may be considered necessary for facilitating the enforcement of such laws, rules and regulations in the contiguous zone.

8. Exclusive Economic Zone. (1) The Exclusive Economic Zone of Pakistan, hereinafter referred to as the Exclusive Economic Zone, is an area beyond and adjacent to the territorial sea, the limit of which is two hundred nautical miles from the baselines established in accordance with notification referred to in sub-section (2) of section 2 of this Act.

(2) In the Exclusive Economic Zone, including its sea bed, sub soil and the superjacent waters, Pakistan has:

- (a) exclusive sovereign rights for the purpose of exploration, development, exploitation, conservation and management of all resources both living and

non-living as well as for producing energy from tides, winds, currents and the sun;

- (b) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the zone or for the safety and convenience of navigation or for any other purpose;
- (c) exclusive rights and jurisdiction to authorise, regulate and control scientific research;
- (d) exclusive jurisdiction to preserve and protect the marine environment and to prevent, reduce and control pollution of the marine environment; and
- (e) such other rights as are recognized by international law.

(3) No person or company including a foreign Government shall, except under and in accordance with the terms of any agreement with the Federal Government or a licence or letter of authority issued by the Federal Government or any authority or any person duly authorized in this behalf by the government, explore or exploit any resources of the Exclusive Economic Zone or carry out any search or excavation or conduct any research within the Exclusive Economic Zone or drill therein or construct, maintain or operate therein for any purpose whatsoever any artificial island, off-shore terminal, installation or other structure or device.

(4) The provisions of this Act shall apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the Exclusive Economic Zone.

(5) In the Exclusive Economic Zone and the air space over the zone, ships, vessels and aircraft of all States shall, subject to the exercise by Pakistan of its rights within the Zone, enjoy freedom of navigation and over flight.

9. Continental Shelf. (1) The Continental Shelf of Pakistan, hereinafter referred to as the Continental Shelf, comprises the seabed and sub-soil of the submarine areas that extend beyond the limits of the Territorial Sea of Pakistan throughout the natural prolongation of the land territory of Pakistan to the outer edge of the continental margin or to a distance of 200 nautical miles from the baselines, declared vide notification referred to in sub-section 2 of section 2 of this Act, where the outer edge of the continental margin does not extend up to that distance.

(2) The outer limits of the Continental Shelf where it extends beyond 200 nautical miles from the baselines declared in accordance with sub-section (2) of section 2 of this Act, either shall not exceed 350 nautical miles from the baselines or 100 nautical miles from the 2500 meters isobaths which is a line connecting the depth of 2500 meters.

(3) Pakistan has, and always had, full and exclusive sovereign rights in respect of its Continental Shelf including:

- (a) exclusive sovereign rights for the purpose of exploration, development, exploitation, conservation and management of all non-living resources of the Sea bed and subsoil together with living organisms belonging to sedentary species;
- (b) exclusive rights and jurisdiction to authorise, regulate and control scientific research;
- (c) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the Continental Shelf, and for the safety and convenience of navigation or for any other purposes; and
- (d) exclusive jurisdiction to preserve and protect the marine environment and to prevent, reduce and control the marine pollution.

(4) No person or company, including a foreign government, shall except under and in accordance with the terms of any agreement with the Federal Government or a licence or letter of authority issued by the Government or any authority or any person duly authorised in this behalf by that Government explore the Continental Shelf or exploit its resources or carry out any search or excavation or conduct any research within the Continental Shelf or drill therein or construct maintain or operate therein for any purpose whatsoever any artificial island, off shore terminal, installation or other structures or devices.

10. Safety Zones. (1) Only the Federal Government may establish Safety Zones around artificial islands, off-shore terminals, installations and other structures and devices constructed, maintained and operated within the Internal Waters, the Territorial Sea, the Exclusive Economic Zone and the Continental Shelf, by any person or company or any entity whatsoever under a licence issued by the Government.

(2) The limits of Safety Zones mentioned in sub-section (1) of this section shall not exceed a distance of 500 meters around them, measured from each point of their outer edge except as authorized by generally accepted international standards.

(3) All ships while navigating in the vicinity of artificial islands, offshore terminals, installations and other structures and devices shall comply with the laws regulations and orders issued by the Federal Government or any authority or person duly authorised in this behalf by that Government for the safety both of navigation and the artificial islands, off shore terminals, installations and other structures and devices.

