

## *TUVALU*

Tuvalu, a group of nine atolls with a total land area of approximately 26 sq km, lies between 5° 30 South and 11° South and 176° East and 180° East. Formerly known as the Ellice Islands, Tuvalu was administered by Great Britain as part of the Gilbert and Ellice Islands from 1892, firstly as a Protectorate and later as a British Colony. The Ellice Islands separated from the Gilbert and Ellice Islands Colony in 1975 and became the Colony of Tuvalu. On 1 October 1978 Tuvalu became an independent state. The islands of Tuvalu are Nanumea, Nanumanga, Niutao, Nui, Vaitupu, Nukufetau, Funafuti, Nukulaelae and Niulakita. The total population of Tuvalu is some 10,297 (July 1997). The capital is Funafuti.

In 1986 Tokelalu adopted a new Constitution. The Head of State of Tuvalu is Queen Elizabeth II, represented by a Governor-General. The Prime Minister, elected by the members of Parliament, is the head of the executive and appoints the Cabinet. Laws are made by a Parliament comprising twelve elected members.

The legal system of Tuvalu derives from the Constitution and Acts of Parliament, the ordinances of the Gilbert and Ellice Islands Colony and the ordinances of the Colony of Tuvalu made prior to 1978, the statutes of general application in force in England on 1 January 1961 and the substance of the English common law and doctrines of equity and the principles expressing Tuvalu values, culture and tradition as set out in the Preamble to the Constitution of 1986 and adopted as part of the basic law of Tuvalu.

A revised edition of the laws of Tuvalu was published in 1990.

### **Limits of National Jurisdiction**

The Marine Zones (Declaration) Act 1983 defines and establishes a twelve mile territorial sea, 24 nautical mile contiguous zone, and a 200 nautical mile exclusive economic zone of approximately 757,000 sq km in size. The Act also enables the Minister to declare archipelagic baselines in accordance with international law. No archipelagic baselines have been declared. Tuvalu claims sovereignty over its land territory and internal waters, archipelagic waters (if any) and the territorial sea. In the exclusive economic zone Tuvalu has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living. In the contiguous zone Tuvalu has all the rights necessary to prevent infringement of its customs, fiscal, immigration and sanitary laws and regulations within the territory, territorial sea and archipelagic waters (if any) of Tuvalu. These claims are all consistent with the 1982 Convention on the Law of the Sea.

Tuvalu shares maritime boundaries with Kiribati, Fiji and France in respect of Wallis and Futuna. Although no maritime boundary agreements are in force, those with Fiji and France are close to being finalised.

### **Fisheries Legislation**

The basic fisheries law is the Fisheries Act (Cap.45) as amended. Under the Act, the Minister may take such measures as he may see fit to promote the development of fisheries and fishing in Tuvalu to ensure that the fisheries resources of Tuvalu are exploited to the full, for the benefit of Tuvalu. Apart from conditions relating to the licensing of foreign fishing vessels, there is very little regulation of fisheries in Tuvalu. In earlier times there were well developed systems of traditional resource management but many of these appear to have broken down. Further research is needed to assess whether customary marine tenure systems can be utilised to conserve and manage inshore fisheries resources in Tuvalu.

## TUV (ii)

The National Fisheries Corporation of Tuvalu is established by Act of Parliament for the purpose of exploiting the marine resources of Tuvalu.

The Fisheries Act creates a basic regulatory and licensing framework for the operation of fish processing establishments.

### **Licensing Requirements**

A licence is required for all local fishing vessels. Local fishing vessels are defined in the Fisheries Act as vessels wholly owned by persons resident and domiciled in Tuvalu or owned by a company or fisheries cooperative registered or incorporated in Tuvalu, provided that sailing boats, paddling canoes and boats, punts and barges under seven metres in length are not regarded as fishing vessels for the purposes of the Fisheries Act and are thereby excluded from regulation.

Permits authorising fishing by foreign fishing vessels may be granted by the Fisheries Officer with the approval of the Minister. Permits may be issued to individual vessels in accordance with the Fisheries (Foreign Fishing Vessel) Regulations 1982 and there is no requirement that there be an access agreement in force between the flag state of the vessel or a fishing association and the Government of Tuvalu. The regulations set out the general conditions applicable to foreign fishing permits including provisions as to reporting, marking and identification, maintenance of logbooks and statistical records, placing of fish aggregating devices and observers.

Where it is necessary to give effect to an international agreement or treaty to which the Government of Tuvalu is a party, the Act empowers the Minister by order to provide that fishing licences issued pursuant to such agreements or treaty shall be deemed to be permits issued under the Act. In exercise of this power the Minister made the Foreign Fishing Vessels Licensing (U.S. Treaty) Order 1987 in order to give effect to the provisions of the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America.

The penalties for illegal foreign fishing are a fine of A\$100,000 for fishing in the exclusive economic zone without a valid permit and, for contravention of a permit, a fine of A\$25,000.

### **Conservation and Management**

The Fisheries Act makes it an offence to use explosives, poisons or noxious substances for the purpose of catching fish. The Act gives effect to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific by making it an offence, punishable by a fine of \$100,000, conservation and management of all species of fish but, to date, no such regulations have been made apart from regulations in 1990 to prohibit all fishing for trochus shell of the species *Trochus niloticus*.

### **Regional and International Agreements relating to Fisheries**

Tuvalu is a member of the South Pacific Forum and is an ACP state of the European Community. Tuvalu is also a member of the Forum Fisheries Agency and the South Pacific Commission. Tuvalu is a signatory to the United Nations convention on the Law of the Sea. It is a party to the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America and signed the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific on 13 February 1990. Tuvalu signed the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region when it was opened for signature on 9 July 1992. Tuvalu became the eighth party to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Concern on 15 May 1991 and is a signatory to the Arrangement for the Management of the Western Pacific Purse Seine Fishery and the Palau Arrangement.

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**Acts and Subsidiary Legislation of Tuvalu  
Reproduced in this Compendium**

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**LAWS OF TUVALU  
REVISED EDITION 1990**

**CHAPTER 24A**

**MARINE ZONES**

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation –

“the base-line of Tuvalu”  
“conservation and management”  
“fishery resource”  
“low-tide elevation”  
“the low-water line”  
“nautical mile”

3. References to rules of international law
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5. Internal waters
6. Archipelagic waters
7. The territorial sea
8. The exclusive economic zone
9. The contiguous zone
10. Legal character of marine zones, etc.
11. Rights of other States in marine zones, etc.
12. General regulation as to the exclusive economic zone
13. Charts, publicity, etc.
14. Evidentiary provision

5 of 1983  
5 of 1985

**To make provision in respect of the internal waters, the Archipelagic waters, the territorial sea, the exclusive economic zone and the contiguous zone of Tuvalu.**

*[Commencement: 1 January 1984]*

ENACTED BY THE PARLIAMENT OF TUVALU:

Short title 1. This Act may be cited as the Marine Zones (Declaration) Act 1983.

Interpretation 2. (1) In this Act, unless the context otherwise requires –

"the base-line of Tuvalu" means 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;

"conservation and management" includes all rules, regulations, methods and measures that –

(a) are required to build, restore or maintain, or are useful in building, restoring or maintaining, any fishery resource or the marine environment; or

(b) are designed to ensure that –

(i) a supply of food and other products may be taken, and recreational benefits may be obtained, on a continuing basis; and

(ii) irreversible or long-term ill-effects on fishery resources or the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to uses of those resources;

"fishery resource" means any fishery, stock of fish, species of fish or habitat of fish;

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

"the low-water line", in relation to any area, means the line of low water at mean low-water spring tides as depicted on the largest-scale nautical chart of the area held by the Minister;

"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.

