



Tokelau (Exclusive Economic Zone) Fishing Amendment Regulations 2019

Patsy Reddy, Governor-General

Order in Council

At Wellington this 25th day of February 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 8 and 11 of the Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977 and section 4 of the Tokelau Act 1948 on the advice and with the consent of the Executive Council.

Contents

		Page
1	Title	3
2	Commencement	3
3	Principal regulations	3
4	Regulation 3 amended (Interpretation)	3
5	New regulations 3A and 3B inserted	6
	3A Interpretation (available vessel days)	6
	3B Transitional, savings, and related provisions	6
6	Regulation 5 amended (Requirements for Administrator when acting as licensing authority)	6
7	Regulation 7 amended (Applications for licence to be made to Administrator)	7
8	Regulation 10 amended (Conditions implied in all licences)	7
9	New regulation 10A inserted (Standard licence conditions imposed by Administrator)	7
	10A Standard licence conditions imposed by Administrator	7

**Tokelau (Exclusive Economic Zone) Fishing
Amendment Regulations 2019**

2019/26

10	Regulation 13 amended (Suspension and cancellation of licence for breach of condition or law, or for conviction)	7
11	Regulation 14 amended (General power of Administrator to suspend or cancel licence or class of licence)	8
12	Regulation 15 amended (Effect of suspension or cancellation of licence)	8
13	Regulation 16 amended (Procedure for granting licence to purse seine vessels)	8
14	Regulation 17 amended (Fee for grant or renewal of licence to purse seine vessels)	8
15	Regulation 18 amended (Condition of licence for purse seine vessels)	8
16	Regulation 19 amended (Cancellation of licence for breach of condition)	8
17	Regulation 20 replaced (Vessel days for purse seine vessels)	9
20	Administration of vessel days scheme	9
20A	Total determined effort	9
20B	Total determined effort not to be exceeded	9
	<i>Licensing of longline vessels</i>	
20C	Procedure for granting licence to longline vessel	10
20D	Licence fee	10
20E	Licence conditions: available vessel days	10
20F	Cancellation of licence for breach of condition	11
20G	Administration of vessel days scheme	11
20H	Total determined effort	11
20I	Total determined effort not to be exceeded	12
18	Cross-heading above regulation 21 amended	12
19	Regulation 21 amended (Procedure for granting licence to non-purse seine vessels)	12
20	Regulation 22 amended (Fee for grant or renewal of licence to non-purse seine vessels)	12
21	Regulation 23 amended (Conditions of licence for non-purse seine vessels)	12
22	Regulation 24 amended (Cancellation of licence for breach of condition)	12
23	Regulation 26 amended (Administrator may set aggregate fishing limits for non-purse seine vessels)	12
24	Cross-heading above regulation 27 replaced	13
	<i>Foreign fishing craft with regional fishery licence</i>	
25	Regulations 27 to 29 replaced	13
27	Regional fishery licence deemed to be licence under these regulations	13
28	Conditions of deemed licence	13

29	Fee for access to exclusive economic zone	13
29A	Suspension and cancellation of licence and forfeiture of access fee	14
26	New regulation 29B inserted (Fishing from pleasure craft)	14
29B	Fishing from pleasure craft	14
27	Regulation 30 amended (Fishing for research, experimental, or sporting purposes)	14
28	Regulation 33 amended (Prohibition on transshipment of catch in exclusive economic zone)	15
29	Regulation 36 amended (Crew member defined)	15
30	Regulation 37 amended (Offence for foreign fishing craft to fish without licence)	15
31	Regulation 57 amended (Consequential amendments to these regulations relating to Criminal Procedure Act 2011)	15
32	New Schedule 1AA inserted	15
33	Schedule amended	15
	Schedule	16
	New Schedule 1AA inserted	

Regulations

1 Title

These regulations are the Tokelau (Exclusive Economic Zone) Fishing Amendment Regulations 2019.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Principal regulations

These regulations amend the Tokelau (Exclusive Economic Zone) Fishing Regulations 2012 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

