



ANTARCTICA NEW ZEALAND INFORMATION SHEET

ENVIRONMENTAL AGREEMENTS AND LEGISLATION

International Agreements

Convention on the Conservation of Antarctic Seals (CCAS)

This Convention was adopted by Antarctic Treaty Parties in 1972 in response to concerns about the vulnerability of Antarctic seals should commercial sealing recommence.

The Convention covers all species of seals in Antarctic waters and sets conservative catch limits on Crabeater, Leopard and Weddell seals. The Convention prohibits the catching of Ross, Elephant and Fur seals. There are also provisions relating to closed seasons and closed areas for any proposed commercial sealing activity.

New Zealand is not a contracting party to this Convention. Although New Zealand is a signatory, the Convention has not been ratified by New Zealand or implemented in domestic law. New Zealand's view is that it cannot accept a Convention that provides for the commercial exploitation and harvesting of seals and would view any such developments with serious concern.

Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)

CCAMLR came into force in 1982 in response to the heavy exploitation and overfishing of fish stocks in the Southern Ocean.

CCAMLR is based on the "ecosystem approach" whereby commercial fishing takes account not only of the impact on the targeted species but also on the prey and predators of that species. This ensures that the likely implications for all links in the food chain are examined. CCAMLR is thus concerned with seals and seabirds as well as fish, squid and krill.

The Antarctic Marine Living Resources Act 1981 gives effect to CCAMLR provisions in New Zealand law. The Act requires that New Zealanders obtain a permit to take any marine species in Antarctica. The Act applies to commercial fisheries as well as to any New Zealander wanting to undertake recreational or scientific "fishing" in Antarctic waters.

For the first time, New Zealand has initiated a new fishery in the Ross Sea. The fishery is for the Patagonian toothfish (*Dissostichus* species) and is conducted under the strict fishing and reporting regulations set down by CCAMLR. These regulations include restrictions on where, when and how fishing takes place, reporting conditions, the use of a vessel position tracking system, and the acceptance of on-board observers.

Protocol on Environmental Protection to the Antarctic Treaty

The Protocol, agreed in 1991 and in force internationally in 1998, cements the environmental conservation concepts in the original Antarctic Treaty by designating Antarctica as a "natural reserve, devoted to peace and science". The Protocol calls for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems. It contains five practical annexes setting out requirements for:

- Environmental impact assessment prior to any activity taking place;
- Conservation of Antarctic flora and fauna;
- Waste disposal and management;
- Prevention of marine pollution (consistent with the MARPOL convention); and
- Protected and managed areas.

New Zealand legislation

Because each nation's ratification of the Protocol and CCAMLR involved implementing legally binding mechanisms, most Treaty Party countries have domestic legislation applicable to Antarctica. In New Zealand's case, the legislation that applies in Antarctica also relates to New Zealand's historical claim over part of the continent. New Zealand formally asserted sovereignty over the Ross Dependency in 1923 by an Order in Council, defining the Dependency as all the islands and territories below 60° South, between 160° East and 150° West. The Order adopted the present and future common and statute law of New Zealand (as far as applicable to the conditions of the Dependency) as the law of the Ross Dependency. New Zealand criminal law is specifically extended to the Ross Dependency through the Antarctica Act 1960.

The Animal Welfare Act 1999, the Marine Mammals Protection Act 1978 and the Maritime Transport Act 1994 are both relevant and practical to implement in Antarctica, and therefore "applicable to the conditions of the Dependency" and are considered to apply to New Zealanders in the Ross Dependency. The Antarctica (Environmental Protection) Act 1994 and the Antarctic Marine Living Resources Act 1981 are more specific in their application to New Zealanders anywhere in Antarctica.

Although not covered in this sheet, it should be noted that the Biosecurity Act 1993 and the Hazardous Substances and New Organisms Act 1996 apply to materials being returned to Antarctica from New Zealand. Those planning Antarctic activities should consult the specific information provided on the Antarctica New Zealand website for people travelling to Antarctica.

Animal Welfare Act 1999

Under the Act, nobody may carry out research, testing, or teaching involving the use of animals (including mammals, birds, fish and other animals as defined under the Act) unless they are by contract working under an approved code of ethical conduct. Most research institutions have an Animal Ethics Committee with an approved code. For any research Antarctica New Zealand supports involving Animals, a copy of a valid ethics approval from the researcher's institution is required to demonstrate compliance with the Act's requirements.

Antarctica (Environmental Protection) Act 1994

The Antarctica (Environmental Protection) Act 1994 is the New Zealand domestic enabling legislation to implement the Protocol on Environmental Protection to the Antarctic Treaty. The Protocol was adopted by Antarctic Treaty Parties in 1991 and calls for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems.

The Protocol includes provisions for environmental impact assessment, the conservation of Antarctic fauna and flora, waste disposal and waste management, the prevention of marine pollution and area protection and management.

Antarctic Marine Living Resources Act 1981

The purpose of the Act is to give effect to the Convention on the Conservation of Antarctic Marine Living Resources. The Act applies to any organism of any species found within the area south of the Antarctic Convergence. Under the Act no marine organism, alive or dead, may be taken from the area without a permit from the Minister of Fisheries.

Marine Mammals Protection Act (MMPA), 1978

The Marine Mammals Protection Act provides for the protection of marine mammals in New Zealand's Exclusive Economic Zone and applies to New Zealanders in the Ross Dependency of Antarctica. The Act is administered by the Department of Conservation.

The Act requires that a permit be obtained for any activity, which proposes to take or harass any marine mammal. This includes any activity carried out for the purposes of scientific research.

Maritime Transport Act 1994

The Maritime Transport Act is the New Zealand domestic enabling legislation that will (when in force) implement the International Convention on the Prevention of Pollution from Ships (MARPOL) in New Zealand law. Specific provisions of the convention will apply to ships operating in Antarctic waters.

In particular, provisions regulate the discharge of oil or oily mixtures into the sea, the disposal of garbage and the discharge of sewage at sea. These provisions are referred to in Annex IV of the Protocol with the intent that Parties will comply with these and any other regulations that subsequent reviews of MARPOL might deem appropriate.