3. Where in this Act it is provided that anything shall be done, or any law or order shall be made, in accordance with the rules of international law, the question, whether it was so done or made, is non-justiciable. References to rules of international law
4. 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 or on behalf of Tuvalu. Application of this Act
- 5.(1) For the purposes of any law of Tuvalu, the internal waters of Tuvalu are – Internal waters
- (a) all waters on the landward side of the baselines from which the breadth of the territorial sea is measured; and
  - (b) where closing lines are drawn in accordance with Subsection (2) – the waters inland of those lines to the extent that they arc outside those base-lines.
- (2) The Minister may, in accordance with the rules of international law, declare, by reference to –
- (a) physical features marked on official charts; or
  - (b) lists of geographical co-ordinates, specifying the geodetic datums,

the points between which closing lines are to be drawn for the purpose of determining the outer Limits of the internal waters of Tuvalu in the case of the mouths of or entrances to lagoons.

Archipelagic waters

6.(1) For the purposes of any law of Tuvalu, the archipelagic waters (if any) of Tuvalu comprise all areas of sea contained within the base-lines established under Subsection (2).

(2) The Minister may, in accordance with the rules of international law, declare, by reference to –

(a) physical features marked on official charts; or

(b) lists of geographical co-ordinates, specifying the geodetic datums,

the points between which straight base-lines are to be drawn for the purpose of determining –

(c) the outer limits of the archipelagic waters of Tuvalu; and

(d) the inner limits of ‘the territorial sea.

The territorial sea

7.(1) Subject to Subsection (2), for the purposes of any law of Tuvalu the territorial sea of Tuvalu is those parts of the sea within 12 nautical miles from the base-line of Tuvalu.

(2) Where archipelagic base-lines are drawn under Section 6(2), the breadth of the territorial sea shall: be measured from those base-lines to the extent to which they are outside the outer limits of the internal waters of Tuvalu.

The exclusive economic zone

8.(1) Subject to the succeeding provisions of this section, for the purposes of any law of Tuvalu the exclusive economic zone of Tuvalu comprises those parts of the sea having –

(a) as their inner limits – the outer limits of the territorial sea; and

(b) as their outer limits – a line drawn 200 nautical miles seaward from the base-lines from which the breadth of the territorial sea is measured.



(2) The Minister may, in accordance with the rules of international law, declare, by reference to –

(a) physical features marked on official charts; or

(b) lists of geographical co-ordinates, specifying the geodetic datums,

the points between which straight base-lines are to be drawn for, determining the outer limits of the exclusive economic zone.

(3) Where base-lines are drawn in accordance with Subsection (2), the breadth of the exclusive economic zone shall be measured from those base-lines.

(4) The Minister may, by order, for the purpose of implementing any international agreement or the award of any international body, or otherwise, declare that the outer limits of the exclusive economic zone of Tuvalu are such as are specified in the order.

9. For the purposes of any law of Tuvalu, the contiguous zone of Tuvalu is those parts of the sea within 24 nautical miles from the base-lines from which the breadth of the territorial sea is measured.

The contiguous zone

10.(1) The sovereignty of Tuvalu extends beyond its land territory and internal waters, and its archipelagic waters (if any), over its territorial sea, and to the airspace over them and the seabed and subsoil under them, and the resources contained in them.

Legal character of marine zones, etc.

(2) Within the exclusive economic zone, Tuvalu has sovereign rights –

(a) for the purposes of exploring and of exploiting, conserving and managing the natural resources, whether living or non-living, of –

(i) the sea-bed; and

(ii) the subsoil under the sea-bed; and

(iii) the waters over the sea-bed; and

(b) with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the waters, currents and winds.

(3) Within the exclusive economic zone Tuvalu has such other rights as are conferred or recognised by international law.

(4) Within the contiguous zone, Tuvalu has all rights necessary –

(a) to prevent infringement of its customs, fiscal, immigration and sanitary laws and regulations within the territory, the territorial sea or the archipelagic waters (if any) of Tuvalu; and

(b) to punish any such infringement,

and all relevant laws of Tuvalu extend to the contiguous zone accordingly.

(5) The sovereignty and rights of Tuvalu under this section shall be exercised in accordance with the rules' of international law.

Rights of  
other States  
in marine  
zones, etc.

11.(1) Subject to the succeeding provisions of this section, ships and aircraft of all States have, in accordance with the rules of international law, the right of free passage through and over the territorial sea and the archipelagic waters (if any) of Tuvalu.

(2) The Minister, may, by order –

(a) designate, in accordance with the rules of international law, sealanes 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; and

(b) prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in any such sealanes.

(3) In sealanes and air routes designated under Subsection (2) all ships and aircraft may, in accordance with the rules of 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 exclusive economic zone to another part of it.

(4) Until sealanes and air routes are designated under Subsection (2), the rights of navigation and overflight referred to in Subsection (3) may be exercised through and over all routes normally used for international navigation and overflight.

(5) The rights of navigation and overflight referred to in Subsections (3) and (4) are subject to all laws of Tuvalu made in accordance with the rules of international law.

(6) Subject to this and any other Act and to, the rules of international law, all States and their nationals 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, compatible with, the rules of international law.

12. Where no other provision is made by or under any other Act for the purpose, the Minister may make regulations, which shall be in accordance with the rules of international law, for all or any of the following purposes:—

General  
regulations  
as to the  
exclusive  
economic  
zone

- (a) regulating the conduct of scientific research within the exclusive economic zone; and
- (b) regulating the exploration and exploitation of the exclusive economic zone for the production of energy from waters, currents and winds, and for other economic purposes; and
- (c) regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone, including requirements for the establishment of safety zones around any such island, installation or structure; and
- (d) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone; and
- (e) providing for such other matters as are necessary or expedient to give effect to the rights and obligations of Tuvalu in relation to the exclusive economic zone, or as are necessary to give full effect to the provisions of this Act.

Charts,  
Publicity,  
etc.

13.(1) The Minister shall cause all closing lines, base-lines and other lines drawn for the purposes of this Act, for determining the limits of the internal waters, the archipelagic waters (if any), the territorial sea, the exclusive economic zone and the contiguous zone of Tuvalu, to be clearly indicated on charts of a scale or scales adequate for them to be readily determined land shall give adequate publicity to them.

(2) A question, whether adequate publicity has been given under Subsection (1) to any matter, is non-justiciable.

(3) A copy of each chart referred to In Subsection (1) shall be deposited with the Secretary-General of the United Nations and the Secretary-General of the South Pacific Commission.

Evidentiary  
provisions

14. In any proceedings before a court or person acting judicially, a certificate purporting to be signed by the Minister stating that any specific nautical chart of any area is a chart to which Section 13 applies that is held by the Minister is evidence of the matters stated in the certificate, and the chart is evidence of the matters set out in it.

#### SUBSIDIARY LEGISLATION

Section 5

DECLARATION OF INTERNAL WATERS

L.N.4/89

IN EXERCISE of the powers conferred on him by section 5(2) of the Marine Zones (Declaration) Act 1983 as amended by the Marine Zones (Declaration) Amendment Act 1988, the Minister in accordance with the rules of international law HEREBY DECLARES that the geographical coordinates, specifying the geodetic datums, listed by island in the schedule attached are the points between which closing lines are to be drawn for the purpose of determining the outer limits of the internal waters of Tuvalu in the case of the mouths of or entrances to lagoons.

