

Chapter 226
TERRITORIAL WATERS AND CONTIGUOUS ZONE ACT
To extend the territorial waters of Malta and to make provision for a contiguous zone.
10th December, 1971(1)

Short title

1. The short title of this Act is the Territorial Waters and Contiguous Zone Act.

Interpretation (2)

2. In this Act, unless the context otherwise requires - "appropriate action" means all or any of the following actions:

(a) to hail a vessel,

(b) to stop a vessel,

(c) to board a vessel,

(d) to search a vessel,

(e) to arrest and detain any person suspected of being about to commit a criminal offence or of having committed such an offence,

(f) to seize anything on board a vessel suspected of having any connection with a criminal offence,

(g) to require the master of a vessel to take the vessel and crew out of Maltese waters or to a port or harbour in Malta;

"foreign military vessel" means any ship belonging to the armed forces of a foreign State and having such characteristics mutatis mutandis as correspond to those of a Maltese military vessel;

"law" includes any instrument having the force of law;

"Malta" means the Island of Malta, the Island of Gozo and the other islands of the Maltese Archipelago;

"Maltese military vessel" means a ship belonging to the armed forces of Malta bearing the external marks distinguishing such ships as belonging to Malta under the command of an officer duly commissioned by the government of Malta and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline;

"maritime enforcement officer" means any member of the Malta Police Force, of the Armed Forces of Malta, any Customs Officer and any other officer vested with general law enforcement authority;

"relevant offence" means any offence against any law relating to customs, fiscal matters, immigration and sanitation, including pollution;

"relevant vessel or craft" means any Maltese military vessel or military aircraft or any vessel or craft, including an

aircraft, belonging to the armed forces or any of the law enforcement authorities of Malta, including the customs authorities, bearing the external marks distinguishing such vessel or craft as belonging to Malta and identifying it as being on government service;

"suspect vessel" means any vessel in respect of which appropriate action is to be taken.

Extent of territorial waters (3)

3. (1) Save as hereinafter provided, the territorial waters of Malta shall be all parts of the open sea within twelve nautical miles of the coast of Malta measured from low-water mark on the method of straight baselines joining appropriate points.

(2) For the purposes of the Fish Industry Act and of any other law relating to fishing, whether made before or after this Act, the territorial waters of Malta shall extend to all other parts of the open sea within twenty-five nautical miles from the baselines from which the breadth of the territorial waters is measured, and, for the purposes aforesaid, jurisdiction shall extend accordingly.

Contiguous Zone (4)

4. (1) Without prejudice to the provisions of article 3(2), in the zone of the open sea contiguous to the territorial waters of Malta as defined in article 3(1) (such zone being in this Act referred to as "the contiguous zone") the State shall have such jurisdictions and powers as are recognised in respect of such zone by international law and in particular may exercise therein the control necessary -

(a) to prevent any contravention of any law relating to customs, fiscal matters, immigration and sanitation, including pollution, and

(b) to punish offences against any such law committed within Malta or in the territorial waters of Malta as defined by article 3(1) or (2), as the case may require.

(2) The contiguous zone shall extend to twenty-four nautical miles from the baselines from which the breadth of the territorial waters is measured.

Action with respect to vessel within Maltese waters (5)

5. (1) Subject to the provisions of subarticle (2), any maritime enforcement officer on board a relevant vessel or craft may, within the internal or territorial waters of Malta, take appropriate action with respect to any vessel, other than a foreign military vessel or a ship owned by a foreign state used only for non-commercial service, whether flying the Maltese or any other flag or not flying any flag, reasonably suspected of having on board any person reasonably suspected of being about to commit or of having committed any offence against any of the laws of Malta.

(2) Subject to the provisions of subarticle (3), where the suspected offence has been committed on board the foreign vessel during its passage through the territorial waters of Malta, the power referred to in subarticle (1) shall not be exercised unless:

(a) the consequences of the offence extend to Malta; or

(b) the offence is such as to disturb the peace of Malta or the good order of the territorial waters; or

(c) the assistance of the Maltese authorities has been requested by the master of the vessel or by a diplomatic agent

or consular officer of the flag State of the vessel; or

(d) appropriate action is necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

(3) The provisions of subarticle (2) shall not affect the right of any maritime enforcement officer on board any relevant vessel or craft to take any steps authorised by Maltese law for the purpose of an arrest or investigation on board a foreign vessel passing through the territorial waters of Malta after leaving Maltese internal waters.

Action with respect to vessel within the contiguous zone (6)

6. (1) Any maritime enforcement officer on board a relevant vessel or craft may, within the contiguous zone, take appropriate action with respect to any vessel, other than a foreign military vessel or a ship owned by a foreign state used only for noncommercial service, whether flying the Maltese or any other flag or not flying any flag, reasonably suspected of having on board any person reasonably suspected of being about to commit or of having committed within the jurisdiction of the Maltese courts any relevant offence.

(2) Where following appropriate action having been taken in respect of a suspect vessel flying a foreign flag no suspicion remains that an offence against the laws of Malta has been committed by any member of the crew of that vessel, the same vessel may be kept under surveillance until it is out of the limits of the contiguous zone.

(3) Where following appropriate action having been taken in respect of a suspect vessel, whether pertaining to Malta or flying a foreign flag, the suspicion remains that any person on board the vessel has committed within the jurisdiction of the Maltese courts any offence against the laws of Malta, any maritime enforcement officer may take any further appropriate action in respect of that person and of the vessel and crew.