- (1) In the heading to regulation 3, after “**Interpretation**”, insert “**(general)**”.
- (2) In regulation 3(1), insert in their appropriate alphabetical order:

buffer zone of Tokelau means that part of the exclusive economic zone of Tokelau that is beyond and adjacent to the territorial sea, having as its outer limits a line measured seaward from the baseline described in section 5 of the Act, every point of which is 25 nautical miles from the nearest point of the baseline

fishing activities has the same meaning as in the Purse Seine VDS or the Longline VDS, as applicable

fishing entity means a vessel owner who owns more than 1 vessel

general fishing vessel means a foreign fishing craft other than—

- (a) a purse seine vessel:
- (b) a longline vessel

longline means a line that is deployed horizontally and to which branch lines and hooks are attached to attract pelagic species

Longline VDS means the management scheme known as the Palau Arrangement for the Management of the Western Pacific Tuna Fishery – Management Scheme (Longline Vessel Day Scheme) established under the Palau Arrangement on 1 January 2015

longline vessel means a foreign fishing craft that uses a longline to catch fish

Palau Arrangement—

- (a) means the international agreement known as the Palau Arrangement for the Management of the Western Pacific Fishery entered into on 2 October 1992; and
- (b) includes the following management schemes established under that agreement:
 - (i) the Purse Seine VDS;
 - (ii) the Longline VDS

party, in relation to the Palau Arrangement, includes Tokelau acting under the Tokelau Participation Arrangement

Purse Seine VDS means the management scheme known as the Palau Arrangement for the Management of the Western Pacific Fishery – Management Scheme (Purse Seine Vessel Day Scheme) established under the Palau Arrangement on 1 December 2007

relevant international agreement or arrangement means an international agreement or arrangement for the management of fishing that applies in the exclusive economic zone

subregional pooling arrangement means an arrangement under the Purse Seine VDS or the Longline VDS under which vessel days are pooled by some parties to the Palau Arrangement for use in the exclusive economic zones of those parties

Tokelau Participation Arrangement means the Arrangement for the Participation of Tokelau in the Palau Arrangement Vessel Day Scheme between the Participants to the Palau Arrangement and Tokelau, entered into at Alotau on 1 May 2012

Tokelau’s party allowable effort (or **Tokelau’s PAE**), for a calendar year, means—

- (a) for purse seine vessels, the total number of purse seine fishing days allocated to Tokelau for that year by agreement between the parties to the Palau Arrangement under the Purse Seine VDS;
- (b) for longline vessels, the total number of longline fishing days allocated to Tokelau for that year by agreement between the parties to the Palau Arrangement under the Longline VDS

Tokelau’s total determined effort (or **Tokelau’s TDE**), for a calendar year, means the total number of fishing days (in Tokelau’s PAE) that may be used for fishing activities in the exclusive economic zone, as determined by the Administrator,—

- (a) for purse seine vessels, under regulation 20A;
- (b) for longline vessels, under regulation 20H

(3) In regulation 3(1),—

- (a) definition of **access charge**, replace “non-purse seine” with “general fishing”;
- (b) definition of **fishing limit**, paragraph (c), replace “non-purse seine” with “general fishing”;
- (c) revoke the definition of **non-purse seine fishing vessel**;
- (d) revoke the definition of **vessel day**.

(4) In regulation 3(1), replace the definition of **agency** with:

agency means a body or person authorised to grant a regional fishery licence under a relevant international agreement or arrangement

(5) In regulation 3(1), replace the definition of **licence** with:

licence—

- (a) means—
 - (i) a licence for a purse seine vessel that is granted under regulation 16; or
 - (ii) a licence for a longline vessel that is granted under regulation 20C; or
 - (iii) a licence for a general fishing vessel that is granted under regulation 21; and
- (b) includes a regional fishery licence that is treated as a licence referred to in paragraph (a)(i) or (ii)

(6) In regulation 3(1), replace the definition of **regional fishery licence** with:

regional fishery licence means a licence granted by an agency under a relevant international agreement or arrangement that permits a foreign fishing craft to

carry out purse seine fishing activities or longline fishing activities in the exclusive economic zone

5 New regulations 3A and 3B inserted

After regulation 3, insert:

3A Interpretation (available vessel days)