## TUV 9

1990 Ed.]

Marine Zones

CAP.24A

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Schedule		
<u>Nanumea and Lakena Atoll</u>	<u>Latitude (S)</u>	<u>Longitude (E)</u>
A line joining points #1 and #2.	A Second line joining points	#3 and #4.
Point #1	05° 39' 01"	176° 04' 40"
#2	05° 39' 29"	176° 06' 43"
#3	05° 39' 10"	176° 04' 39"
#4	05° 40' 18"	176° 06' 28"
<u>Niutao Atoll</u>		
NIL		
<u>Nanumaga Atoll</u>		
NIL		
<u>Nui Atoll</u>		
Lines joining points #5 through #8. A second line joining points #9 and #10.		
Points #5	07° 11' 15"	177° 09' 00"
#6	07° 11' 48"	177° 09' 39"
#7	07° 12' 12"	177° 09' 49"
#8	07° 14' 37"	177° 10' 04"
#9	07° 11' 46"	177° 08' 39"
#10	07° 14' 40"	177° 08' 41"
<u>Vaitupu Atoll</u>		
A line joining points #11 and #12. A second line joining points #13 and #14.		
Points #11	07° 27' 29"	178° 40' 08"
#12	07° 27' 33"	178° 40' 12"
#13	07° 28' 26"	178° 40' 50"
#14	07° 28' 39"	178° 41' 18"
<u>Nukufetau Atoll</u>		
Lines joining points #15 through #19. A second line joining points #20 and #21.		
Points #15	08° 01' 50"	178° 18' 36"
#16	07° 57' 32"	178° 20' 49"
#17	07° 55' 32"	178° 22' 43"
#18	07° 57' 05"	178° 25' 20"
#19	07° 57' 38"	178° 25' 34"
#20	08° 04' 25"	178° 22' 39"
#21	08° 02' 36"	178° 19' 35"
<u>Funafuti Atoll</u>		

Funafuti Atoll

A line points #22 and #23. A second line joining points #24 and #25. A third line joining points #26 and #27. A fourth line joining points #28 and #29.

Points #22	08° 33' 34"	179° 02' 01"
#23	08° 30' 40"	179° 02' 11"
#24	08° 29' 23"	179° 03' 34"
#25	08° 27' 40"	179° 04' 41"
#26	08° 26' 05"	179° 05' 40"
#27	08° 25' 37"	179° 06' 54"
#28	08° 33' 55"	179° 07' 56"
#29	08° 35' 52"	179° 06' 03"

Nukulaelae Atoll

Lines joining points #30 through #34. A second set of lines joining points #35 through #39.

Points #30	09° 25' 50"	179° 51' 58"
#31	09° 26' 03"	179° 51' 36"
#32	09° 25' 56"	179° 51' 13"
#33	09° 25' 23"	179° 50' 26"
#34	09° 22' 45"	179° 48' 36"
#35	09° 22' 07"	179° 48' 30"
#36	09° 21' 09"	179° 48' 45"
#37	09° 21' 03"	179° 48' 57"
#38	09° 20' 51"	179° 49' 21"
#39	09° 20' 52"	179° 49' 34"

Niulakita Atoll

NIL

**LAWS OF TUVALU  
REVISED EDITION 1990**

**CHAPTER 45**

**FISHERIES**

ARRANGEMENT OF SECTIONS

Section

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GENERAL

1. Short title
2. Interpretation
3. Promotion of fisheries

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LICENSING

4. Licensing of local fishing vessels
5. Entry and fishing by foreign vessels within the fishery limits
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6. Fish processing establishment
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1 of 1978  
4 of 1987  
5 of 1990

**An Ordinance to make provision for the promotion and regulation of fishing and fisheries industries in Tuvalu and its fishery limits.**

*Commencement: 1st July 1978*

L.N. 3/78  
L.N. 17/90

PART I

GENERAL

Short title

1. This Ordinance may be cited as the Fisheries Ordinance.

Interpretation

2. In this Ordinance, unless the context otherwise requires-

"authorised officer" means any fisheries officer, licensing officer, police officer or officer as defined in the Customs Ordinance, the master of any Government vessel and any other person appointed by the Minister to be an authorised officer for the purposes of this Ordinance;

"driftnet" means a gillnet or other net or a combination of nets which is more than 2.5 kilometres in length the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface of or in the water;

"driftnet fishing activities" means:

- (i) catching, taking or harvesting fish with the use of a driftnet;
- (ii) attempting to catch, take or harvest fish with the use of a driftnet;
- (iii) engaging in any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish with the use of a driftnet, including searching for and locating fish to be taken by that method;



- 
- (iv) any operations at sea in support of, or in preparation for any activity described in this paragraph, including Operations of Placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
  - (v) aircraft use, relating to the other activities described in this definition, except for flights in emergencies involving the health or safety of crew members or the safety of a vessel; or
  - (vi) transporting, transshipping and processing any driftnet catch, and co-operation in the provision of food, fuel and other supplies for vessel equipped for or engaged in driftnet fishing.

"fish" when used as a noun means any aquatic animal, whether piscine or not, and includes shell fish, crustaceans, sponges, holothurians (beche-de-mer), sea urchins, and turtles and their eggs;

"fish" when used as a verb means attract, pursue, catch, take or kill fish by any method;

"fish processing establishment" means any land, vessel or other place on or in which fish are processed for sale outside Tuvalu but does not include any vessel on which fish caught off such vessel are gutted, salted, iced, chilled or Frozen for the sole purpose of preserving such fish;

"fish product" means any product of fish processing;

"fishery limits" means such fishery limits of Tuvalu as may be defined from time to time by the Governor-General by proclamation:

Provided that if fishery limits are not so defined the phrase means the outer limits of the territorial waters;

"fishing vessel" means any vessel used or adapted for use for paddling canoe of native design or a boat, punt or barge having an overall length of less than 7 metres, whether powered by an engine or not;

"foreign fishing vessel" means any fishing vessel that is not a local fishing vessel;  
"licensing officer" means a licensing officer appointed under section 3 (2) and includes the Fisheries Officer;

"local fishing vessel" means any fishing vessel-

- (a) owned by one or more persons resident and domiciled in Tuvalu; or
- (b) owned by any company or fisheries cooperative society registered or incorporated under the laws of Tuvalu, and having its principal place of business in Tuvalu;

"operate" in relation to a vessel means to be the master or owner or charterer of the vessel and in relation to a fish processing establishment means to own or to be in charge of the fish processing establishment and, where the fish processing establishment is a vessel, means to be the master or owner or charterer thereof;

"processing" in relation to fish, includes preserving or preparing fish or producing any substance or article from fish by any method;

"territorial waters" means that part of the sea adjacent to the coast of any island of Tuvalu which is within 3 geographical miles measured from the low water mark of the seaward side of the reef fronting such coast, or, when a reef is not present, from the low water mark of the coast itself.

Promotion of fisheries

3. (1) The Minister may take such measures as he shall see fit to promote the development of fishing and fisheries in Tuvalu to ensure that the fisheries resources of Tuvalu are exploited to the full for the benefit of Tuvalu.

(2) The Minister may appoint a Fisheries Officer and such fisheries assistants and licensing officers as he may consider necessary for carrying out the purposes and provisions of this Ordinance.

## PART II

### LICENSING

Licensing of local fishing vessels

4. (1) Subject to any direction given by the Minister a licensing officer may, upon written application in the prescribed form and upon payment of the prescribed fee, grant a licence in the prescribed form in respect of any local fishing vessel:

Cap.89

Provided that no licence shall be granted to any local fishing vessel which is a vessel to which section 15 (1) of the Shipping Ordinance applies unless there is subsisting a valid and unexpired certificate of seaworthiness issued in respect of that fishing vessel under section 13 of that Ordinance.

- (2) A licence granted under subsection (1) –
  - (a) shall not except with the prior written approval of the Minister endorsed on the licence, extend beyond 1 year from the date of issue thereof;
  - (b) shall be personal to the holder;
  - (c) shall not be transferable;
  - (d) shall be subject to such conditions as may be prescribed and to such further conditions as the licensing officer shall think fit to endorse thereon; and
  - (e) shall not, except with the prior written approval of the Minister endorsed on the licence, confer on the licensee any exclusive right to fish.

(3) It shall be a condition of every licence granted under sub-section (1) that there shall be marked and kept marked on the vessel in respect of which the licence is granted such letters and numbers identification as may be assigned to that, vessel by the licensing officer, in such manner as he may specify or as may be prescribed.