(4) Contravention of sub section (3) of this section shall be an offence punishable under this Act.

11. Delimitation of maritime boundaries. (1) Notwithstanding anything contained in any other law for the time being in force and any other provision of this Act:

- (a) the delimitation of the Territorial Sea between Pakistan and any other State whose coast is opposite or adjacent to that of Pakistan shall be determined by agreement between Pakistan and such State and pending such agreement and unless any other provisional arrangement is agreed to between them, the boundary with regard to the Territorial Sea between Pakistan and such State shall not extend beyond the line every point of which is equidistant from the nearest points of baselines from which the breadth of the Territorial Sea of Pakistan and of such State is measured;
- (b) the delimitation of the Contiguous Zone, the Exclusive Economic Zone, the Continental Shelf and other maritime zones between Pakistan and any other State whose coast is opposite or adjacent to that of Pakistan shall be effected by mutual agreement in accordance with the generally accepted principles of international law taking into account the relevant facts and circumstances, in order to achieve an equitable solution, and pending such agreement to a settlement, Pakistan and such State shall make provisional arrangements taking into account the said principles for delimitation of the Contiguous Zone, the Exclusive Economic Zone, the Continental Shelf and other maritime zones.

Provided that subject to any final agreement or any provisional arrangements Pakistan may establish boundaries of its maritime zones in accordance with generally accepted principles of international law.

(2) Every agreement referred to in clauses (a) and (b) of sub-section (1) of this section shall, as soon as enters into force, be published in the official Gazette.

12. Publication of charts. The Federal Government only, shall have the authority to publish official charts of the baselines, the limits of the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone, the Continental Shelf and other maritime boundaries as referred to in Section 11.

13. Removal of off-shore installations. (1) Subject to any action under any other law for the time being in force and any other provision of this Act, the Federal Government or any authority or a person duly authorised by Government in this behalf, may direct any person or company or entity to remove the artificial island, off-shore terminal, installation or other structure or device, constructed, maintained or operated by it or on its

behalf or any ship, aircraft, platform or other man made structure dumped by that person or company in contravention of any provision of this Act.

(2) In case such person or company or entity mentioned in sub section (1) of this section fails to remove such artificial island, off-shore terminal, installation, ship, aircraft, platform or other structure, or part(s) thereof, the Federal Government or any authority or person duly authorised in this behalf by the Government may remove such artificial island, off-shore terminal, installation, ship, aircraft and any other structure or device, or part(s) thereof, at the risk and cost of such person or company or entity.

(3) The contravention of any direction issued under sub-section (1) of this section shall be an offence punishable under this Act.

14. Arrest without warrant. Whoever contravenes any provision of this Act may be arrested without warrant by the Commanding Officer of a ship or aircraft of the Pakistan Navy or the Maritime Security Agency, not below the rank of Lieutenant. The arresting officer may also take into custody any ship, device, equipment and gear used, and any artificial island, off-shore terminal, installation, structure and device constructed, maintained and operated, and any property acquired, possessed or disposed of, in contravention of any provision of this Act.

15. Visit and search. For the purposes of section 14 the Commanding Officer may board or send a boarding party to any ship suspected of being used, or any artificial island, off-shore terminal installation or any other structure or device suspected of being constructed, maintained or operated, in contravention of any provision of this Act, for investigation, inspection, search and checking documents or cargo or any other matter.

16. Procedure after arrest. (1) The officer making an arrest under section 14 shall, without unnecessary delay or restraint, take or send the person arrested before the Officer incharge of the police station or the Court having Jurisdiction in the case and thereupon, if no special procedure is provided for investigation and trial of such cases, the provisions of the Criminal Procedure Code, 1898 relating to investigation into cognizable offences, shall apply.

(2) Whenever arrest of any foreign person or ship etc., is made under section 14 and is brought before a court of law in accordance with sub-section (1) of this section, the court shall inform the Embassy or Consular office of the State to which such ship etc or person belongs, of such arrest.

17. Disposal of perishable, dangerous, hazardous or noxious property.

(1) In case any property or thing of value taken into custody under section 14 is a perishable

item, the same may be disposed of under orders of the Court having Jurisdiction in the case and if it is sold its value shall be treated as property taken into custody.