- (1) In these regulations, an **available vessel day**, for a foreign fishing craft in a calendar year, is a vessel day for that craft for that year that has not been used for fishing activities.
- (2) In this regulation, a **vessel day** for a purse seine vessel or a longline vessel that is licensed under these regulations (other than a vessel to which subclause (3) applies) is a fishing day that has been purchased for the vessel by its owner—
 - (a) in accordance with the strategy approved under regulation 20 or 20G, as applicable; or
 - (b) under a subregional pooling arrangement.
- (3) In this regulation, a **vessel day**, for a foreign fishing craft that has a regional fishery licence that is treated as a licence granted under these regulations, is a fishing day that has been obtained for the vessel in accordance with the relevant international agreement or arrangement under which the licence has been granted.
- (4) For the purposes of subclause (2),—
 - (a) **fishing day** has the same meaning as in the Purse Seine VDS or the Longline VDS, as applicable;
 - (b) a vessel day is **purchased** for the vessel by its owner—
 - (i) if the owner (not being a fishing entity) purchases the vessel day for the vessel; or
 - (ii) for a vessel that is part of a fleet owned by a fishing entity, if that entity allocates to the vessel a vessel day purchased for the fleet.

3B Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Regulation 5 amended (Requirements for Administrator when acting as licensing authority)

Replace regulation 5(a)(i) with:

- (i) determining the total determined effort for purse seine vessels in each calendar year under regulation 20A; or
- (ia) determining the total determined effort for longline vessels in each calendar year under regulation 20H; or

7 Regulation 7 amended (Applications for licence to be made to Administrator)

Revoke regulation 7(2).

8 Regulation 10 amended (Conditions implied in all licences)

(1) In regulation 10(1)(c), after “territorial sea”, insert “or the buffer zone of Tokelau”.

(2) After regulation 10(1)(c), insert:

- (ca) the craft must not be used to target, harm, or interfere with cetaceans, sharks, seabirds, or turtles within the exclusive economic zone; and
- (cb) the craft must not be used to engage in or support bottom-trawling activities within the exclusive economic zone; and
- (cc) firearms, explosives, poisons, dyes, and narcotic or hazardous substances must not be used for fishing while the craft is within the exclusive economic zone; and
- (cd) a purse seine net must not be set from the craft within 1 nautical mile of a whale shark (whether the whale shark is alive or dead); and
- (ce) wire leaders and tracers must not be used on longlines used from the craft; and

9 New regulation 10A inserted (Standard licence conditions imposed by Administrator)

After regulation 10, insert:

10A Standard licence conditions imposed by Administrator

(1) For the purpose of imposing conditions on a licence, the Administrator may determine standard conditions that apply to a type of licence.

(2) Standard conditions apply to every licence of the relevant type unless the Administrator states otherwise when granting a licence.

10 Regulation 13 amended (Suspension and cancellation of licence for breach of condition or law, or for conviction)

(1) Replace regulation 13(2)(b) with:

- (b) the Administrator is satisfied that the craft has been used for fishing in the exclusive economic zone in breach of—
 - (i) an implied condition of the licence set out in regulation 10(1)(a), (b), (c), (ca), (cb), (cc), (cd), or (ce); or
 - (ii) an applicable condition of the licence determined by the Administrator under regulation 10A; or

(2) In regulation 13(3), after “19,” insert “20F”.

11 Regulation 14 amended (General power of Administrator to suspend or cancel licence or class of licence)

In regulation 14(5), after “19,” insert “20F.”

12 Regulation 15 amended (Effect of suspension or cancellation of licence)

Replace regulation 15(2) and (3) with:

- (2) If a licence for a purse seine vessel or a longline vessel is cancelled under these regulations, any available vessel days for the vessel (*see* regulation 3A) are forfeited to the Administrator without compensation.
- (3) If the licensed purse seine vessel or licensed longline vessel is owned by a fishing entity, the forfeiture applies to any available vessel days purchased by the entity for all licensed purse seine vessels or licensed longline vessels in the entity’s fleet.
- (4) If a licence for a general fishing vessel is cancelled, any access charges paid for the craft are forfeited to the Administrator without compensation.

13 Regulation 16 amended (Procedure for granting licence to purse seine vessels)

Replace regulation 16(2)(a) with:

- (a) grant to the owner of the vessel a licence that permits the vessel to be used to carry out fishing activities in the exclusive economic zone if the vessel is registered on the register of licensed purse seine vessels that is established and maintained under the Purse Seine VDS; or

14 Regulation 17 amended (Fee for grant or renewal of licence to purse seine vessels)

- (1) Replace the heading to regulation 17 with “**Licence fee**”.
- (2) In regulation 17(2), replace “issue” with “grant”.