(4) Any person who operates or causes or allows to be operated any local fishing vessel within the fishery limits or in the lagoon or inland waters of Tuvalu except under a valid licence granted under this section in respect of that vessel and in accordance with the conditions of such licence shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

5. (1) No foreign fishing vessel shall—

- (a) enter within the fishery limits except for a purpose recognised by international law;
- (b) fish or attempt to fish within the fishery limits;
- (c) load, unload or tranship any fish within the fishery limits;
- (d) load or unload any fuel or supplies within the fishery limits;

Entry and fishing by foreign vessel within the fishery limits

unless authorised to do so under a permit granted under the Ordinance.

(2) A foreign fishing vessel entering the fishery limits for a purpose recognised by international law without a permit granted under this Ordinance shall return outside those limits as soon as that purpose for which it entered them has been fulfilled.

(3) The Fisheries Officer may, with the approval of the Minister, grant a permit, in the prescribed form in respect of any foreign fishing vessel, authorising such vessel to do such of the things described in subsection (1) as may be provided for in the permit.

(4) A permit granted by the Fisheries Officer under this section shall be subject to—

- (a) such conditions as may be prescribed, and to such further conditions as may be endorsed upon the permit by the Fisheries Officer, and
- (b) to the payment of such fees and royalties as may be determined by the Fisheries Officer with the approval of the Minister.

(5) A permit granted by the Fisheries Officer under this section shall not confer any exclusive right to fish unless the permit expressly so provides.

(6) The fishing gear of any foreign fishing vessel which is prohibited by this section from fishing within the fishing limits shall, while the vessel is within those limits, be stowed in such manner as may be prescribed.

(7) Where any foreign fishing vessel contravenes any of the provisions of this section, the master, owner and charterer, if any, of such vessel shall each be liable, on conviction—

- (a) in the case of a contravention of subsection (1), to a fine of \$100,000; and
- (b) in the case of a contravention of subsection (2) or subsection (6), to a fine of \$25,000.

(8) Where any foreign fishing vessel contravenes any of the conditions of a permit granted under this section, the master, owner and charterer, if any, of such vessel shall each be liable on conviction to a fine of \$25,000.

Licensing under  
agreements and  
treaties

5A(1) Without prejudice to section S(3), to enable effect to be given to an agreement or an international or bilateral treaty relating to fishing by foreign fishing vessels and to which the Government of Tuvalu is a party, the Minister may by order provide that a fishing licence issued in pursuance of the agreement or treaty shall be deemed to be a permit granted under section 5(3) of this Act.

(2) The agreement or treaty shall be designated in the order.

(3) The order shall provide for the manner and circumstances of the issue of fishing licences to which it applies and, without limiting this generality, may provide for those fishing licences to be --

- (a) issued by the Fisheries Officer or by a licensing officer or by some other authority outside Tuvalu and specified in the order;
- (b) of any type or kind specified in the order including, without limiting this generality -
  - (i) regional fishing licences valid also for countries other than Tuvalu;
  - (ii) block licences for more than one fishing vessel, either named or un-named;
  - (iii) transferable licences, for fishing vessels either named or un-named; and
  - (iv) licences restricted to specified types or methods of fishing;
- (c) in such form as is specified in or under the order;
- (d) transferred in such manner and circumstances as are specified in or under the order.

(4) The order may also provide for the circumstances in which a fishing licence to which it applies may or shall be deemed in respect of Tuvalu to be suspended or cancelled as a permit referred to in sub-section (1) wholly, partly or in respect of one or more particular foreign fishing vessels.

(5) The order may provide for the application or disapplication, as the case may be, of the whole or any part of regulations made under this Act to foreign fishing vessels to which an agreement or treaty designated in the order applies.

(6) A fishing licence referred to in subsection (1) –

- (a) may authorise one or more foreign fishing vessels to do such of the things described in section 5(10) as may be provided for in the licences; and
- (b) shall be subject to such conditions as are specified in or under the order or the licence.

(7) Notwithstanding any other written law or the powers of any court in accordance with an agreement or treaty designated in it, the order may provide that in respect of a foreign fishing vessel authorised by or under a fishing licence referred to in subsection (1) or to which an agreement or treaty designated in the order applies –

- (a) where the master, owner, charterer or any member of the crew of the fishing vessel is in pre-trial custody in respect of any offence which amounts to a breach of the agreement or treaty, he shall be promptly released if he enters into a bond or recognisance with or without sureties for a reasonable amount to appear before the appropriate court at a stated time and place and subject to such conditions as are stated in the bond or recognisance:
- (b) where the fishing vessel (together with its equipment, stores and cargo) is seized in respect of an offence which amounts to a breach of the agreement or treaty, it shall be promptly released if the master, owner, charterer or another person enters into a reasonable bond or other security for a reasonable amount for the vessel to be delivered back to the custody of an authorised officer at a stated time and place, and the release of the vessel time and place, and the released of the vessel shall be subject to such conditions as are stated in the bond;
- (c) the master, owners, charterer or any member of the crew of the fishing vessel shall not be liable to imprisonment on conviction for an offence under this Act, the order or regulations made under this Act is the offence is a fishing violation.

(8) The order may provide for the authorising, in respect of Tuvalu, of observers of the foreign fishing vessels in accordance with the agreement or treaty designated in the order, whether or not the observers are authorised officers or licensing officers under this Act or public officers of Tuvalu.

(9) The order may make such other provisions not inconsistent with the Constitution or this or any other Act as are necessary or expedient for the better carrying out of the obligations or Tuvalu under an agreement or treaty designated in the order.

(10) The contravention by a foreign fishing vessel, to which an agreement or treaty designated in an order under subsection (1) applies, or any provision of the order, or in respect of Tuvalu, of any provision of the agreement or treaty, or of any condition of a fishing licence referred to in subsection (1) shall be deemed to be a contravention of the conditions of a permit in terms or section 5(8) except to the extent that it is a contravention of section 5(1), (2) or (6)

**6.** (1) The Fisheries Officer may with the approval of the Minister and on payment of the prescribed fee grant to any person a licence in the prescribed form to operate a fish processing establishment subject to such conditions as may from time to time be prescribed and to such further conditions as may be endorsed upon the licence by the Fisheries Officer.

Fish  
processing  
establishment

(2) Any person who operates or causes or allows, to be operated any fish processing establishment except under a valid licence granted under this section in respect of that fish processing establishment and in accordance with the conditions of such licence shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

Cancellation and suspension of licences and permits

7. (1) Where any of the conditions of any licence or permit is contravened the Fisheries Officer may cancel the licence or permit, or suspend such licence or permit for such period as he may think fit.

(2) Any person aggrieved by the refusal of any licensing officer to issue any licence granted under this Ordinance, or by the cancellation or suspension of any licence or permit granted under this Ordinance may appeal against such refusal, cancellation or suspension to the Minister, whose decision shall be final.

### PART III

#### POWERS OF AUTHORISED OFFICERS

Power to stop, board, search vessels, etc.

8. For purposes of ascertaining whether there is, or has been, any contravention of the provisions of this Ordinance any authorised officer may--

- (a) at all reasonable hours enter any fish-processing establishment and any premises other than premises used exclusively as a dwelling-house;
- (b) stop, board and search—
  - (i) any foreign or local fishing vessel within the fishery limits; or
  - (ii) any local fishing vessel, outside the fishery limits;
- (c) stop and search any vehicle transporting, or reasonably suspected or transporting, fish or fish products;
- (d) make such examination and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel or vehicle in relation to which any of the powers conferred by this section have been, or may be, exercised and take samples or any fish, or fish products, found therein;
- (e) require any person to produce his licence or his authority if it appears to the authorised officer that such person is doing any act for which a licence or other authority is required under this Ordinance.

