



**Tuvalu**

# **MARITIME ZONES ACT**

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Tuvalu

## MARITIME ZONES ACT

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Tuvalu

## MARITIME ZONES ACT<sup>1</sup>

### AN ACT TO PROVIDE FOR THE INTERNAL WATERS, THE ARCHIPELAGIC WATERS, THE TERRITORIAL SEA, THE CONTIGUOUS ZONE, THE EXCLUSIVE ECONOMIC ZONE AND THE CONTINENTAL SHELF OF TUVALU

Commencement [4th May, 2012]

#### 1 Short Title

This Act may be cited as the Maritime Zones Act.

#### 2 Commencement

This Act shall commence on the date of publication.

#### 3 Interpretation

(1) In this Act –

“**archipelago**” means a group of islands, including parts of islands, interconnecting waters and other natural features, which are so closely interrelated that they form an intrinsic geographical, economic and political entity, or have historically been regarded as such;

“**lagoon**” means the waters lying within the reef of an atoll;

“**low-water line**” means the line of low water at the lowest astronomical tide;

“**nautical mile**” means an international nautical mile of 1,852 metres.

(2) For the purposes of this Act, permanent harbour works that form an integral part of a harbour system shall be regarded as forming part of the coast, but this subsection does not apply to off-shore installations or artificial islands.

#### 4 References to international law

Where in this Act it is provided that anything shall be done, or any law or order shall be made, in accordance with international law, the question, whether it was so done or made, is non-justiciable.

#### 5 Application of this Act

The provisions of this Act shall be read subject to the provisions of any treaty or other international obligation which is ratified or finally accepted by Tuvalu.

## PART 1 - TERRITORIAL SEA

#### 6 The territorial sea

- (1) Subject to subsection (2), the territorial sea comprises those areas of the sea having –
  - (a) as their inner limits, the baseline described in section 7(1); and
  - (b) 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.
- (2) Where archipelagic baselines are declared under section 7(3), the territorial sea comprises those areas of the sea having –
  - (a) as their inner limits, the baseline described in section 7(2); and
  - (b) 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.

#### 7 Baselines of the territorial sea<sup>2</sup>

- (1) Subject to subsection (2), the baseline from which the breadth of the territorial sea is measured shall be the low-water line of the seaward side of the reef fringing the coast of any part of Tuvalu or bounding any lagoon waters adjacent to any part of that coast, or where a reef is not present, the low-water line of the coast itself.
- (2) Where there is an archipelago, the baselines from which the breadth of the territorial sea is measured shall be archipelagic baselines, declared in accordance with subsection (3).
- (3) The Minister may, by order, declare, in accordance with international law, the geographic coordinates of points between which archipelagic baselines are to be drawn.

**8 Internal waters**

- (1) The internal waters of Tuvalu comprise –
  - (a) all waters on the landward side of the baseline described in section 7(1); and
  - (b) the lagoons of any atoll.
- (2) The internal waters of Tuvalu are inland waters for the purpose of section 2 of the Constitution of Tuvalu.

**PART 2 - ARCHIPELAGIC WATERS****9 Archipelagic waters<sup>3</sup>**

- (1) The archipelagic waters of Tuvalu comprise all waters enclosed by the archipelagic baselines declared under section 7(3).
- (2) The archipelagic waters of Tuvalu are part of the area of Tuvalu for the purpose of the Constitution of Tuvalu.<sup>4</sup>

**PART 3 - CONTIGUOUS ZONE****10 Contiguous zone**

- (1) Subject to subsection (2), the contiguous zone of Tuvalu comprises those areas of the sea that are beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 7(1), every point of which is distant 24 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is declared under section 7(3), the outer limits of the contiguous zone are a line measured seaward from that archipelagic baseline, every point of which is distant 24 nautical miles from the nearest point of that archipelagic baseline.

**PART 4 - EXCLUSIVE ECONOMIC ZONE****11 Exclusive economic zone**

- (1) Subject to subsections (2) and (3), the exclusive economic zone of Tuvalu comprises those areas of the sea, seabed and subsoil that are beyond and adjacent to the territorial sea, having as their outer limits a line measured

seaward from the baseline described in section 7(1), every point of which is not more than 200 nautical miles from the nearest point of that baseline.

