

## TOKELAU ISLANDS (TERRITORIAL SEA AND FISHING ZONE) BILL

### EXPLANATORY NOTE

THE purpose of this Bill is to—

- (a) Define the territorial sea of the Tokelau Islands, which is declared to extend for a distance of 3 nautical miles from the baseline specified in the Bill;
- (b) Establish an exclusive fishing zone extending 9 nautical miles beyond the outer limits of the territorial sea.

The Bill follows closely the provisions of the Territorial Sea and Fishing Zone Act 1965, but omits the special provisions relating to bays, which are inapplicable to the Tokelau Islands.

*Clause 1* relates to the Short Title.

*Clause 2* is the interpretation clause.

*Clause 3* declares that the internal waters of the Tokelau Islands include any areas of the sea that are on the landward side of the baseline of the territorial sea.

*Clause 4* defines the territorial sea of the Tokelau Islands in accordance with the rules laid down in the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone.

The territorial sea is defined as those areas of the sea having as their inner limits the baseline described in *clause 5* and as their outer limits a line 3 nautical miles from that baseline.

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

*Clause 6* re-enacts the existing provisions of section 21 of the Tokelau Islands Amendment Act 1967 declaring that the foreshore of the Tokelau Islands is vested in the Crown, and also declares that the seabed and subsoil of the territorial sea are vested in the Crown.

No. 47—1

*Clause 7* defines the fishing zone of the Tokelau Islands. It is defined as a zone the inner limits of which are the outer limits of the territorial sea and the outer limits of which are a line measured 9 nautical miles seaward from its inner limits.

*Clause 8* makes it an offence for any foreign fishing boat to engage in fishing in the territorial sea or fishing zone of the Tokelau Islands. On the conviction of the owner, charterer, or master or a member of the crew of a foreign fishing boat of such an offence, the High Court of Niue (which is the Court exercising jurisdiction in the Tokelau Islands) may order the detention for a specified time of the fishing boat and any fish, tackle, engines, nets, gear, apparatus, cargo, and stores pending the payment of any fines imposed, and the forfeiture to the Crown of the fishing boat and other property if the fine is not paid within that time, or the Court may order the immediate forfeiture to the Crown of the fishing boat or other property.

*Subclause (3)* provides that if a small boat carried by any foreign fishing boat is used in illegal fishing, the foreign fishing boat will also be deemed to be used in illegal fishing.

*Subclause (4)* provides that any foreign fishing boat or other property forfeited to the Crown may be disposed of as the Administrator of the Tokelau Islands thinks fit.

*Clause 9* consequentially repeals section 21 of the Tokelau Islands Amendment Act 1967, the provisions of which now appear in *clause 6 (1)*.

---

*Hon. Mr Talboys*

**TOKELAU ISLANDS (TERRITORIAL SEA AND  
FISHING ZONE)**

---

**ANALYSIS**

<b>Title</b>	
1. Short Title	6. Foreshore, bed of internal waters, and of territorial sea vested in the Crown
2. Interpretation	7. Fishing zone
3. Internal waters	8. Foreign fishing boats not to engage in fishing within territorial sea or fishing zone
4. The territorial sea	9. Repeal
5. Baseline of the territorial sea	

---

**A BILL INTITULED**

**An Act to make provision with respect to the territorial sea  
and fishing zone of the Tokelau Islands, and for matters  
incidental thereto**

**5 BE IT ENACTED** by the General Assembly of New Zealand  
in Parliament assembled, and by the authority of the same,  
as follows:

**1. Short Title**—This Act may be cited as the Tokelau  
Islands (Territorial Sea and Fishing Zone) Act 1976, and  
**10** shall be read together with and deemed part of the Tokelau  
Islands Act 1948\*.