Powers of an authorised officer where he reasonably believes an offence committed

9. (1) Where he has reasonable grounds for believing that an offence against the provisions of this Ordinance has been committed, any authorised officer, without a warrant, and with such assistance as he may consider necessary may—

- (a) following hot pursuit as recognised by international law and commenced within the fishery limits, stop, board and search outside the fishery limits any foreign fishing vessel which he believes has been used in the commission of that offence within the fishery limits, or in relation to which he believes such offence has been committed, and bring such vessel and all persons and things on board it within the fishery limits;

(b) within the fishery limits—

- (i) arrest any person whom he believes has committed such offence and, if the authorised officer making such arrest is not a police officer, he shall without necessary delay made over such person to a police officer, or in the absence of a police officer, shall take such person to the nearest police station;
- (ii) in the case of an offence against sections 5 (1), 13 or 14 (1), seize any vessel (together with its equipment, stores and cargo) which he believes has been used in the commission of such offence or in respect of which he believes such offence has been committed;
- (iii) seize any fishing gear, instruments or appliances which he believes have been used in the commission of such offence;
- (iv) seize any fish which believes have been taken or fish products produced in the commission of such offence; or
- (v) seize any explosive, poison or other noxious substance which he believes has been used, carried possessed or controlled in contravention of section 14.

(2) After any vessel has been stopped under the provision of this section any authorised officer may exercise concerning it, or in relation to any fish or fish products therein, any of the powers conferred by paragraph (d) of section 8.

(3) A written receipt shall be given for any thing seized under subsection (1) by the authorised officer concerned to the person from whom the seizure is made.

**10.** Any person who—

- (a) willfully obstructs any authorised officer in the exercise of any of his powers under this Ordinance; or
- (b) fails to comply with any lawful requirements imposed or to answer any lawful enquiry made by any authorised officer under this Ordinance, including enquiries as to the source of supply of fish;

Obstruction,  
etc. of  
authorised  
officers

shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months, and if the obstruction or non-compliance takes place on board or alongside a vessel, the master of the vessel shall be liable on conviction to a like penalty.

**11.** Any authorised officer acting in the exercise of his powers under this Ordinance shall, on demand, produce such document of identification or other evidence as may be reasonably sufficient to show that he is an authorised officer for the purpose of this Ordinance.

Authorised  
officers to  
declare  
office etc.

**12.** No authorised officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Ordinance.

Non-liability  
of authorised  
officers

## PART IV

## ADDITIONAL OFFENCES AND LEGAL PROCEEDINGS

Throwing  
overboard or  
destroying  
incriminating  
evidence

**13.** Any person who, being on board any vessel being pursued or about to be boarded by any authorised officer, throws overboard or destroys any fish, fishing gear, explosive, poison, noxious substance or any other thing whatsoever, with intent to avoid the seizure of such fish, fishing gear, explosive, poison, noxious substance or thing, or the detection of any offence against this Ordinance, shall be liable on conviction to a fine or \$400 and to imprisonment for 1 year.

Fishing with  
explosives,  
poison and  
other noxious  
substances

**14.** (1) Any person who—

(a) permits to be used, used or attempts to use any explosive, or any poison or other noxious substance, for the purpose of killing, stunning, disabling or catching fish or in any way rendering fish more easily caught; or

(b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances which raise a reasonable presumption that such an explosive, poison or other noxious substance is intended to be used for any of the aforesaid purposes,

shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

(2) Any person who, knowing or having reasonable cause to believe that any fish has been taken in contravention of the provisions of this section, without lawful excuse, receives or is found in possession of such fish shall be liable on conviction--

(a) where the circumstances of such receipt or possession raise a reasonable presumption that the fish is intended to be sold in the course of business, to a fine of \$200 and to imprisonment for 6 months; or

(b) where no such presumption arises, to a fine of \$50 and to imprisonment for 2 months.

Driftnet  
fishing

**14A.** 1) Any person who within the fishery limits engages or attempts to engage in any of the driftnet fishing activities shall be liable on conviction to a fine of up to \$100,000 and to imprisonment for up to two years.

2) Where any foreign or local fishing vessel within the fishery limits engages or attempts to engage in any of the driftnet fishing activities, the master, owner and charterer, if any, of such vessel shall be liable on conviction to a fine of up to \$100,000.



**15.** Where any person is convicted of an offence against this Ordinance the court may, in addition to any other penalty it may and impose, order that any fish caught or fish product produced in the commission of such offence or the proceeds of sale of such fish product, and any fishing gear, instruments or appliances and, in the case of any offence under section 5 (l), section 13 or section 14 (1) any vessel (together with its equipment, stores and cargo) used in the commission of such offence or in respect of which such offence has been committed, shall be forfeited to the Government, and if so forfeited such property shall be disposed of in such manner as the Minister may direct.

Forfeiture of gear, fish and vessels

**16.** All fish found on board any vessel used in the commission of an offence against the provisions of this Ordinance or in respect of which any such offence has been committed, shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.

Presumption

**17.** Proceedings for any offence under this Ordinance shall be by way of summary trial before the Senior Magistrate:

Jurisdiction of the courts

Provided that proceedings for an offence under section 22 may be before any court having jurisdiction to try the same.

**18.** (1) Any fish, fish product or other article of a perishable nature seized or taken under the provisions of this Ordinance may on the direction of the Fisheries Officer be sold and the net proceeds of the sale held pending the outcome of any prosecution brought under this Ordinance, and if no such prosecution is brought such proceed shall be paid .to the owner of the fish, fish product or other article sold.

Forfeiture of gear, fish and vessels

(2) Any vessel, fishing gear, instrument or appliance, seized under section 9 which is not ordered to be forfeited under section 15 shall be returned to its owner.

(3) Where any- vessel, fishing gear, instrument or appliance, fish or fish product has been seized under section 9 the court may order its release, on receipt of a satisfactory bond or other security from any person claiming such property, conditioned on such person--

- (a) delivering such property to the court upon the order of the court, without any impairment of its value, and paying in full any fine imposed by the court in pursuance of this Ordinance; or
- (b) paying the monetary value of such property in accordance with an order or judgment of the court together with any fine imposed.

## PART V

## MISCELLANEOUS

- Fishing for scientific purposes      **19.** The Minister may, in writing, authorise any fishing vessel to fish within the fishery limits for the purpose of scientific investigations, and may for this purpose exempt such fishing vessel from all or any of the provisions of this Ordinance and, in making such exemption, may impose such conditions as he may think fit.
- Power of the Minister to enter into agreements      **20.** The Minister may enter into an agreement with any person or any government, or agency of any, government or international agency for the purpose of enabling the Minister to perform any of the functions conferred by or under this Ordinance, or for the purpose of facilitating the performance of those functions, or generally to advance the purposes for which this Ordinance was enacted.
- Rewards      **21.** The court may order to be paid out of any fine inflicted for contravention of any of the provisions of this Ordinance such reward as the court thinks fit and proper to any person, not being a person employed for the purpose, giving information which may have led to the conviction of the offender:  
  
Provided that such reward shall not exceed \$200 or one-half of the fine imposed whichever shall be the less.
- Regulations      **22.** The Minister may make regulations for the purpose of carrying out the provisions of this Ordinance and, without prejudice to the generality of the foregoing, may regulate the following matters--
- (a) the training of fishermen. and fisheries personnel;
  - (b) the procedure for the issue of licences and permits, the forms thereof and the forms of application therefor;
  - (c) the conditions and procedures to be observed by foreign fishing vessels while within the fishery limits;
  - (d) the conservation and protection of all species of fish by *inter alia*—
    - (i) establishing closed seasons for any area of Tuvalu or for any species of fish;
    - (ii) limiting the amount, size or weight of fish or any species of fish which may be cause or traded;
    - (iii) designating prohibited fishing areas for all fish or certain species of fish or certain methods of fishing;
    - (iv) prohibiting certain types of fishing gear or methods of fishing;
    - (v) specifying minimum mesh sizes for fishing nets;

- (e) the organisation of sport fishing;
- (f) the development of fish farms and the importation of live fish;
- (g) the marketing, distribution and export of fish and fish products;
- (h) the handling, landing and transportation of fish and fish products;
- (i) the methods and procedures to be adopted and the substances to be used in fish storage and processing;
- (j) the inspection of fishing vessels and their catches, processing establishments and fish products;
- (k) minimum standards for the merchantable quality of fish and fish products;
- (l) methods of analysis of fish and fish products;
- (m) the exemption of fishing vessels or fish processing establishments from any of the provisions of this Ordinance;
- (n) the prohibition of the use of practices, methods, equipment, apparatus, materials or substances likely to be injurious to the maintenance and development of fish stocks in Tuvalu waters;
- (o) anything required to be prescribed by this Ordinance; and
- (p) the provision of penalties for contraventions of such regulations, such penalties not to exceed imprisonment for us to 6 months or a fine of \$1,000.