- (2) Where an archipelagic baseline is declared under section 7(3), the outer limits of the exclusive economic zone are a line measured seaward from that archipelagic baseline, every point of which is not more than 200 nautical miles from the nearest point of that archipelagic baseline.
- (3) The Minister may, by order, for the purpose of implementing any international agreement or the award of any international body, declare that the outer limits of the exclusive economic zone of Tuvalu are such as are specified in the order.

## **PART 5 - CONTINENTAL SHELF**

### **12 Continental shelf**

- (1) Subject to subsections (2) and (3), the continental shelf of Tuvalu comprises those parts of the seabed and subsoil of the submarine areas beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 7(1), every point of which is not more than 200 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is declared under section 7(3), the outer limits of the continental shelf are a line measured seaward from that archipelagic baseline, every point of which is not more than 200 nautical miles from the nearest point of that archipelagic baseline.
- (3) The Minister may, by order, for the purpose of implementing any international agreement, the award of any international body or the recommendations of the Commission on the Limits of the Continental Shelf, declare that the outer limits of the continental shelf of Tuvalu are such as are specified in the order.

## **PART 6 - RIGHTS IN THE MARITIME ZONES**

### **13 Legal character of maritime zones**

The sovereignty of Tuvalu extends to its land areas, internal waters, archipelagic waters and territorial sea, and to the airspace over them and the seabed and subsoil under them, and the resources contained in them.

### **14 Rights in the contiguous zone**

Within the contiguous zone, Tuvalu has all rights necessary –



- (a) to prevent infringement of its customs, fiscal, immigration and sanitary laws and regulations within its land areas, territorial sea and archipelagic waters, and
  - (b) to punish any such infringement, and
- all relevant laws of Tuvalu extend to the contiguous zone accordingly.

## **15 Rights in the exclusive economic zone and continental shelf**

- (1) Within the exclusive economic zone, Tuvalu has sovereign rights –
  - (a) for the purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of –
    - (i) the seabed;
    - (ii) the subsoil under the seabed, and
    - (iii) the waters over the seabed, and
  - (b) with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.
- (2) Within the continental shelf, Tuvalu has –
  - (a) sovereign rights for the purpose of exploring it and exploiting its natural resources, and
  - (b) exclusive rights to authorise and regulate drilling on it for all purposes.
- (3) Within the exclusive economic zone and the continental shelf, Tuvalu has the exclusive right to construct, authorise and regulate the construction, operation and use of:
  - (a) artificial islands;
  - (b) installations and structures for the purposes provided in subsection (1), marine scientific research, the protection and preservation of the marine environment and other economic purposes, and
  - (c) installations and structures which may interfere with Tuvalu's exercise of its rights in the exclusive economic zone or continental shelf.
- (4) Within the exclusive economic zone and continental shelf, Tuvalu has exclusive jurisdiction over the artificial islands, installations and structures referred to in subsection (3), including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.
- (5) Within the exclusive economic zone and continental shelf, Tuvalu:
  - (a) has jurisdiction with respect to protection and preservation of the marine environment, and
  - (b) has the right to regulate, authorise and conduct marine scientific research..

- (6) Within the contiguous zone, the exclusive economic zone and the continental shelf, Tuvalu has such other rights as are conferred or recognised by international law.