15 Regulation 18 amended (Condition of licence for purse seine vessels)

- (1) Replace the heading to regulation 18 with “**Licence conditions: available vessel days**”.
- (2) Replace regulation 18(2) with:
 - (2) The owner of a licensed purse seine vessel must ensure that the vessel is used to carry out fishing activities in the exclusive economic zone on available vessel days only.

16 Regulation 19 amended (Cancellation of licence for breach of condition)

- (1) In regulation 19(1), replace “must cancel that licence” with “must without delay cancel the licence by written notice to the owner of the vessel”.
- (2) Replace regulation 19(2) with:
 - (2) The cancellation of the licence takes effect on the date of the notice.

17 Regulation 20 replaced (Vessel days for purse seine vessels)

Replace regulation 20 with:

20 Administration of vessel days scheme

- (1) The Administrator must approve and administer a strategy—
 - (a) for transactions relating to the use of Tokelau's TDE for purse seine vessels; and
 - (b) that enables Tokelau to participate in the Palau Arrangement in accordance with the Tokelau Participation Arrangement.
- (2) The strategy must—
 - (a) apply for at least 1 calendar year (but no more than 5 calendar years); and
 - (b) be approved at least 5 months before the beginning of the first year to which the strategy applies.
- (3) The strategy must provide for the following matters:
 - (a) a minimum price and other conditions for the purchase of a vessel day (which may vary according to the circumstances of the purchase):
 - (b) the minimum price and other conditions that apply to the buy-back of an unused vessel day:
 - (c) any other matters that the Administrator considers necessary for the operation of the Purse Seine VDS.
- (4) In this regulation, **transaction** includes—
 - (a) the purchase of vessel days by vessel owners:
 - (b) the buy-back of unused vessel days from vessel owners:
 - (c) the transfer of vessel days by Tokelau, or to Tokelau, under the Purse Seine VDS:
 - (d) the allocation of vessel days by Tokelau to meet the terms of relevant international agreements and arrangements.

20A Total determined effort

- (1) The Administrator must determine Tokelau's total determined effort for purse seine vessels in each calendar year.
- (2) Tokelau's TDE must not exceed Tokelau's PAE for purse seine vessels for the applicable year.
- (3) The Administrator must determine Tokelau's TDE for a calendar year at least 5 months before the beginning of that year.

20B Total determined effort not to be exceeded

- (1) The Administrator must ensure that the net effect of transactions in vessel days does not exceed Tokelau's adjusted TDE at any time during a calendar year.

- (2) During each calendar year, the Administrator must monitor transactions in vessel days for the purposes of subclause (1).
- (3) In this regulation,—
net effect of transactions in vessel days means the number of vessel days (in Tokelau's TDE) that, when all transactions are taken into account, may be used in the exclusive economic zone
Tokelau's adjusted TDE means Tokelau's TDE as adjusted by any transfers of vessel days under Article 7 of the Purse Seine VDS.

Licensing of longline vessels

20C Procedure for granting licence to longline vessel

- (1) The Administrator must consider each application that is made for a licence for a longline vessel.
- (2) The Administrator may—
 - (a) grant to the owner of the vessel a licence that permits the vessel to be used to carry out fishing activities in the exclusive economic zone if the vessel is registered on the register of licensed longline vessels that is established and maintained under the Longline VDS; or
 - (b) refuse to grant a licence.
- (3) A licence may be granted—
 - (a) for a period specified in the licence; and
 - (b) subject to any conditions that the Administrator thinks fit and specifies in the licence.

20D Licence fee

- (1) A licensee must pay a fee of US\$5,000 to the Administrator for—
 - (a) a licence granted under regulation 20C; and
 - (b) the renewal under regulation 12 of a licence granted under regulation 20C.
- (2) The Administrator may refuse to grant a licence until the fee has been paid.

20E Licence conditions: available vessel days

- (1) The condition set out in subclause (2) is implied in every licence granted under regulation 20C.
- (2) The owner of a licensed longline vessel must ensure that the vessel is used to carry out fishing activities in the exclusive economic zone on available vessel days only.

20F Cancellation of licence for breach of condition

- (1) If the Administrator is satisfied that a longline vessel for which a licence has been granted under regulation 20C has been used in breach of a condition in regulation 20E, the Administrator must without delay cancel the licence by written notice to the owner of the vessel.
- (2) The cancellation of the licence takes effect on the date of the notice.

