



Tonga

**TERRITORIAL SEA AND EXCLUSIVE
ECONOMIC ZONE ACT**

2007 Revised Edition



TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE ACT

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TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE ACT

AN ACT MAKE PROVISION WITH RESPECT TO THE TERRITORIAL SEA OF TONGA; AND TO ESTABLISH AN EXCLUSIVE ECONOMIC ZONE OF TONGA ADJACENT TO THE TERRITORIAL SEA, AND IN THE EXERCISE OF THE SOVEREIGN RIGHTS OF TONGA TO MAKE PROVISION FOR THE EXPLORATION AND EXPLOITATION, AND CONSERVATION AND MANAGEMENT, OF THE RESOURCES OF THE ZONE AND FOR MATTERS CONNECTED WITH THOSE PURPOSES¹

Commencement [1st October 2007]²

1 Short Title

- (1) This Act may be cited as the Territorial Sea and Exclusive Economic Zone Act.
- (2) This Act shall come into force on a date to be appointed by the King in Privy Council.³

2 Interpretation

- (1) In this Act, unless the context otherwise requires —
“**Bay**” means an indentation of the coast such that its area is not less than that of the semi-circle whose diameter is a line drawn across the mouth of the indentation (for the purposes of which definition —

- (a) the area of an indentation shall be taken to be the area bounded by low-water mark around the shore of the indentation and the straight line joining the low-watermarks of its natural entrance points; and
- (b) where, because of the presence of islands, an indentation has more than one mouth, the length of the diameter of the semicircle referred to shall be the sum of the lengths of the straight lines drawn across each of the mouths; and
- (c) in calculating the area of an indentation, the area of any islands lying within it shall be treated as part of the area of the indentation);

“Exclusive economic zone” and **“zone”** mean the exclusive economic zone of Tonga described in section 9 of this Act;

“International agreement” means any bilateral or multilateral treaty, convention or agreement to which Tonga is a party, and any understanding concluded by the Government of Tonga and the government of any other country;

“Island” means a naturally formed area of land that is surrounded by and above water at mean high-water spring tides;

“Low-tide elevation” means a naturally formed area of land that is surrounded by and above water at mean low-water spring tides but is submerged at mean high-water spring tides;

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

“Nautical mile” means the international nautical mile of 1852 metres;

“Prescribed” means prescribed by regulations made under this Act.

- (2) For the purposes of this Act, permanent harbour works that form an integral part of a harbour system shall be treated as forming part of the coast.

PART I - THE TERRITORIAL SEA OF TONGA

3 The territorial sea

The territorial sea of Tonga comprises those areas of the sea having, as their inner limits, the baseline described in sections 5 and 6 of this Act and, as their outer limits, a line measured seaward from that baseline.

4 Internal waters

The internal waters of Tonga include any areas of the sea that are on the landward side of the baseline of the territorial sea of Tonga.

5 Baseline of territorial sea

- (1) Except as otherwise provided in section 6 of this Act, the baseline from which the breadth of the territorial sea of Tonga is measured shall be –
 - (a) in the case of islands situated on atolls or of islands having fringing reefs, the low-water mark along the seaward edge of the reef;
 - (b) in the case of islands not situated on atolls or of islands not having fringing reefs, the low-water mark along the coast of those islands.
- (2) For the purposes of this section, a low-tide elevation that lies wholly or partly within the breadth of sea that would be territorial sea if all low-tide elevations were disregarded for the purposes of the measurement of the breadth of the territorial sea shall be treated as an island.

6 Baseline of territorial sea adjacent to bay

In the case of the sea adjacent to a bay, the baseline from which the breadth of the territorial sea is measured —

- (a) where the bay has only one mouth and the distance between the low-water marks of the natural entrance points of the bay does not exceed 24 nautical miles, shall be a straight line joining those low-water marks; and
- (b) where, because of the presence of islands, the bay has more than one mouth and the distances between the low-water marks of the natural entrance points of each mouth added together do not exceed 24 nautical miles, shall be a series of straight lines across each of the mouths so as to join those low-water marks; and
- (c) where neither paragraph (a) nor paragraph (b) of this section applies, shall be a straight line 24 nautical miles in length drawn from low-water mark to low-water mark within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

7 Bed of territorial sea and internal waters vested in Crown

Subject to the grant of any estate or interest therein (whether by or pursuant to the provisions of any enactment or otherwise, and whether made before or after the commencement of this Act), the seabed and subsoil of submarine areas bounded on the landward side by the low-water mark along the coast of all

islands of Tonga and on the seaward side by the outer limits of the territorial sea of Tonga shall be deemed to be and always to have been vested in the Crown.