(2) If the property consists wholly or in part of any dangerous or hazardous or noxious material, the Court may pass such orders as to its storage, disposal or destruction, as the case may be, in order to minimize danger to the human health or the environment or otherwise.

18. Punishments. (1) Whoever contravenes any provision of this Act or the rules or regulations made thereunder, shall, without prejudice to any other action which may be taken against such person under any other provision of this Act or of any other law for the time being in force, be punishable by imprisonment for a term which may extend to five years, or with fine, or with both.

(2) Notwithstanding any provision of any other law for the time being in force, any ship, equipment and gear, artificial island, off-shore terminal, installation, and other structure or device used for commission of the offence, and any property acquired, possessed or disposed of, in commission of an offence under this Act, shall be forfeited in favour of the Federal Government.

Explanation: The amount of fine shall include the costs incurred on the arrest as well as the costs incurred on the storage, transportation or destruction or disposal of the dangerous or hazardous or noxious material or ship.

19. Criminal jurisdiction on board a foreign ship. (1) Where an offence is committed on board a foreign ship, being a merchant ship or Government ship operated for commercial purposes or pleasure craft, during its passage through the Territorial Sea of Pakistan, criminal jurisdiction may be exercised by Pakistan, in relation to such offence or offences, only if:

- (a) the consequences of the offence(s) extend to the territory of Pakistan;
- (b) the offence is of a kind likely to disturb the peace or good order of Pakistan or the Territorial Sea;
- (c) the assistance of the Federal Government or any public officer has been requested by the Master of the foreign ship or by a diplomatic agent or consular officer of the relevant foreign State;
- (d) it is necessary to exercise jurisdiction for the purpose of suppressing any illicit traffic in narcotic drugs or psychotropic substances, or weapons, unauthorized broadcasting or any act of piracy or slave trade.

(2) The limitations in sub-section (1) of this section shall not apply in any case where a foreign ship is passing through the Territorial Sea after leaving the Internal Waters.

(3) Subject to sub-section (1) of this section, where a foreign ship proceeding from a port outside Pakistan is passing through the Territorial Sea without having entered Internal Waters, jurisdiction may be exercised in relation to any offence committed before the vessel entered the Territorial Sea, on board the vessel during the passage only if there are grounds for believing that the ship has, in the Exclusive Economic Zone or the Continental Shelf, committed a violation of:

- (a) any provision of law of Pakistan or international rules or practices applicable in the Exclusive Economic Zone or the Continental Shelf for exploration and exploitation of the natural resources whether living or non living; or
- (b) the violation has resulted in a substantial discharge causing or threatening or likely to cause significant pollution of the marine environment; or damage thereof; or
- (c) there is clear evidence that violation has resulted in a substantial discharge causing damage or the threat of damage to the coastline or reef or island of Pakistan or to any artificial structures or off-shore terminal or roadsteads or harbour works, or to any living or non-living resources of its Territorial Sea or Exclusive Economic Zone or the Continental Shelf.

20. Pollution/Dumping out of Internal Waters, Territorial Sea or Exclusive Economic Zone.

(1) When a foreign ship which is voluntarily within a port or at an off shore terminal of Pakistan has caused marine pollution or dumping as defined in this Act, outside the Internal Waters, the Territorial Sea or the Exclusive Economic Zone, which has caused or is likely to cause pollution in the Internal Waters, the Territorial Sea or the Exclusive Economic Zone, the Master and/or the person incharge of such ship shall be deemed to have committed an offence punishable under Section 18.

(2) The owner and agent of the ship mentioned in subsection (1) of this section shall also be deemed to have committed an offence punishable under this Act unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

21. Seaworthiness of ships to avoid pollution/dumping. (1) When the Federal Government or any authority or person duly authorized in this behalf by the Government has reasons to believe that a foreign ship within one of its ports or at one of the off-shore terminals or roadsteads, in violation of any law rules or regulations of Pakistan made for this purpose, or the generally accepted international rules, regulations and standards relating to seaworthiness of such ships, is likely to cause pollution or dumping as defined in this Act, in the Internal Waters the Territorial Sea or the Exclusive Economic Zone, the Federal Government or any authority or person duly authorised in this behalf by the Government may, as far as practicable, take administrative measures to prevent such ship from sailing and may permit such ship to proceed only to the nearest appropriate repair

yard and upon removal of the causes of violation may permit the ship to continue its voyage immediately.