[Subsidiary]

**SUBSIDIARY LEGISLATION**L.N. 16/78 **Proclamation of fishery limits under section 2**

The following fishery limits have been proclaimed-

1. With effect from the 1st day of January 1979 the fishery limits of Tuvalu shall be a line drawn so that each point thereon is two hundred (200) nautical miles measured from the low-water mark of the seaward side of the reef fronting the coast of any island in Tuvalu or bounding any lagoon waters adjacent to such coast or, when a reef is not present, from the low-water mark of the coast itself:

Provided that in the event of such line intersecting a line drawn similarly by any other State or Territory, the fishery limits of Tuvalu shall be a median line (or such other line as may be agreed between the Government of Tuvalu and such State or Territory) drawn between the limits of the territorial waters of Tuvalu and the territorial waters of such a State or Territory.

2. Her Majesty will exercise the same exclusive rights in respect of fisheries within the said fishery limits as she has in respect of fisheries in the territorial waters of Tuvalu, subject to such provision as may be made by law for the control and regulation of fishing within the said limits.

**Appointment of additional authorised officers under section 2—**

G.N. 12/80

All island executive officers are appointed authorised officers for the purposes of the Ordinance.

**FISHERIES (FOREIGN FISHING VESSEL)  
REGULATIONS - 1982**

L.N. 6/83  
L.N. 22/84

**PRELIMINARY**

1. These Regulations may be cited as the Foreign Fishing Vessel Regulations 1982 and shall come into force on the 10th day of December 1982.

2. In these Regulations unless the context otherwise requires;

"the Ordinance" means the Fisheries Ordinance (Cap. 45);

"call sign" means the International Radio call sign unless the Fisheries Officer has authorised a different method of identification under, regulation 7(2);

"crew member" includes any fishing master;

"country of registration" of any vessel means the state in which the vessel is recognised at international law as being registered;

"vessel" includes all equipment on board or used by a vessel;

"equipment" includes all instruments apparatus and gear including fishing gear;

"Fisheries Officer" means the officer appointed under section 3 of the Act and includes any assistants or advisers authorized by him to carry out fishery matters;

"fishing log" means the fishing log required to be maintained on a permitted vessel under Regulation 9 of these Regulations;

"FAD" means any floating object, whether anchored or drifting, placed for the purpose of aggregating fish;

"master" includes any person acting for the time being as master;

"owner" includes any person chartering or for the time being operating the vessel and the person who applied for the permit in respect of that vessel;

"Permit" means any Permit granted under subsection (2) of section 5 of the Act;

"Permitted Vessel" means any vessel in respect of which a permit has been granted;

All words and phrases defined in the Act shall bear the same meaning in these Regulations unless the context otherwise requires.

**THE GRANT OF PERMITS TO FOREIGN  
FISHING VESSELS**

Applications for permit    **3.(1)** A permit shall, unless the Minister otherwise directs, be in the form set out in the first schedule to these Regulations.

Schedule II                    (2) The Fisheries Officer shall require that all applications for permits be in the form set in the Second Schedule.

(3) The Fisheries Officer shall with the approval of the Minister have the discretion to refuse any application for a fishing permit and all agreements for the grant of licenses shall be deemed to specifically include such discretion.

4. The Fisheries Officer may require that a permit which has been either cancelled or suspended, or which has expired, be delivered to him within a specified period. Surrender of Permit

5.(1) Every permit shall be delivered by the owner to the vessel to which it relates as soon as possible and shall there be maintained in good condition in a place where it can be readily inspected by an authorised officer. Permit to be Displayed

(2) Where it has been impracticable to deliver a permit to a vessel before entering the fishery limits, that vessel may operate provided the Master has a record of the permit number issued to that vessel and the date on which the permit was issued.

CONTROL OF FOREIGN FISHING VESSELS  
IN THE FISHERY LIMITS

6.(1) No Permitted Vessel shall enter the fishery limits unless, not less than 24 hours before its entry, the Fisheries Officer (or any person or body nominated by him in writing) has been notified of the following matters: Notification of Intended Arrival and of Departure

- (a) The name, call sign, and the country of registration of the vessel;
- (b) The Permit number of any Permit granted in respect of that vessel;
- (c) The latitude and the longitude of the point at which the vessel will enter the fishery limits;
- (d) The quality of fish on board the vessel broken down according to species;

(2) On leaving the fishery limits the Master of any Permitted vessel shall, within 24 hours, report to the Fisheries Officer giving the following information:-

- (a) The name call sign and country of registration of vessel;
- (b) The Permit number of any Permit granted in respect of that vessel;
- (c) The port at which the fish are intended to be finally unloaded and whether transshipment is intended.

7.(1) Every Permitted Vessel shall at all times while it is in the fishery limits fly the flag of its country of registration. Flags and call Signs

(2) The Fisheries Officer may authorise the use of some system of recognition other than the call sign and where he does so authorise then these Regulations shall take effect as if the words "call sign" were replaced by words identifying the system authorised wherever the words "call sign" appear in these Regulations.

8.(1) Every Permitted Vessel shall at all times that it is within the fisheries limits display it's call sign on the top of the vessel so as to be clearly visible from the air and also on both sides of the hull with letters and numbers at least one meter high and in clearly visible colours. Display of Call Sign and Permit Number

- (2) No Permitted Vessel shall use for fishing in the fishery limits any fishing gear that cannot readily be seen to be attached to the vessel unless the vessel's call sign is permanently and legibly marked on the gear in a place and position where it is easily seen. In respect of this subregulation "fishing gear" includes FADS.
- Log Books Schedule III** **9.** (1) Every master of a Permitted Vessel shall maintain in the English language and in ink, at all times that the vessel is within the fishery limits, a log book in the form set out in the Third Schedule.
- (2) The fishing log referred to in regulation 9(1) shall be maintained so that it is all times a complete and accurate record of the vessel's fishing activities.
- (3) The original unaltered fishing log maintained under the provisions of subregulation (1) shall be sent by airmail to the Fisheries Officer or to the person prescribed in any access agreement or in writing by the Fisheries Officer as soon as possible and in any event within 45 days after the completion of the voyage to which the fishing log relates.
- Means of communication** **10.** (1) Every Permitted Vessel shall, at all times while it is within the fishery limits, have on board a person who can communicate sufficiently well in English to receive instructions from any authorised officer.
- (2) Every Permitted Vessel shall carry the latest edition of the International Code of Signals published by the International Maritime Consultative Organisation marine Safety Committee.
- (3) Every Permitted Vessel shall carry on board whilst within the fishery limits a radio capable of receiving any direction communicated to it via the telegraphic address supplied in accordance with regulation 24.
- Reporting** **11.**(1) Each Permitted Vessel shall report, by telex to the Fisheries Officer or to any person or body nominated to receive such reports in any access agreement relating to the vessel or nominated in writing by the Fisheries Officer, the vessels position and the total catch on board at the following times:-
- (a) immediately upon entry into fishery limits; and
  - (b) every 7<sup>th</sup> day while the vessel is in the fishery limits; and
  - (c) immediately upon departure from the fishery limits.
- (2) Any report made in accordance with the provisions of regulation 11(1) shall contain the following information:-
- (i) The name, call sign, and the country of registration of the vessel; and
  - (ii) The Permit number of the Permit granted in respect of that vessel; and
  - (iii) The position of the vessel at the time of reporting; and
  - (iv) The quantity of fish on board the vessel broken down according to species.
- Stowage** **12.** All fishing equipment on board any foreign fishing vessel within the fishery limits shall ensure that a distance of not less than one-half of a nautical mile is maintained at all times between the vessel and any equipment that:-
- Avoidance of set gear** **13.**(1) Every master of a foreign fishing vessel within the fishery limits shall ensure that a distance of not less than one-half of a nautical mile is maintained at all times between the vessel and any equipment that:-
- (a) has been placed in the sea; and

- (b) has been marked so as to be visible to persons on board any vessel navigating within one-half of a nautical mile of the set gear.