8 Regulations for territorial sea

The King in Council 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;
- (b) prescribing measures for the protection and preservation of the marine environment of the territorial sea;
- (c) regulating the construction, operation, and use of artificial islands (whether permanent or temporary), and other installations and structures in the territorial sea, including the establishment of safety zones around such islands, installations, and structures;
- (d) regulating the exploration and exploitation of the territorial sea for the production of energy from the water, current and winds, and for any other economic purposes;
- (e) providing for such other matters as are necessary or expedient for giving full effect to the sovereignty of Tonga in relation to the territorial sea;
- (f) providing that a breach of any such regulations shall be a criminal offence, and imposing penalties by way of fine not exceeding \$10,000 for any such offences;
- (g) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Part of this Act and for its due administration.

PART II - THE EXCLUSIVE ECONOMIC ZONE OF TONGA

9 The exclusive economic zone

- (1) The exclusive economic zone of Tonga comprises those areas of the sea, seabed and subsoil that are beyond and adjacent to the territorial sea of Tonga, having as their outer limits a line measured seaward from the baseline described in sections 5 and 6 of this Act, every point of which line is distant 200 nautical miles from the nearest point of the baseline.
- (2) Notwithstanding subsection (1) of this section, where –
 - (a) any part of the median line between Tonga and any other country is less than 200 nautical miles from the nearest part of the baseline of the territorial sea of Tonga; and

- (b) no other outer limit of the exclusive economic zone is for the time being determined by agreement with a neighbouring country or by an Order-in-Council made under subsection (3) of this section,
- that part of the median line shall be an outer limit of the zone.
- (3) For the purposes of implementing any international agreement, of the arbitral award of any international body, or the judgment of any international Court, or for any other purpose in accordance with international law, the King may from time to time, by Order-in-Council, declare that the exclusive economic zone shall not extend to any specified area of the sea, seabed, or subsoil, that would otherwise be included within the exclusive economic zone by virtue of this section.

10 General Regulations

The King 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 exclusive economic zone;
- (b) prescribing measures for the protection and preservation of the marine environment of the zone;
- (c) regulating the construction, operation, and use of artificial islands (whether permanent or temporary), and other installations and structures within the zone, including the establishment of safety zones around such islands, installations, and structures;
- (d) regulating the exploration and exploitation of the zone for the production of energy from the water, currents, and winds, and for any other economic purposes;
- (e) providing for such other matters as are necessary or expedient for giving full effect to the sovereign rights of Tonga in relation to the zone;
- (f) providing that a breach of any such regulations shall be a criminal offence, and imposing penalties by way of fine not exceeding \$10,000 for any such offences;
- (g) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Part of this Act and for its due administration.

11 General provisions as to offences in zone

Any offence against this Act or against any regulations made under this Act that is committed within the exclusive economic zone shall be deemed to have been committed in Tonga.

PART III - MISCELLANEOUS PROVISIONS

12 Modifications to give effect to international agreement

The King may, from time to time by Order-in-Council, limit any provision of this Act relating to the exclusive economic zone so far as it is necessary to do as to give full effect to any convention that is adopted by the Third United Nations Conference on the Law of the Sea.

13 Official charts

- (1) For the purposes of this Act, the low-water mark in any specified area shall be the line of low-water at mean low-water spring tides as depicted on the largest scale British Admiralty chart for the time being of that area.
- (2) In any proceeding in any Court, a certificate purporting to be signed by the Harbour Master that any specified British Admiralty chart of that area is the largest scale British Admiralty chart for the time being available of that area shall be admissible as evidence of that matter.

14 Onus of proof in respect of offences

In any criminal proceedings under this Act where a defendant is charged with having committed an offence or with having contravened any other provision in any regulations made under this Act under which a licence or permit or the consent of any person is required for the doing of any act, the onus shall be on the defendant to prove that at the time to which the charge related, the requisite licence, permit, or consent was duly held.

15 Other enactments

Except as expressly provided by this Act, the provisions of this Act are in addition to and not in substitution for the provisions of every other enactment, and accordingly nothing in this Act shall limit or derogate from the provisions of any other enactment.

ENDNOTES

¹ Act 30 of 1978

Amended by Act 19 of 1989, commencement 1 October 2007 (LN 4/2007)

² LN 4/2007

³ LN 4/2007