APPLICATION OF LAWS (COASTAL SEA) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Crimes (Offences at Sea) Bill, 1980.

The object of this Bill is to make provision for and in connection with the extra-territorial application of the law of the State (other than criminal law) to the coastal sea (i.e., to the outer limit of the territorial sea adjacent to the State).

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3 contains interpretation provisions, including definitions of "coastal sea" and "territorial sea".

Clause 3 (3) limits references to the laws in force in the State, by excluding any law regulating coastal trading, as mentioned in section 736 of the Imperial Merchant Shipping Act, 1894.

Clause 4 applies the laws in force in the State to the coastal sea, other than criminal laws and laws of the Commonwealth.

Clause 5 provides that the proposed Act does not apply a law of the State to an off-shore place if the law is incapable of applying in that place, is expressed so as not to apply in that place or is expressed to apply only in another specified locality.

Clause 6 empowers the appropriate state officers to exercise their powers and authorities for the purposes of or in connection with an applied law.

Clause 7 authorises the making of regulations, including regulations providing for the exclusion from application by the proposed Act of laws specified in the regulations.

81998A 146—

APPLICATION OF LAWS (COASTAL SEA) BILL, 1980

No. , 1980.

A BILL FOR

An Act to apply laws of the State, other than criminal laws, to the coastal sea adjacent to the State.

[MR WALKER—13 *November*, 1980.]

81998A 146—

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Application of Laws (Coastal Sea) Act, 1980". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commencement.

(2) Except as provided by subsection (1), this Act shall
10 commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

15 "coastal sea" means—

(a) the territorial sea adjacent to the State; and

(b) the sea on the landward side of the territorial sea adjacent to the State that is not within the limits of the State,

20 and includes the airspace over and the seabed and sub-soil beneath any such sea;

"criminal laws" has the same meaning as in the Crimes (Offences at Sea) Act, 1980;

"territorial sea" means the territorial sea of Australia.

25 (2) In this Act, a reference to a law in force in the State includes a reference to the provisions of any instrument made under that law.

(3) In this Act, a reference to the laws in force in the State does not include a reference to any law to the extent to which it would, if it were to apply by virtue of this Act, regulate or purport to regulate coastal trading, as mentioned in section 736 of the Merchant Shipping Act, 1894, of the Imperial Parliament.

Application of laws to coastal sea.

4. The provisions of the laws in force in the State, whether written or unwritten, and whether substantive or procedural, and as in force from time to time, other than criminal laws and laws of the Commonwealth, apply to and in relation to the coastal sea, and so apply as if the coastal sea were part of the State.

Laws with specific application not to apply.

5. (1) Nothing in this Act renders a provision of the laws in force in the State applicable to a particular place—

(a) in so far as the provision is incapable of applying to or in relation to that place;

(b) if those laws expressly provide that the provision does not extend or apply to or in relation to that place; or

(c) if those laws expressly provide that the provision applies only in a specified locality in the State that does not include that place.

(2) A provision of the laws in force in the State shall not be taken to be a provision to which subsection (1) applies by reason only that it is limited in its application to acts, matters and things within the territorial jurisdiction of the State or within the territorial or adjacent waters (however described) of the State.

Extent of jurisdiction in relation to coastal sea.

6. (1) All persons who may exercise powers and authorities conferred on them by law for the purposes of or in connection with a provision of any law in force in the State shall have and may

exercise all or any of those powers and authorities for the purposes of or in connection with that provision as applying by virtue of this Act, as if the coastal sea were part of the State.

(2) The several courts of the State are invested with jurisdiction in all matters arising under the provisions of the laws as applying by virtue of this Act, as if the coastal sea were part of the State.

Regulations.

7. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may provide that such provisions or classes of provisions of the laws in force in the State as are specified in the regulations—

(a) do not apply by virtue of this Act;

(b) do not apply by virtue of this Act to acts, matters or things, or classes of acts, matters or things, specified in the regulations; or

(c) do not apply by virtue of this Act in circumstances specified in the regulations.

(3) Where regulations such as are referred to in subsection (2) are in force, this Act shall be construed to apply the provisions of the laws in force in the State subject to and in accordance with the regulations.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980
(10c)

APPLICATION OF LAWS (COASTAL SEA) ACT, 1980, No. 146

New South Wales

ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

* *

Act No. 146, 1980.

An Act to apply laws of the State, other than criminal laws, to the coastal sea adjacent to the State. [Assented to, 10th December, 1980.]

P 88806A (10c)

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Application of Laws (Coastal Sea) Act, 1980".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Interpretation.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"coastal sea" means—

(a) the territorial sea adjacent to the State; and

(b) the sea on the landward side of the territorial sea adjacent to the State that is not within the limits of the State,

and includes the airspace over and the seabed and sub-soil beneath any such sea;

"criminal laws" has the same meaning as in the Crimes (Offences at Sea) Act, 1980;

"territorial sea" means the territorial sea of Australia.

(2) In this Act, a reference to a law in force in the State includes a reference to the provisions of any instrument made under that law.

(3) In this Act, a reference to the laws in force in the State does not include a reference to any law to the extent to which it would, if it were to apply by virtue of this Act, regulate or purport to regulate coastal trading, as mentioned in section 736 of the Merchant Shipping Act, 1894, of the Imperial Parliament.

Application of laws to coastal sea.

4. The provisions of the laws in force in the State, whether written or unwritten, and whether substantive or procedural, and as in force from time to time, other than criminal laws and laws of the Commonwealth, apply to and in relation to the coastal sea, and so apply as if the coastal sea were part of the State.

Laws with specific application not to apply.

5. (1) Nothing in this Act renders a provision of the laws in force in the State applicable to a particular place—

(a) in so far as the provision is incapable of applying to or in relation to that place;

(b) if those laws expressly provide that the provision does not extend or apply to or in relation to that place; or

(c) if those laws expressly provide that the provision applies only in a specified locality in the State that does not include that place.

(2) A provision of the laws in force in the State shall not be taken to be a provision to which subsection (1) applies by reason only that it is limited in its application to acts, matters and things within the territorial jurisdiction of the State or within the territorial or adjacent waters (however described) of the State.

Extent of jurisdiction in relation to coastal sea.

6. (1) All persons who may exercise powers and authorities conferred on them by law for the purposes of or in connection with a provision of any law in force in the State shall have and may

exercise all or any of those powers and authorities for the purposes of or in connection with that provision as applying by virtue of this Act, as if the coastal sea were part of the State.

(2) The several courts of the State are invested with jurisdiction in all matters arising under the provisions of the laws as applying by virtue of this Act, as if the coastal sea were part of the State.

Regulations.

7. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may provide that such provisions or classes of provisions of the laws in force in the State as are specified in the regulations—

(a) do not apply by virtue of this Act;

(b) do not apply by virtue of this Act to acts, matters or things, or classes of acts, matters or things, specified in the regulations; or

(c) do not apply by virtue of this Act in circumstances specified in the regulations.

(3) Where regulations such as are referred to in subsection (2) are in force, this Act shall be construed to apply the provisions of the laws in force in the State subject to and in accordance with the regulations.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 10*th December,* 1980.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981