20G Administration of vessel days scheme

- (1) The Administrator must approve and administer a strategy—
 - (a) for transactions relating to the use of Tokelau's TDE for longline vessels; and
 - (b) that enables Tokelau to participate in the Palau Arrangement in accordance with the Tokelau Participation Arrangement.
- (2) The strategy must—
 - (a) apply for at least 1 calendar year (but no more than 5 calendar years); and
 - (b) be approved at least 5 months before the beginning of the first year to which the strategy applies.
- (3) The strategy must provide for the following matters:
 - (a) a minimum price and other conditions for the purchase of a vessel day (which may vary according to the circumstances of the purchase):
 - (b) the minimum price and other conditions that apply to the buy-back of an unused vessel day:
 - (c) other matters that the Administrator considers necessary for the operation of the Longline VDS.
- (4) In this regulation, **transaction** includes—
 - (a) the purchase of vessel days by vessel owners:
 - (b) the buy-back of unused vessel days from vessel owners:
 - (c) the transfer of vessel days by Tokelau, or to Tokelau, under the Longline VDS:
 - (d) the allocation of vessel days by Tokelau to meet the terms of relevant international agreements and arrangements.

20H Total determined effort

- (1) The Administrator must determine Tokelau's total determined effort for longline vessels in each calendar year.
- (2) Tokelau's TDE must not exceed Tokelau's PAE for longline vessels for the applicable year.

- (3) The Administrator must determine Tokelau's TDE for a calendar year at least 5 months before the beginning of that year.

20I Total determined effort not to be exceeded

- (1) The Administrator must ensure that the net effect of transactions in vessel days does not exceed Tokelau's adjusted TDE at any time during a calendar year.
- (2) During each calendar year, the Administrator must monitor transactions in vessel days for the purposes of subclause (1).
- (3) In this regulation,—

net effect of transactions in vessel days means the number of vessel days (in Tokelau's TDE) that, when all transactions are taken into account, may be used in the exclusive economic zone

Tokelau's adjusted TDE means Tokelau's TDE as adjusted by transfers of vessel days under Article 6 of the Longline VDS

18 Cross-heading above regulation 21 amended

In the cross-heading above regulation 21, replace "*non-purse seine*" with "*general fishing*".

19 Regulation 21 amended (Procedure for granting licence to non-purse seine vessels)

- (1) In the heading to regulation 21, replace "**non-purse seine**" with "**general fishing**".
- (2) In regulation 21(1), replace "non-purse seine" with "general fishing".

20 Regulation 22 amended (Fee for grant or renewal of licence to non-purse seine vessels)

- (1) Replace the heading to regulation 22 with "**Licence fee**".
- (2) In regulation 22(2), replace "issue" with "grant".

21 Regulation 23 amended (Conditions of licence for non-purse seine vessels)

- (1) Replace the heading to regulation 23 with "**Licence conditions**".
- (2) In regulation 23(1)(a) and (b), replace "non-purse seine" with "general fishing".

22 Regulation 24 amended (Cancellation of licence for breach of condition)

In regulation 24(1), replace "non-purse seine" with "general fishing".

23 Regulation 26 amended (Administrator may set aggregate fishing limits for non-purse seine vessels)

- (1) Replace the heading to regulation 26 with "**Aggregate fishing limits**".

- (2) In regulation 26(1)(a) and (b), (2), and (3), replace “non-purse seine” with “general fishing” in each place.

24 Cross-heading above regulation 27 replaced

Replace the cross-heading above regulation 27 with:

Foreign fishing craft with regional fishery licence

25 Regulations 27 to 29 replaced

Replace regulations 27 to 29 with:

27 Regional fishery licence deemed to be licence under these regulations

- (1) If the Administrator is notified by an agency that it has granted a regional fishery licence for a foreign fishing craft, that licence is treated as a licence granted by the Administrator under these regulations.
- (2) In particular, if the regional fishery licence permits the foreign fishing craft to carry out, in the exclusive economic zone,—
- (a) purse seine fishing activities, the licence is treated as a licence granted under regulation 16:
 - (b) longline fishing activities, the licence is treated as a licence granted under regulation 20C.
- (3) This regulation applies for the period of time for which the regional fishery licence is valid.

