

Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977

Short title and commencement

1. (1) This Act may be cited as the Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977, and shall be read together with and deemed part of the Tokelau Act 1948.
- (2) This Act shall come into force on a date appointed by the Governor-General by Order in Council.
- (3) For the purposes of subsection (2) of this section, one or more Orders in Council may be made:
 - (a) Bringing different provisions of this Act into force on different dates; and
 - (b) Bringing provisions of this Act into force on different dates in respect of specified parts of Tokelau.

Interpretation

2. In this Act, unless the context otherwise requires:

"Court" means the High Court of Niue;

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"Fish" means every kind of marine animal and its young, fry, eggs or spawn; and includes shellfish, crustaceans, sponge, holothurian (bêche-de-mer) and turtle;

"Fishing" means:

- (a) Taking any fish; or
- (b) Engaging in any activity relating to the taking of any fish, including (*inter alia*) any activity involving the preparation, supply, storage, refrigeration, transportation, or processing of any fish; or
- (c) Engaging in any activity relating to the provision of any services to any fishing craft to enable or assist that craft to engage in fishing;

"Fishing craft" means any vessel, aircraft, hovercraft, submersible craft or other craft, of whatever size, that is capable of being used for fishing;

...

"Master", in relation to a fishing craft, means the person for the time being having command or charge of the craft;

"Median line", as between Tokelau and any country, means a line every point of which is equidistant from the nearest points of the baseline of the territorial sea of Tokelau and the corresponding baseline of that country;

"Nautical mile" means the international nautical mile of 1,852 metres;

"Owner", in relation to a fishing craft, includes any body of persons, whether incorporated or not, by whom the

craft is owned, and any charterer, sub-charterer, lessee, or sublessee of the craft;

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"Territorial sea" means the territorial sea of Tokelau defined by section 3 of this Act;

...

THE TERRITORIAL SEA OF TOKELAU

The territorial sea

3. The territorial sea of Tokelau comprises those areas of the sea having, as their inner limits, the baseline described in section 5 of this Act and, as their outer limits, a line measured seaward from that baseline, every point of which is distant 12 nautical miles from the nearest point of that baseline.

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Baseline of the territorial sea

5. The baseline from which the breadth of the territorial sea is measured shall be the low-water line along the seaward edge of the reef, except that where there is a break or passage through or over the reef, the baseline shall be a straight line joining the entrance points of that break or passage.

Prohibition of foreign fishing in territorial sea

6. (1) No foreign fishing craft shall be used for fishing within the territorial sea.

(2) Where any foreign fishing craft is used in contravention of subsection (1) of this section, each of them the owner, the master and every crew member of the craft commits an offence against this Act and is liable on conviction:

(a) In the case of the owner or master, to a fine not exceeding \$100,000; and

(b) In the case of any other crew member, to a fine not exceeding \$5,000.

(3) The Court, on the conviction of any person of an offence under this section, may order in addition to any penalty that it may impose:

(a) The immediate forfeiture to the Crown of the foreign fishing craft in respect of which the offence was committed, and of any equipment on board or used by the craft, and of any fish on board the craft; or

(b) The detention for a specified period of the foreign fishing craft and of any such equipment and fish, and the forfeiture to the Crown of the craft, equipment and fish if any fine or fines imposed in respect of the offence are not paid within that specified period.

...

GENERAL PROVISIONS

Foreshore, bed and subsoil vested in the Crown

10. The foreshore of Tokelau, and the seabed and subsoil of the submarine areas of its internal waters, territorial sea and exclusive economic zone, shall be deemed to be and always to have been vested in the Crown.

General regulations

11. Where no other provision is for the time being made by any other enactment for any such purposes, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Regulating the conduct of scientific research within the territorial sea and the exclusive economic zone;
- (b) Prescribing measures for the protection and preservation of the marine environment of the territorial sea and the zone;
- (c) Regulating the construction, operation and uses of artificial islands (whether permanent or temporary), and other installations and structures within the territorial sea or the exclusive economic zone, including the establishment of safety zones around such islands, installations and structures;
- (d) Regulating the exploration and exploitation of the territorial sea and the exclusive economic zone for the production of energy from the water, currents and winds, and for any other economic purposes;
- (e) Providing for the designation or appointment of authorized officers for the purposes of this Act;
- (f) Providing for the conservation and management of fisheries resources within the territorial sea and the zone;
- (g) Providing for such other matters as are necessary or expedient for giving full effect to sovereignty in respect of Tokelau in relation to the territorial sea, and to the sovereign rights of Tokelau in relation to the zone;
- (h) Providing that a breach of any regulations made under this section shall be a criminal offence, and imposing penalties by way of fine not exceeding \$10,000 for any such offences;
- (i) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

General provisions as to enforcement

12. (1) Any constable or authorized officer may at any time (with or without a warrant) stop, board, inspect and search any foreign fishing craft within the internal waters, territorial sea or exclusive economic zone of Tokelau and any equipment on board or used by the craft, and any fish on board the craft.

(2) Where any constable or authorized officer has reasonable cause to believe that any offence against this Act, or against any regulations made under this Act, or against any other law relating to fishing within the internal waters, territorial sea or exclusive economic zone of Tokelau, has been committed in respect of any foreign fishing craft, he may (with or without a warrant):

(a) Seize and detain all fish on board the craft; and

(b) Apprehend and detain any person whom he has reasonable cause to believe has committed any such offence; and

(c) If he has reasonable cause to believe that any such offence has been committed by the licensee, owner or master of the craft, seize and detain the craft, and any equipment on board or used by the craft,

to be dealt with in accordance with law.

(3) Any constable or authorized officer may exercise the powers conferred on him by subsections (1) and (2) of this section with the aid of such assistants as he considers to be necessary for the purpose.

(4) Where any foreign fishing craft, equipment or fish is ordered to be forfeited to the Crown pursuant to this Act or to any regulations made under this Act, that craft, equipment or fish shall be deemed to be forfeited accordingly, and shall be disposed of in such manner as the Administrator of Tokelau thinks fit.