(2) Contravention of any order or instruction issued under sub section (1) of this section shall be an offence punishable under section 18.

(3) The owner and agent of the ship mentioned in sub-section (1) shall also be deemed to have committed an offence punishable under section 18 unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

22. Offences by companies. (1) Where an offence punishable under section 18 has been committed by a company, every person who, at the time the offence was committed, was incharge of and was responsible to the company for, the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub section (1) of this section, where an offence punishable under section 18 has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, or other officer of the company, such director, manager, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section;

- (a) 'company' means any body corporate and includes a firm or other association of individuals; and
- (b) 'director' in relation to firm means a partner in the firm.

23. Attempts and abetments. Whoever attempts to contravene or abets the contravention of any provision of this Act or the rules and regulations made thereunder, shall be deemed to have contravened the provision of this Act.

24. Cognizance. The offences under this Act shall be:

- (a) cognizable;
- (b) compoundable; and

- (c) bailable, provided sufficient and acceptable security covering the maximum fine, cleanup, storage, transportation and disposal costs are deposited with and accepted by the court.

25. Trial of offences. Any person committing an offence punishable under section 18 inter alia shall be tried by a court not inferior to that of session judge having jurisdiction in the case.

26. Hot Pursuit. (1) When the Federal Government or any authority or person duly authorised in this behalf by the Government has reason to believe that a foreign ship has violated the laws and regulations of Pakistan, they may undertake the hot pursuit for arrest of that ship.

(2) Hot pursuit shall commence when the foreign ship or one of its boats or other craft working as a team and using the ship pursued as a mother ship is within the limits of the Internal Waters, Territorial Sea or Contiguous Zones of Pakistan.

(3) If the foreign ship is in the Contiguous Zone of Pakistan, hot pursuit may be undertaken if there has been a violation of the laws and regulations for which the zone was established.

(4) As long as the hot pursuit is not interrupted, it may continue outside the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Continental Shelf as the case may be. The hot pursuit ceases as soon as the ship pursued enters the Territorial Sea of its own country or of a third country. The right of hot pursuit shall be exercised by warships or military aircraft of Pakistan, or by ships or aircraft clearly marked and identifiable as being on Government service and duly authorised in this behalf by the Federal Government or any authority or person duly authorized by that Government.

(5) In case of violations of laws and regulations applicable in the Exclusive Economic Zone and on the Continental Shelf, the hot pursuit may commence when the ship pursued or one of its boats using the ship pursued as a mother ship, is within the limits of the Exclusive Economic Zone or Continental Shelf, as the case may be.

(6) All ships and aircrafts belonging to the Pakistan Navy and the Maritime Security Agency are hereby authorised to undertake Hot Pursuit.

Explanation: (a) the term warship includes all ships of the Pakistan Navy and the Maritime Security Agency;

(b) the term military aircraft include all aircrafts of the Pakistan Army, the Pakistan Navy, the Pakistan Air Force and the Maritime Security Agency.

27. Warships and Government ships operated for non-commercial purposes. Warships and other Government ships operated for non-commercial purposes shall not be arrested or taken into custody under any provision of this Act. In such cases a detailed written report shall be submitted immediately to the Federal Government or any authority or person duly authorised in this behalf by the Government.

Explanation: (a) warship means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ship of its nationality, under the command of an officer duly commissioned by the Government of that State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline;

(b) military aircraft means an aircraft operated by commissioned units of the armed forces of a State bearing the Military markings of that State, commanded by a member of the armed forces of that State, and manned by the crew subject to armed forces discipline.

28. Power to make rules. (1) The Federal Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:

- (a) the conduct of any person in the Territorial Sea, Contiguous Zone, the Exclusive Economic Zone, the Continental Shelf or any other maritime zone of Pakistan;
- (b) the exploration, development, exploitation, conservation and management of the resources of the Continental Shelf;
- (c) the exploration, development, exploitations, conservation and management of the resources of the Exclusive Economic Zone;
- (d) the construction, maintenance and operation of artificial islands, off-shore terminals, installations and other structures and devices referred to in section 8 and section 9;
- (e) the preservation and protection of the marine environment and prevention, reduction and control of marine pollution from any source;
- (f) the authorization, regulation and control of the conduct of scientific research;
- (g) the fees in relation to licences and letters of authority for any purpose;

- (h) any matter incidental to any of the matters specified in clauses (a) to (g) or for any other purpose.