28 Conditions of deemed licence

- (1) A regional fishery licence that is treated as a licence granted under these regulations is subject to the following conditions—
- (a) all conditions implied by regulation 10:
 - (b) all applicable standard conditions determined by the Administrator under regulation 10A:
 - (c) the condition implied by regulation 18 or 20E, as applicable:
 - (d) all conditions imposed by the agency that granted the regional fishery licence.
- (2) The conditions referred to in subclause (1)(d) apply only to the extent that they are consistent with the conditions referred to in subclause (1)(a) to (c).

29 Fee for access to exclusive economic zone

The owner of a foreign fishing craft to which regulation 27(1) applies must pay to the Administrator any fee for access to the exclusive economic zone that is required to be paid by—

- (a) the terms of the regional fishery licence; or

- (b) the relevant international agreement or arrangement under which that licence was granted.

29A Suspension and cancellation of licence and forfeiture of access fee

- (1) If the Administrator is satisfied that a foreign fishing craft to which regulation 27(1) applies is being used in contravention of any condition of the licence referred to in regulation 28(1)(a), (b), or (d), the Administrator may request the agency that granted the regional fishery licence for the craft to suspend or cancel the licence so far as it applies to the exclusive economic zone.
- (2) If the Administrator is satisfied that a foreign fishing craft to which regulation 27(1) applies is being used in contravention of any condition of the licence referred to in regulation 28(1)(c), the Administrator must request the agency that granted the regional fishery licence for the craft to cancel the licence so far as it applies to the exclusive economic zone.
- (3) If the agency that granted a regional fishery licence cancels the licence on a request being made under this regulation, any fee that was paid under regulation 29 is forfeited to the Administrator.

26 New regulation 29B inserted (Fishing from pleasure craft)

Before regulation 30, insert:

29B Fishing from pleasure craft

- (1) A pleasure craft may be used for fishing in the exclusive economic zone—
 - (a) for the purpose of obtaining fresh fish for consumption by the crew and passengers; and
 - (b) if only handlines (including rod and reel) are used.
- (2) The prohibitions in regulations 31, 34, and 35 apply to a pleasure craft in the exclusive economic zone.
- (3) A person must not carry out any of the activities set out as implied licence conditions in regulation 10(1)(c) to (ce) on a pleasure craft in the exclusive economic zone.
- (4) A person who breaches subclause (3) commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (5) This regulation overrides regulation 6.
- (6) In this regulation, **pleasure craft** means a foreign fishing craft that is navigating through the exclusive economic zone solely for the purposes of pleasure or recreation.

27 Regulation 30 amended (Fishing for research, experimental, or sporting purposes)

After regulation 30(2), insert:

(2A) The Administrator must cancel a consent given under subclause (2)(a) if the Administrator is satisfied that the craft has been used in breach of any condition of the consent.

28 Regulation 33 amended (Prohibition on transhipment of catch in exclusive economic zone)

Replace regulation 33(2) with:

- (2) Subclause (1) does not apply to a transhipment that is—
- (a) directed by the Administrator; or
 - (b) permitted under a valid licence.

29 Regulation 36 amended (Crew member defined)

- (1) In regulation 36(b)(i), replace “regulation 16(3)(b), 21(4)(b), or 27(2)(b)” with “regulation 16(3)(b), 20C(3)(b), 21(4)(b), or 28(1)(d)”.
- (2) Revoke regulation 36(b)(iii).

30 Regulation 37 amended (Offence for foreign fishing craft to fish without licence)

In regulation 37(1), replace “regulation 30” with “regulation 29B or 30”.

31 Regulation 57 amended (Consequential amendments to these regulations relating to Criminal Procedure Act 2011)

Replace “the Schedule” with “Schedule 2”.

32 New Schedule 1AA inserted

Insert the Schedule 1AA set out in the Schedule of these regulations as the first schedule to appear after the last regulation of the principal regulations.

33 Schedule amended

In the Schedule heading, replace “Schedule” with “Schedule 1”.

Schedule
New Schedule 1AA inserted

r 32

Schedule 1AA
Transitional, savings, and related provisions

r 3B

Part 1
**Provisions relating to Tokelau (Exclusive Economic Zone) Fishing
Amendment Regulations 2019**

1 Interpretation

In this Part,—

commencement date means the date on which the Tokelau (Exclusive Economic Zone) Fishing Amendment Regulations 2019 come into force under regulation 2 of those regulations

transition period means the period between the commencement date and—

- (a) the date specified by the Administrator at the request of the parties to the Palau Arrangement; or
- (b) if no date is specified under paragraph (a), 31 December 2021.