(2) Regulation 13(1) shall not apply:-

- (a) to fishing equipment from the vessel in question; or  
 (b) to fishing equipment which the master has been given permission to approach by a person entitled to approach that gear.

**14.(1)** No FAD may be placed in the fishery limits unless:-

F.A.D.S.

- (i) Permission to place the FAD has been granted in an access agreement or in writing by the Fisheries Officer; and  
 (ii) In the case of an anchored FAD, the FAD is placed in accordance with any direction as to siting contained in an access agreement or given in writing by the Fisheries Officer; and  
 (iii) the FAD is constructed and anchored in accordance with any specifications or conditions contained in an access agreement or given in writing by the Fisheries Officer.

(2) Any foreign fishing vessel placing a FAD, whether anchored or free floating, shall within 24 hours of such placement inform the Fisheries Officer -

- (i) of the name and call sign of the vessel placing the FAD; and  
 (ii) whether the FAD is anchored or free floating; and  
 (iii) the best estimate of the position at which the FAD is anchored or where it was released.

(3) No foreign fishing vessel shall fish within one-half of a nautical mile of an anchored FAD unless that FAD was placed by that vessel or unless permission for the use of the FAD by the fishing vessel has been given by the person responsible for the placing of the FAD:

Provided that it shall be a defence to any prosecution for an offence under Regulation 22 of these Regulations in respect of a breach of this subregulation for the person charged to prove that he did not know and could not with reasonable care have discovered the presence of the FAD.

**15.** No fish shall be transhipped from a foreign fishing vessel within the fishery limits to any other vessel except at a place and time authorised by the Fisheries Officer and in accordance with such conditions (if any) as he may impose.

Transhipment

**16.** No fish shall be landed in Tuvalu from any Permitted Vessel without the prior authorisation of the Fisheries Officer and any authorised landing shall be in accordance with such conditions as the Fisheries Officer may apply.

Landing of Fish

**17** No article, substance, or living organism other than fishing equipment or bait in use pursuant to a Permit shall be put released or allowed to come into contact with the sea within the fishery limits from any vessel if that article, substance or living organism is likely to:-

- (a) cause harm to any fish or marine mammal; or  
 (b) obstruct fishing equipment; or  
 (c) become a hazard to navigation; or

Protection of Fisheries

- (d) pollute the waters

ENFORCEMENT

Authorised  
Officer's  
Powers

**18.(1)** Any authorised officer may at any time within the fishery limits and with the aid of such persons as he considers necessary:-

- (a) require the master or any other crew of any foreign fishing vessel within the fishery limits to inform him of the name, call sign, and country of registration of the vessel and the name of the master and of any other crew member;
- (b) require the muter of the vessel to produce the ship log and fishing log to him for inspection and to allow him to make a copy or transcript for the retention of the authorised officer;
- (c) make any entry (being an entry dated and signed by him) in the ship's log;
- (d) carry out such inspection as he feels necessary including but not limited to the vessel's charts, lines, fish holds equipment, and gear;
- (e) give the master or any other crew member such directions as he thinks fit as to the sealing, stowing or landing on shore of any equipment that has or in his opinion may have been used in contravention of any of the laws or regulations of Tuvalu.
- (f) give such other directions subject to the laws of Tuvalu as he may feel are appropriate or necessary for the enforcement of, or to ensure compliance with the Act and with these Regulations.

(2) In carrying out any of the matters set out in this Regulation and without limiting his powers the authorised officer shall endeavour to interrupt or interfere with the fishing operation of any vessel operating lawfully under a Permit as little as possible. The authorised officers decision as to the extent to which interference or interruption of such operation is necessary in the furtherance of his duties is final.

Directions to  
be obeyed

**19.** Every master or crew member of a foreign fishing vessel within the Fishery Limits shall immediately comply with every instruction direction or requirement that is given or made to him by an authorised officer pursuant to these Regulations.

Observers

**20.(1)** Every muter of a permitted vessel within the fishery limits shall:

- (a) allow any Fisheries Officer to board the vessel as an observer and to remain on board until such time as the vessel shall quit the fishery limits; and
- (b) proceed to such port or rendezvous as may be required by any officer to allow a Fisheries Officer to embark on or to disembark from the Vessel.

(2) At all times when a Fisheries Officer is on board any Permitted Vessel pursuant to subregulation (1) the master shall:-

- (a) allow the Fisheries Officer full access to all equipment records holds and fish on board the vessel; and



- (b) allow the Fisheries Officer to make such tests observations and records and to remove such samples as he may require in order to ascertain the nature extent and type of the vessel's activities within the fishery limits; and
- (c) provide for the Fisheries Officer all reasonable food and accommodation, at least equivalent to the standard provided for the officers of the vessel.

(3) In carrying out any of the matters set out in this Regulation and without limiting his powers the Fisheries Officer shall endeavour to interrupt or interfere with the fishing operation of the vessel as little as possible. The Fisheries Officer's decision as to the extent to which interference or interruption of such operation is necessary in the furtherance of his duties is final.

(4) Nothing in this regulation shall be construed as limiting any of the other powers conferred on a Fisheries Officer in respect of any foreign fishing vessel it's crew or catch.

**21.** Every person who is a master or crew member shall take all reasonable precautions for the safety of every authorised officer or person with or assisting him.

Safety of  
Authorised  
Officers

OFFENCES AND MISCELLANEOUS  
PROVISIONS

Offences

**22.**(1) Any master of a foreign fishing vessel in respect of which any of the provisions of these regulations are contravened or not complied with commits an offence and is liable to imprisonment not exceeding 6 months and to a fine of not exceeding \$1,000 or to both.

(2) In any proceedings in which a person is charged with an offence under these Regulations it shall be a defence to the charge if the defendant proves that any material act or omission was done or made for the purpose of:-

- (a) saving human life; or
- (b) obtaining emergency medical assistance for any person; or
- (c) averting imminent danger to the safety of any vessel.

**23.** Where any time limit is prescribed by these regulations, the Fisheries Officer may in any particular case or class of cases if he thinks fit extend that time limit.

Time Limits

**24.** All owners to whom a Permit is granted in respect of a Permitted Vessel shall provide a telegraphic address at which all notices may be served or through which directions to that Permitted Vessel may be given by any licensing officer and it shall be the duty of such person to ensure that any such direction or directions from a licensing officer are transmitted forthwith to the Permitted Vessel. Such direction or directions shall be deemed to have been received by the Permitted Vessel as at the time when such direction or directions could first reasonably have been so transmitted to and received by that vessel.

Telegraphic  
Address

**25.** The Foreign Fishing Regulations 1980 (as amended) are revoked.

Repeal of 190  
Reg.

SCHEDULE 1

Permit No.....

FISHING PERMIT

In accordance with the provisions of section 5(3) of the Fisheries Act a Permit is hereby granted to the person named herein in respect of the vessel named herein to fish within the Fisheries Limits.