29. Repeal and savings. (1) The Territorial Waters and Maritime Zone Act, 1976 (Act LXXXII of 1976) is hereby repealed.

(2) Every thing done and all actions, liability or proceedings commenced or power conferred, rule made and notifications issued under any provision of that Act shall, if not inconsistent with the provisions of this Act, continue in force and be deemed to have been respectively done, taken, incurred, commenced, appointed, authorized, conferred, made or issued under this Act.

**The Territorial Waters and Maritime
Zones Act, 1976**

***ACT No. LXXXII OF 1976**

**An Act to provide for the declaration of the territorial waters and
maritime zones of Pakistan**

WHEREAS it is expedient to provide for the declaration of the territorial waters and maritime zones of Pakistan and for matters connected therewith:

It is hereby enacted as follows:

1. **Short title and commencement.** (1) This Act may be called the Territorial Waters and, Maritime Zones Act, 1976.

(2) It shall come into force at once.

2. **Territorial waters.** (1) The sovereignty of Pakistan extends and has always extended to the territorial waters of Pakistan, hereinafter referred to as the territorial waters, as well as to the air space over, and the bed and sub-soil of such waters.

(2) The limit of the territorial waters is twelve nautical miles beyond the land territory and internal waters of Pakistan measured from the baseline.

(3) The baseline from which such limit shall be measured and the waters on the landward side of which shall form part of the internal waters of Pakistan shall be specified by the Federal Government by notification in the official Gazette.

(4) Where a single island, rock or a composite group thereof constituting a part of the territory of Pakistan is situated off the main coast, the baseline referred to in subsection (3) shall be drawn along the outer seaward limits of such island, rock or composite group.

* *Gazette of Pakistan Extraordinary Part I dated 04 January, 1977.*

3. Use of territorial waters by foreign ships. (1) Without prejudice to the provisions of any other law for time being in force and subject to the provisions of sub-section (2) and sub-section (3) all foreign ships shall enjoy the right of innocent passage through the territorial waters.

Explanation. For the purposes of this section, passage is innocent so long as it is not prejudicial to the peace, good order or security of Pakistan.

(2) Foreign warships, including submarines and other under water vehicles and Foreign Military Aircraft may enter or pass through the territorial waters and the air space over such waters with the prior permission of the Federal Government:

Provided that submarines and other under water vehicles shall navigate on the surface and show their flag while passing through such waters.

(3) Foreign super tankers, nuclear powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials may enter or pass through the territorial waters after giving prior notice to the Federal Government.

(4) The Federal Government may, if satisfied that it is necessary so to do in the interest of the peace, good order or security of Pakistan or any part thereof, suspend, by notification in the official Gazette, subject to such exceptions and qualifications, if any, as may be specified in the notification, the entry of all or any class of foreign ships into such area of the territorial waters as may be specified in the notification.

4. Contiguous Zone. (1) The Contiguous Zone of Pakistan, hereinafter referred to as the Contiguous Zone, is an area adjacent to and beyond the territorial waters, and extending seawards to a line twenty-four nautical miles measured from the baseline declared under sub-section (3) of section 2.

(2) The Federal Government may exercise such powers and take such measures in or in respect of the Contiguous Zone as it may consider necessary to prevent and punish the contravention of, and an attempt to contravene, any law in force in Pakistan relating to:

- (a) the security of Pakistan;
- (b) immigration and sanitation; and
- (c) customs and other fiscal matters.

(3) The Federal Government may, by notification in the official Gazette,

(a) extend to the Contiguous Zone any law relating to any matter referred to in clause (a) or clause (b) or clause (c) of sub-section (2), for the time being in force in Pakistan or any part thereof, with such modifications, if any, as may be specified in the notification; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such law and any law so extended shall have effect as if the Contiguous Zone formed part of the territory of Pakistan.

5. **Continental Shelf.** (1) The Continental Shelf of Pakistan, hereinafter referred to as the Continental Shelf, shall comprise the seabed and sub-soil of the submarine areas that extend beyond the limit of the territorial waters of Pakistan throughout the natural prolongation of the land territory of Pakistan to the outer edge of the continental margin or, where the outer edge of the continental margin does not extend up to a distance of two hundred nautical miles from the baseline declared under sub-section (3) of section 2, up to that distance.