2 Longline vessel days: Tokelau's total determined effort

During each calendar year of the transition period,—

- (a) regulation 20H does not apply; and
- (b) Tokelau's TDE for longline vessels is 5,000 vessel days.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date on which they are notified in the *Gazette*, amend the Tokelau (Exclusive Economic Zone) Fishing Regulations 2012 (the **principal regulations**). The main purposes of the amendments are—

- to regulate longline fishing in the exclusive economic zone (**EEZ**) in the same way that purse seine fishing is regulated:
- to incorporate the vessel day schemes under the Palau Arrangement as a key mechanism for regulating purse seine fishing and longline fishing in the EEZ by—
 - making the availability of vessel days a condition of a licence for a purse seine or longline vessel; and
 - requiring the Administrator to monitor certain transactions in vessel days so as to limit the number of vessel days available for use by purse seine or longline vessels in the EEZ:
- to recognise the operation of relevant international agreements and arrangements (including the Palau Arrangement) in connection with fishing in the EEZ:
- to eliminate the requirement for holders of regional fishery licences granted externally to be granted a licence by the Administrator.

In addition, these regulations—

- change the name of the category of non-purse seine vessels to general fishing vessels:
- grant and regulate an exemption for fishing from pleasure craft:
- make other minor technical amendments.

The major amendments made by these regulations are set out below.

Regulations 4 and 5 provide for interpretation—

- by inserting a number of new definitions, including vessel day, available vessel day, Palau Arrangement, longline, longline vessel, relevant international agreement or arrangement, purse seine Vessel Day Scheme, and longline Vessel Day Scheme:
- by amending, revoking, and replacing a number of current definitions, including general fishing licence, licence, and regional fishery licence.

Regulations 8 and 9 provide for licence conditions:

- *regulation 8* amends regulation 10 (conditions implied in all licences) by adding a number of additional implied conditions to licences:

- *regulation 9* inserts new *regulation 10A* (standard licence conditions imposed by Administrator), which empowers the Administrator to determine standard conditions for types of licence.

Regulation 17 replaces regulation 20 with *new regulations 20 to 20I*:

- *new regulations 20 to 20B* provide for the way in which the Administrator administers the vessel day scheme for purse seine vessels:
- *new regulations 20C to 20I* comprise a licensing scheme for longline vessels, which mirrors the scheme for purse seine vessels, including by the administration of the vessel day scheme.

Regulation 25 replaces regulations 27 to 29 with *new regulations 27 to 29A*:

- *new regulation 27* provides that regional fishery licences, once notified to the Administrator, are to be treated as licences granted under the principal regulations:
- *new regulations 28, 29, and 29A* provide for the conditions to which a deemed licence is subject, the payment of an access fee for a vessel with a deemed licence, and, in the event of a breach of a condition, the suspension or cancellation of the licence and the forfeiture of the access fee.

Regulation 26 inserts *new regulation 29B*, which allows limited unlicensed fishing in the EEZ by a pleasure craft.

The remaining provisions of these regulations make amendments that are—

- necessary to support the major amendments; or
- minor or technical in nature, including the following:
 - *regulation 16* amends regulation 19 (cancellation of licence for breach of condition), requiring the Administrator to cancel the licence without delay and providing that the cancellation takes effect on the date of the notice rather than the date of the breach of condition:
 - *regulation 27* amends regulation 30 (fishing for research, experimental, or sporting purposes), requiring the Administrator to cancel a consent given under that regulation if a condition of the consent is breached:
 - *regulation 28* amends regulation 33 (prohibition on transshipment of catch in exclusive economic zone) by providing that the prohibition does not apply to transshipment that is permitted by the Administrator or by a licence condition:
 - the Schedule inserts *new Schedule IAA* (transitional, savings, and related provisions):
 - *clause 1* contains definitions, including a definition of transition period, which means the period between the commencement of these regulations and a date specified by the Administrator at the request of parties to the Palau Arrangement (or 31 December 2021, if no date is specified):

- *clause 2* provides that Tokelau’s total determined effort (TDE) during the transition period is 5,000 vessel days rather than the number that would be determined by the Administrator under *new regulation 20H*.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 28 February 2019.

These regulations are administered by the Ministry of Foreign Affairs and Trade.