

It is not expected, however, that these tribunals will raise any objection to granting the required certificate.

The procedure for obtaining a payment from the Fund is for the respondent to obtain from the court, after it has decided against him, a Certificate of Indemnity. The grant or refusal of the certificate is in the discretion of the court and no appeal lies against any such grant or refusal [s. 6 (5)]. The certificate is then presented for payment to the Under Secretary of the Department of the Attorney-General and of Justice, under whose management the Fund is placed, [s. 3], and who is declared by the Act [s. 4 (1)] to be a corporation solely for the purpose of exercising his powers under the Act.

The Fund has now been in existence for more than a year, and it is surprising to note that to date only two litigants have taken advantage of the provisions of the Act, one application being successful, one pending.

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NOTE ON PENDING AUSTRALIAN LEGISLATION ON FISHERIES

On the 18th of February, 1953, the Commonwealth Minister for Commerce and Agriculture brought in two Bills designed to amend the Fisheries Act and the Pearl Fisheries Act. These Bills, which include amendments of a purely procedural nature having only administrative significance, also set out an expanded definition of the term "Australian Waters". The proposed definition is as follows:

"'Australian Waters' means—(a) Australian waters beyond territorial waters; (b) the waters adjacent to a Territory and within territorial limits; and (c) the waters adjacent to a Territory, not being part of the Commonwealth and beyond territorial limits."

It will be seen that sub-sections (a) and (b) of this definition are identical with the definition of "Australian waters" in the principal Acts, but that sub-section (c) is an innovation.

The object of this new sub-section is to remove doubts as to the scope of the existing provisions, which, it was felt, did not, on their literal construction, clearly extend to the extra-territorial waters of the external Territories of the Commonwealth (i.e. the Australian Territories other than the Northern Territory). The amendment is designed to ensure that there will be no doubt that the Acts extend to the waters outside the territorial limits of the external Territories of the Commonwealth (i.e. the Territories of the Antarctic, the Ashmore and Cartier Islands, Nauru, Norfolk Island, New Guinea and Papua).

These amendments, if passed, will not alter the operation of the principal Acts in any way, but they do serve to emphasise the fact that when proclaimed they will be of an essentially extra-territorial nature and thus will almost certainly raise some of the questions of international law touched upon in the foregoing note.

D.T.P.