(2) Pakistan has, and always had, full and exclusive sovereign rights in respect of its Continental Shelf, including:

(a) exclusive sovereign rights for the purpose of exploration, development exploitation, conservation and management of all resources both living and non-living;

(b) exclusive rights and jurisdiction to authorize, regulate and control scientific research;

(c) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the Continental Shelf, for the convenience of shipping or for any other purpose; and

(d) Exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution.

(3) No person, including a foreign Government, shall, except under, and in accordance with the terms of, any agreement with the Federal Government of a licence or letter of authority granted by the Federal Government, explore the Continental Shelf or exploit resources or carry out any search or excavation or conduct any research within the Continental Shelf or drill therein or construct, maintain or operate therein for any

purpose whatsoever any artificial islands, off-shore terminal, installation or other structure or device.

(4) The Federal Government may, by notification in the official Gazette:

(a) declare any area of the Continental Shelf and its superjacent waters to be a designated area; and

(b) make such provisions as it may deem necessary with respect to all or any of the following matters, namely:

(i) the exploration, development, exploitation and protection of the resources of the Continental Shelf within such designated area;

(ii) the safety and protection of artificial islands, off-shore terminals, installations and other structures and devices in such designated area;

(iii) the protection of marine environment of such designated area;

(iv) customs and other fiscal matters in relation to such designated area; and

(v) the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sea-lanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interests of Pakistan.

(5) The Federal Government may, by notification in the official Gazette:

(a) extend to the whole or any part of the Continental Shelf any law for the time being in force in Pakistan or any part thereof, with such modifications, if any as may be specified in the notification; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such law;

and any law so extended shall have effect as if the Continental Shelf or, as the case may be, the part thereof to which it has been extended formed part of the territory of Pakistan.

(6) Subject to any measures that may be necessary for protecting the interests of Pakistan, and without prejudice to the provisions of sub-section (2), the Federal Government may not impede the laying or maintenance of submarine cables or pipelines on the seabed of the Continental Shelf by foreign States:

Provided that the consent of the Federal Government shall be necessary for the delineation of the course for the laying of such cables or pipelines.

6. **Exclusive Economic Zone.** (1) The Exclusive Economic Zone of Pakistan, hereinafter referred to as the Exclusive Economic Zone, is an area beyond and adjacent to the territorial waters the limit of which is two hundred nautical miles from the baseline declared under sub-section (3) of section 2.

(2) In the Exclusive Economic Zone, its bed and sub-soil and the superjacent waters, Pakistan has:

(a) exclusive sovereign rights for the purpose of exploration, development, exploitation, conservation and management of all resources, both living and non-living, as well as for producing energy from tides, winds, currents and the sun.

(b) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the Zone or for the convenience of shipping or for any other purpose;

(c) exclusive rights and jurisdiction to authorize, regulate and control scientific research;

(d) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution; and

(e) such other rights as are recognized by international law.

(3) No person, including a foreign Government, shall, except under, and in accordance with the terms of, any agreement with the Federal Government or a licence or letter of authority granted by the Federal Government, explore or exploit any resources of the Exclusive Economic Zone or carry out any search or excavation or conduct any research within the Exclusive Economic Zone or drill therein or construct, maintain or operate therein for any purpose whatsoever any artificial island, off-shore terminal, installation or other structure or device:

Provided that fishing in the Exclusive Economic Zone shall be regulated by the provisions of the Exclusive Fishery Zone (Regulation of Fishing) Act, 1975 (XXXII of 1975).

(4) The Federal Government may, by notification in the official Gazette:

(a) declare any area of the Exclusive Economic Zone to be a designated area;
and

(b) make such provisions as it may deem necessary with respect to all or any of the following matters, namely:

(i) the exploration, development, exploitation and protection of the resources of such designated area;

(ii) other activities for the economic exploitation and exploration of such designated area, such as the production of energy from tides, winds, currents and the sun;

(iii) the safety and protection of artificial island, off-shore terminals, installations and other structures and devices in such designated area;

(iv) the protection of marine environment of such designated area;

(v) customs and other fiscal matters in relation to such designated area;
and

(vi) the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sea-lanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interest of Pakistan.