\*Reprinted, 1958, Vol. 2, p. 1291  
Amendments: 1963, No. 15; 1967, No. 38; 1969, No. 3; 1970, No. 41; 1971,  
No. 42; 1974, No. 124

2 *Tokelau Islands (Territorial Sea and Fishing Zone)*

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Court” means the High Court of Niue:

“Fish” means any marine animal of any kind whatsoever; and includes shellfish, crustaceans, sponge, holothurian (*bêche-de-mer*), and turtle; and also includes the young and eggs of any fish as herein defined: 5

“Fishing” means taking, hunting, pursuing, catching, killing, or possessing any fish, or attempting to do any of these things: 10

“Foreign fishing boat” means any vessel of whatever size and however propelled which is used in fishing or for the processing or storage of fish for the purposes of sale and which is owned or controlled by a person or persons not ordinarily resident in the Tokelau Islands; but does not include any canoe or other vessel of any kind whatsoever used for the transport of fish or fish products as part of its general cargo: 15

“Foreshore” means all land lying between the high-water line at mean high-water spring tides and the low-water line at mean low-water spring tides: 20

“Low-water line” means the line of low-water at mean low-water spring tides:

“Nautical mile” means the international nautical mile. 25

**3. Internal waters**—The internal waters of the Tokelau Islands include any areas of the sea that are on the landward side of the baseline of the territorial sea of the Tokelau Islands. 25

**4. The territorial sea**—The territorial sea of the Tokelau Islands 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 3 nautical miles from the nearest point of that baseline. 30 35

**5. Baseline of the territorial sea**—The baseline from which the breadth of the territorial sea of the Tokelau Islands 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.

6. **Foreshore, bed of internal waters, and of territorial sea vested in the Crown**—(1) The seabed and subsoil of the submarine areas of the internal waters of the Tokelau Islands shall be deemed to be and always to have been vested in the Crown.

(2) The foreshore of the Tokelau Islands and the seabed and subsoil of the territorial sea as defined in section 4 of this Act shall be deemed to be and always to have been vested in the Crown.

7. **Fishing zone**—The fishing zone of the Tokelau Islands comprises those areas of the sea contiguous to the territorial sea of the Tokelau Islands and having, as their inner limits, the outer limits of the territorial sea, and, as their outer limits, a line measured seaward from those inner limits every point of which is distant 9 nautical miles from the nearest point of the inner limit line.

8. **Foreign fishing boats not to engage in fishing within territorial sea or fishing zone**—(1) No foreign fishing boat shall engage in fishing in the territorial sea or fishing zone of the Tokelau Islands.

(2) If any foreign fishing boat is used in breach of subsection (1) of this section, the owner, the charterer (if any), the master, and every member of its crew each commits an offence, and is liable—

(a) In the case of an offence committed by the owner, charterer, or master, to a fine not exceeding \$5,000:

(b) In the case of an offence committed by any member of the crew, to a fine not exceeding \$500.

(3) The Court, on the conviction of the owner, the charterer (if any), the master, or any member of the crew of a foreign fishing boat of an offence under this section, may also order—

(a) The detention (for a specified period) of the foreign fishing boat and of any fish, tackle, engines, nets, gear, apparatus, cargo, and stores thereon or forming part of its equipment, pending the payment of the

#### 4 Tokelau Islands (*Territorial Sea and Fishing Zone*)

- fine or fines imposed, and the forfeiture to the Crown of that fishing boat, and of any such fish, tackle, engines, nets, gear, apparatus, cargo, and stores, or any one of them, if the fine or fines imposed are not paid within that specified period; or 5
- (b) The immediate forfeiture to the Crown of the foreign fishing boat and of any fish and tackle, engines, nets, gear, apparatus, cargo, and stores, or any one of them.

(4) Where any small boat that is carried by or attached to or operated in conjunction with any foreign fishing boat is used in fishing in breach of this section (whether or not that foreign fishing boat is within the territorial sea or fishing zone of the Tokelau Islands), then, for the purposes of this section that foreign fishing boat shall also be deemed to be used in fishing in breach of this section at the time and place where that small boat is so used. 10 15

(5) Where under subsection (3) of this section any foreign fishing boat or other property is ordered to be forfeited to the Crown, that fishing boat or other property shall be deemed to be forfeited accordingly and shall be disposed of as the Administrator of the Tokelau Islands thinks fit. 20

**9. Repeal**—Section 21 of the Tokelau Islands Amendment Act 1967 is hereby repealed.