

SUBMARINE CABLES AND PIPELINES PROTECTION.

No. 61 of 1963.

An Act relating to the Protection of Submarine
Cables and Pipelines beneath the High Seas.

[Assented to 28th October, 1963.]

WHEREAS a Convention entitled “Convention on the High Seas” was signed at Geneva on the twenty-ninth day of April, One thousand nine hundred and fifty-eight: Preamble.

AND WHEREAS, in accordance with Article 34 of the Convention, the Convention entered into force in relation to the Commonwealth on the thirteenth day of June, One thousand nine hundred and sixty-three:

AND WHEREAS Articles 27, 28 and 29 of the Convention read as follows:—

“ Article 27

“ Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

“ *Article 28*

“ Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

“ *Article 29*

“ Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.”:

AND WHEREAS Article 1 of the Convention reads as follows:—

“ *Article 1*

“ The term ‘ high seas ’ means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.”:

AND WHEREAS it is desirable that the Commonwealth should give effect to Articles 27, 28 and 29 of the Convention:

BE it therefore enacted by the Queen’s Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- Short title.** 1. This Act may be cited as the *Submarine Cables and Pipelines Protection Act 1963*.
- Commencement.** 2. This Act shall come into operation on the day on which it receives the Royal Assent.
- Saving of other laws.** 3.—(1.) This Act shall be read and construed as being in addition to and not in derogation of or in substitution for any other law of the Commonwealth or of a State or Territory of the Commonwealth.
- (2.) The reference in the last preceding sub-section to a law of the Commonwealth includes a reference to the Imperial Act known as the Submarine Telegraph Act, 1885, insofar as that Act is part of the law of the Commonwealth.
- Extension of Act to Territories.** 4. This Act extends to all the Territories of the Commonwealth.

5.—(1.) A reference in this Act to a submarine cable or pipeline shall be read as a reference only to a cable or pipeline beneath the high seas or to such part of a cable or pipeline as is beneath the high seas.

Act applies only to cables and pipelines beneath the high seas.

(2.) In the last preceding sub-section, “the high seas” has the same meaning as in the Convention on the High Seas signed at Geneva on the twenty-ninth day of April, One thousand nine hundred and fifty-eight.

6. This Act binds the Crown in right of the Commonwealth or of a State and any authority constituted by or under a law of the Commonwealth, a State or a Territory of the Commonwealth.

Act binds Crown.

7.—(1.) A person shall not wilfully, or through culpable negligence—

Persons not to break or injure submarine cables or pipelines.

(a) break or injure, or cause a ship registered in Australia or in a Territory of the Commonwealth to break or injure, a submarine telegraph or telephone cable in such manner as might interrupt or obstruct telegraphic or telephonic communications; or

(b) break or injure, or cause a ship registered in Australia or in a Territory of the Commonwealth to break or injure, a submarine pipeline or a submarine high-voltage power cable.

Penalty: Where the person acted wilfully, One thousand pounds or imprisonment for one year; in any other case, Five hundred pounds or imprisonment for three months.

(2.) Where—

(a) a breakage of, or an injury to, a cable or pipeline is caused by persons acting with the sole object of saving their lives or their ships; and

(b) those persons took all necessary precautions to avoid breaking or injuring the cable or pipeline,

the last preceding sub-section does not apply in relation to the break or injury.

8. If a person, in the course of laying or repairing a submarine cable or pipeline of which he is the owner, causes a break in or injury to another cable or pipeline, he is liable to bear the cost of repairing the break or injury.

Liability for breaking or injuring a cable or pipeline.

9. If, after all reasonable precautionary measures have been taken, an anchor, a net or any other fishing gear belonging to a ship is sacrificed in order to avoid injuring a submarine cable or pipeline, the owner of the ship is entitled to be indemnified for his loss by the owner of the cable or pipeline.

Indemnity for loss of anchor, &c.

**Punishment
of offences.**

10.—(1.) An offence against this Act may be prosecuted either summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

(2.) In summary proceedings against a person for an offence against this Act, the court shall not impose on that person, in respect of the offence, a penalty exceeding Five hundred pounds or imprisonment for a term exceeding three months.

**Jurisdiction
of courts.**

11.—(1.) Subject to the succeeding provisions of this section—

(a) the several courts of the States are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories of the Commonwealth,

with respect to offences against this Act.

(2.) The jurisdiction invested in or conferred on courts by the last preceding sub-section is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise, but subject to the conditions and restrictions specified in paragraphs (a), (b) and (c) of sub-section (2.) of section thirty-nine of the *Judiciary Act* 1903–1960.

(3.) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate.

(4.) The trial on indictment of an offence against this Act, not being an offence committed within a State, may be held in any State or in any Territory of the Commonwealth.

(5.) Subject to this Act, the laws of a State or Territory of the Commonwealth with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act.

(6.) Except as provided by this section, the *Judiciary Act* 1903–1960 applies in relation to offences against this Act.