(5) The Federal Government may, by notification in the official Gazette:

(a) extend to the whole or any part of the Exclusive Economic Zone any law for the time being in force in Pakistan or any part thereof subject to such modification as may be specified in the notification; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such law, and any law so extended shall have effect as if the Exclusive Economic Zone or, as the case may be, the part thereof to which it has been extended formed part of the territory of Pakistan.

(6) The provisions of sub-section (6) of section 5 shall apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the Exclusive

Economic Zone as they apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the Continental Shelf.

(7) In the Exclusive Economic Zone and the air space over the Zone, ships and aircraft of all States shall, subject to the exercise by Pakistan of its rights within the Zone, enjoy freedom of navigation and overflight.

7. **Historic waters.** (1) The Federal Government may, by notification in the official Gazette, specify the limits of such waters adjacent to its land territory as are the historic waters of Pakistan.

(2) The sovereignty of Pakistan extends, and has always extended, to the historic waters of Pakistan and to the seabed and subsoil underlying, and the air space over, such waters.

8. **Maritime boundaries between Pakistan and States having coasts opposite or adjacent to those of Pakistan.** (1) Notwithstanding anything contained in any other provision of this Act:

a. the delimitation of the territorial waters between Pakistan and any other state whose coast is opposite or adjacent to that of Pakistan shall be determined by agreement between Pakistan and such state and pending such agreement and unless any other provisional arrangements are agreed to between them, the boundary with regard to the territorial waters between Pakistan and such state shall not extend beyond the line every point of which is equidistant from the baseline from which the breadth of the territorial waters of Pakistan and of such state is measured; and

(b) the delimitation of the Contiguous Zone, the Continental Shelf, the Exclusive Economic Zone and other maritime zones between Pakistan and any other state whose coast is opposite or adjacent to that of Pakistan shall be effected by agreement in accordance with equitable principles and taking account of all the relevant circumstances, and pending such agreement or a settlement Pakistan and such state shall make provisional arrangements taking into account the said principles for delimitation of the Contiguous Zone, the Continental Shelf, the Exclusive Economic Zone and other maritime zones.

(2) Every agreement referred to in clauses (a) of sub-section (1) shall, as soon as may be after it is entered into, be published in the official Gazette.

9. **Publication of Charts.** The Federal Government may cause the baseline referred to in sub-section (3) of section 2, limits of the Territorial Waters, the Contiguous

Zone, the Continental Shelf and the Exclusive Economic Zone and the maritime boundaries as settled by agreements referred to in section 8 to be published in charts.

10. **Offences.** Whoever contravenes any provisions of this act or of any rule or notification made or issued thereunder shall, without prejudice to any other action which may be taken against such person under any other provision of this or of any law, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

11. **Offences by companies.** (1) Where an offence punishable under section 10 has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for, the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under section 10 has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purpose of this section:

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

12. **Place of trial.** Any person committing an offence punishable under section 10 or under any of the laws extended under this Act may be tried for the offence in such place or places as the Federal Government may, by general or special order published in the official Gazette, direct in this behalf.

13. **Previous sanction of the Federal Government for prosecution.** No prosecution shall be instituted against any person in respect of any offence punishable under section 10 or under any of the laws extended under this Act without the previous sanction

of the Federal Government or such officer or authority as may be authorized by that Government by order in writing in this behalf.

14. **Power to make rules.** (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) Regulation of the conduct of any person in the Territorial Waters, the Contiguous Zone, the Continental Shelf, the Exclusive Economic Zone or any other maritime zone of Pakistan;

(b) Regulation of the exploration, development, exploitation, conservation and management of the resources of the Continental Shelf;

(c) Regulation of the exploration, development, exploitation, conservation and management of the resources of the Exclusive Economic Zone;

(d) Regulation of the construction, maintenance and operation of artificial island, off-shore terminals, installations and other structures and devices referred to in section 5 and section 6;

(e) Preservation and protection of the marine environment and prevention and control of marine pollution;

(f) Authorization, regulation and control of the conduct of scientific research;

(g) Fees in relation to licences and letters of authority referred to in sub section (3) of section 5 and sub-section (3) of section 6 or for any other purpose; or

(h) Any matter incidental to any of the matters specified in clauses (a) to (g).