## **16 Rights of other States in maritime zones**

- (1) The Minister may, by order –
- (a) designate sea lanes and air routes suitable for the continuous and expeditious passage of foreign ships and aircraft through and over the archipelagic waters and the adjacent territorial sea;
  - (b) prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in any such sea lanes; and
  - (c) prescribe sea lanes and traffic separation schemes for foreign ships exercising the right of innocent passage through the territorial sea.
- (2) In sea lanes and air routes designated under subsections (1)(a) and (1)(b), all ships and aircraft may, in accordance with international law, enjoy the right of navigation and overflight, in their normal modes, for the purpose of continuous, expeditious and unobstructed transit through and over the archipelagic waters and the adjacent territorial sea, from one part of the high seas or exclusive economic zone to another part of the high seas or exclusive economic zone.
- (3) Until sea lanes and air routes are designated under subsections (1)(a) and (1)(b), the rights of navigation and overflight referred to in subsection (2) may be exercised through and over all routes normally used for international navigation and overflight.
- (4) Subject to subsections (2) and (3), ships of all States have, in accordance with international law, the right of innocent passage through the territorial sea and the archipelagic waters of Tuvalu.
- (5) Subject to this Act, any other law of Tuvalu, and international law, all States shall enjoy in the exclusive economic zone the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and all other internationally lawful uses of the sea related to those freedoms.
- (6) Subject to this Act and any other law of Tuvalu, all States may lay submarine cables and pipelines on the continental shelf in accordance with international law.

## **PART 7 - DECLARATIONS, REPEAL OF MARINE ZONES (DECLARATION) ACT AND REGULATIONS**

### **17 Declarations and official charts**

- (1) The Minister may, by order, declare:

- (a) the geographic coordinates of the points on the baseline described in section 7(1); or
  - (b) the geographic coordinates of the limits of the whole or any part of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf.
- (2) The Minister may cause the points declared under sections 7(3), 11(3), 12(3) and 17(1), to be clearly indicated on charts of a scale or scales adequate for them to be readily determined.

## **18 Evidentiary provisions**

In any proceedings before a court or person acting judicially, a certificate signed by the Minister stating that a specified nautical chart is a chart to which section 17(2) applies is evidence of the matters stated in the certificate, and the chart is evidence of the matters set out in it.

## **19 Repeal of Marine Zones (Declaration) Act**

The Marine Zones (Declaration) Act is repealed.

## **20 Consequential amendments**

A reference to the Marine Zones Declaration Act in any laws of Tuvalu shall be read as a reference to this Act.

## **21 Regulations**

The Minister may make regulations to give effect to this Act, including but not limited to the following :—

- (a) regulating the conduct of marine scientific research within the exclusive economic zone and continental shelf;
- (b) regulating the exploration and exploitation, conservation and management of the natural resources within the exclusive economic zone;
- (c) regulating the exploration and exploitation of the exclusive economic zone for the production of energy from the water, currents and winds, and for other economic purposes;
- (d) regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone and the continental shelf, including requirements for the establishment of safety zones around any such island, installation or structure;
- (e) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone and continental shelf;

- (f) regulating the exploration and exploitation of the continental shelf and of its natural resources;
- (g) regulating drilling on the continental shelf and
- (h) providing for such other matters as are necessary or expedient to give effect to the rights and obligations of Tuvalu in relation to its internal waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf, or as are necessary to give full effect to the provisions of this Act.

## ENDNOTES

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<sup>1</sup> Act 4 of 2012

<sup>2</sup> The points on the baseline from which the breadth of the territorial sea of Tuvalu is measured, as described in section 7(1) are now defined in Schedule 6 of the Constitution of Tuvalu Act 2023 (Declaration of Tuvalu Geographical Co-ordinates) (Cap. 1.02) and accordingly if in conflict, the provisions of the Constitution take precedence. The Declaration of Territorial Sea Baselines (Cap. 48.24.1) contains a Guide to reading the information in Schedule 6, and an illustrative chart.

<sup>3</sup> The points between which straight archipelagic baselines are to be drawn, for the purpose of sections 7(2) and 7(3), are now defined in Schedule 6 of the Constitution of Tuvalu Act 2023 (Declaration of Tuvalu Geographical Co-ordinates) (Cap. 1.02) and accordingly if in conflict, the provisions of the Constitution take precedence.

<sup>4</sup> The original reference to the then relevant section of the former Constitution has been deleted to bring this provision into conformity with the 2023 Constitution of Tuvalu. This correction is made by the Law Revision Commissioner in exercise of the powers conferred by the Tuvalu Law Revision Act, (Cap. 1.08), Schedule 2, Powers of Revision, clauses 2(i), 2(t), 2(u).