(4) Where the master of a suspect vessel has been required to take the vessel to a port or harbour in Malta, the members of the crew of the vessel suspected of being about to commit or of having committed an offence within the jurisdiction of the Maltese courts shall be handed over to the Police for further investigation.

Powers to regulate the passage of ships through territorial waters (7)

7. (1) The Prime Minister may make regulations to control and regulate the passage of ships through the territorial waters of Malta, and, without prejudice to the generality of the foregoing, may by such regulations make provision with respect to all or any one or more of the following matters:

(a) the safety of navigation and the regulation of marine traffic, including the designation or establishment of sea lanes and traffic separation schemes to be used or observed for the passage of ships;

(b) the protection of navigational aids and facilities and other facilities or installations;

(c) the protection of cables and pipelines;

(d) the conservation of the living resources of the sea;

(e) the prevention of infringement of any law or regulation relating to fisheries;

(f) the preservation of the environment and the prevention, reduction and control of pollution thereof;

(g) marine scientific research and hydrographic surveys;

(h) the prevention of infringement of any customs, fiscal, immigration or sanitary laws or regulations;

(i) the arrest, detention and seizure of ships to ensure compliance with any law, rule, regulation or order and such other power as may be necessary for securing such compliance;

(j) the punishments, whether by way of fine (multa or ammenda) or of imprisonment, to be applied in respect of any contravention or non-observance of any regulation made under this article.

(2) In the application of any regulation made under subarticle (1) to warships or to nuclear powered ships or to ships carrying nuclear or other inherently dangerous or noxious substances, their passage through territorial waters may, by any such regulation, be made subject to the prior consent of, or prior notification to, such authority as may be specified therein.

Saving (8)

8. (1) Nothing in this Act shall be construed as affecting any jurisdiction and power exercisable in accordance with international law outside territorial waters, and in particular the following provisions of this article shall apply.

Right of hot pursuit

(2) Subject to the provisions of subarticle (3), where a relevant vessel or craft has, within Maltese internal or territorial waters, or within the contiguous zone of Malta, commenced the pursuit of a suspect vessel, the relevant vessel may continue in hot pursuit of the suspect vessel into the high seas provided that the pursuit has not been interrupted:

Provided that where the suspect vessel is within the contiguous zone when it is ordered to stop by a maritime enforcement officer on board the relevant vessel, the pursuit may only be undertaken if the suspect vessel is suspected of having committed any relevant offence.

(3) Where the suspect vessel is within the contiguous zone, hot pursuit may only be undertaken if the commission of a relevant offence is reasonably suspected.

(4) The right of hot pursuit referred to in this article shall not be undertaken unless the relevant vessel or craft has first given the suspect vessel a visual or auditory signal to stop and the said right of hot pursuit shall cease where the suspect vessel enters the territorial sea of its own State or of a third State.

(5) Where hot pursuit is effected by an aircraft the provisions of subarticles (2) to (4) shall apply mutatis mutandis. The provisions of subarticle (6) shall also apply.

(6) An aircraft shall not arrest a suspect vessel outside the territorial waters of Malta unless the aircraft had itself ordered the suspect vessel to stop and had pursued it without interruption, and where hot pursuit had been undertaken by an aircraft and the pursuit was taken over by another aircraft or ship, such other aircraft or ship shall only be authorised to arrest the suspect vessel outside the territorial waters of Malta if the said other aircraft or ship had continued the pursuit without interruption.

(7) The right of hot pursuit shall apply mutatis mutandis to any violation in the area established by article 3(2) or of any law for the purposes of which the said area is established.

Action with respect to vessel on the high seas

(8) Where a Maltese military vessel encounters on the high seas a foreign vessel, not being a foreign military vessel or a ship owned by a foreign State used only on non-commercial service, hereafter referred to in this subarticle as

the suspect vessel, and there is reasonable ground for suspecting that -

- (a) the suspect vessel is engaged in piracy;
 - (b) the suspect vessel is engaged in the slave trade;
 - (c) the suspect vessel is engaged in unauthorised broadcasting and the Maltese courts have jurisdiction thereon;
 - (d) the suspect vessel is without nationality; or
 - (e) though flying a foreign flag or refuses to show its flag, the suspect vessel is a vessel registered in Malta, any maritime enforcement officer on board the relevant vessel may proceed to verify the suspect vessel's right to fly its flag by boarding the suspect vessel and checking its documents and if thereupon suspicion remains as to the nationality of the suspect vessel, the relevant vessel may proceed to a further examination with all possible consideration.
- (9) Any person or suspect vessel discovered to be engaged in unauthorised broadcasting as provided in subarticle (7)(c) may be arrested by any maritime enforcement officer on board the relevant vessel who may also seize any apparatus used in the said unauthorised broadcasting.

Endnotes

1 (Note - Note)

ACT XXXII of 1971, as amended by Acts: XLVI of 1975, XXIV of 1978 XXVIII of 1981 and I of 2002.

2 (Note - Note)

Amended by:
I. 2002.2.

3 (Note - Note)

Amended by:
XLVI. 1975.2;
XXIV. 1978.2.
Cap. 138.

4 (Note - Note)

Amended by:
XLVI. 1975.2;
XXIV. 1978.3.

5 (Note - Note)

Added by:
I. 2002.4.

6 (Note - Note)

Added by:
I. 2002.4.

7 (Note - Note)

Added by:
XXVIII. 1981.3.
Amended by:
I. 2002.3.

8 (Note - Note)

Amended by:
XXVIII. 1981.2;
I. 2002.3, 5.