NAME OF OWNER:

ADDRESS OF OWNER:

REGISTRATION NO.:

NAME OF VESSEL:

PORT OF REGISTRY:

GROSS TONNAGE:

TYPE OF FISHING:

TYPE AND TEMPERATURE OF

REFRIGERATION:

REGISTERED LENGTH:

BEAM:

HORSEPOWER:

CALL SIGN:

TELEGRAPHIC ADDRESS

UNDER REGULATION 24:

SCHEDULE 2

APPLICATION FOR PERMIT  
APPLICATION FORM

INSTRUCTIONS:

- Underline surname
- Address means complete mailing address
- Mark X where appropriate
- If not applicable mark NA
- Type or Print Clearly
- All Units Metric, Specify units if other system used

I hereby apply a Permit to fish within Tuvalu Fisheries Limits.

1. Name of Vessel \_\_\_\_\_
2. Name of Owner \_\_\_\_\_
3. Address of Owner \_\_\_\_\_  
\_\_\_\_\_
4. Name of Charterer \_\_\_\_\_
5. Address of Charterer \_\_\_\_\_  
\_\_\_\_\_
6. Country of Registration \_\_\_\_\_
7. Country of Registration Number \_\_\_\_\_
8. Radio Call Sign \_\_\_\_\_
9. Operational Base(s):  
 Port \_\_\_\_\_ Country \_\_\_\_\_  
 Port \_\_\_\_\_ Country \_\_\_\_\_
10. Name of Vessel Master \_\_\_\_\_
11. Address of Vessel Master \_\_\_\_\_  
\_\_\_\_\_
12. Name of Fishing Master  
(if different) \_\_\_\_\_
13. Address of Fishing Master  
(if different) \_\_\_\_\_
14. Type of Vessel  
 Single Purse Seiner                      Group Purse Seiner  
 Longliner                                      Purse Seiner Carrier  
 Pole and Liner  
 Other (Specify) \_\_\_\_\_

15. Normal Total Number of Crew \_\_\_\_\_

16. Flag State Authorised Fishing Area \_\_\_\_\_

17. Hull Materials: Steel  Wood   
 FRP  Other  (Specify)\_\_\_\_\_

18. Year Built 19\_\_\_\_ \_\_\_\_\_

19. Place of Construction \_\_\_\_\_

20. Gross Tonnage \_\_\_\_\_

21. Overall Length \_\_\_\_\_Meters

22. Main Engine(s) Power\_\_\_\_\_ (Specify Units)

23. Fuel Carrying Capacity \_\_\_\_\_Kilolitres

24. Daily Freezing Capacity (More than one, if appropriate)

Method ( ) Capacity ( ) Temperature ( )

(X where appropriate) Metric tons/day ( ) °C

Brine (NaCl) BR \_\_\_\_\_

Brine (CaCl) CB \_\_\_\_\_

Air (Blast) BF \_\_\_\_\_

Air (Coils) RC \_\_\_\_\_

Other (Specify)\_\_\_\_\_

25. Storage Capacity (More than one, if appropriate)

Method ( ) Capacity ( ) Temperature ( )  
 (X where appropriate) Cubic Meters ( ) °C

Ice IC \_\_\_\_\_

Refrigerated

Sea Water RW \_\_\_\_\_

Brine (NaCl) BR \_\_\_\_\_

Brine (CaCl) CB \_\_\_\_\_

Air (coils) BC \_\_\_\_\_

Other (Specify)\_\_\_\_\_

Complete either A, B, or C below as appropriate.

A. For Puree Seiners

26. Net Length \_\_\_\_\_ Meters

27. Net Depth \_\_\_\_\_ Meters

28. Support vessels

Name _____	Type _____
Name _____	Type _____
Name _____	Type _____
Name _____	Type _____

B. For Pole and Line Vessels

29. Bait Storage (more than one, if appropriate)

Circulation (Method (X Where appropriate)	Capacity Cubic Meters
--	--------------------------

Natural	NN	_____
---------	----	-------

Circulation	CR	_____
-------------	----	-------

Refrigerated	RC	_____
--------------	----	-------

C. For Support Vessels

30. Activities (X more than one if appropriate)

Refrigerated Carrier

Scouting Boat

Anchor Boat

Supply/Mothership

Other (Specify) \_\_\_\_\_

31. Fishing Vessel(s) Supported \_\_\_\_\_

\_\_\_\_\_

I understand, I am required to Report any changes in item I through 13 to Tuvalu within 60 days, and

Signature of _____	Owner	Charterer	Duly Authorised Agent
Applicant			

Name of Applicant \_\_\_\_\_

Address of Applicant \_\_\_\_\_

\_\_\_\_\_

SCHEDULE III

FORM 1

PURSE SEINE VESSEL \_ CATCH REPORT FOR THE WATERS OF TUVALU

*(No electronic copy of the table available)*

FORM 2

LONG RANGE POLE AND LINE VESSEL \_ CATCH REPORT FOR THE WATERS OF TUVALU

*(No electronic copy of the table available)*

FORM 3

LONGLINE VESSEL - CATCH REPORT \_ CATCH REPORT FOR THE WATERS OF TUVALU

*(No electronic copy of the table available)*



L.N. 2/90

**FISHERIES (TROCHUS) REGULATIONS 1990**

1. These regulations may be cited as the Fisheries (Trochus) Regulations 1989 and shall come into operation on the date of publication by exhibition. Short title and commencement
2. The area of Tuvalu is designated as a prohibited fishing area for the shell fish species trochus niloticus. Fisheries (Trochus) Regulations
3. Any person who fishes within the area of Tuvalu for the shell fish species trochus niloticus commits an offence and shall be liable on conviction to a fine not exceeding \$1000 or up to 6 months imprisonment.

Published by exhibition 12 day of February 1990

**FOREIGN FISHING VESSELS LICENSING  
(U.S. TREATY) ORDER 1987**

**ARRANGEMENT OF ARTICLES**

Article

1. Citation and commencement
2. Interpretation
3. Designation of Treaty
4. Regional fishing licences
5. Enforcement
6. Observers
7. Application of Regulations

SCHEDULE

Form of Regional Fishing Licence

L.N. 6/87

**Order under section 5A****FOREIGN FISHING VESSELS LICENSING  
(U.S. TREATY) ORDER 1987**

1. This Order may be cited u the Foreign Fishing Vessel Licensing (U.S. Citation Treaty) Order 1997, and shall come into operation on the date on which the commencement Treaty enters into force for Tuvalu. Citation and Commencement
2. In this Order, unless the context otherwise requires – Interpretation
- “Administrator” has the meaning given in Article 1.1(a) of the Treaty and in terms of the agreement is the Director of the South Pacific Forum Fisheries agency;
- "Agreement" means the Agreement among Pacific Island States concerning the implementation and administration of the Treaty on Fisheries between the Government of certain Pacific Island States and the Government of the United States of America signed at Port Moresby on 2nd April, 1987;
- "closed areas for Tuvalu" means the closed areas described in Schedule 2 to Annex I to the Treaty, that is the territorial sea and waters within two nautical miles of all named banks, i.e. Macaw, Kosciusko, Rose, Bayonnaise and Hera, in Tuvalu EEZ, as depicted on the chart entitled “Tuvalu Fishery Limits” prepared by the United Kingdom Hydrographic Department, Taunton, January 11, 1981;
- “crew member” includes any fishing master;
- “observer” means an observer in accordance with Article 6(1) of this Order;
- “operator” has the meaning given in Article 1.1(f) of the Treaty, that is any person who is in charge of, directs or controls a vessel, including the owner, charterer and master;
- “regional fishing licence” means a fishing licence –
- (a) valid also for countries other than Tuvalu; and
  - (b) to which Article 4 (1) of this Order applies;
- “Treaty” means the Treaty designated in Article 3 of this Order;
- “U.S. fishing vessel” has the meaning given in Article 1.1(d) of the Treaty, that is any boat, ship or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, which is documented under the laws of the United States of America.
3. The Treaty to which this Order relates is designated the Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America signed at Port Moresby on 2<sup>nd</sup> April, 1987. Designation of Treaty
- 4.(1) A regional fishing licence issued under the Treaty by the Administrator in respect of a U.S. fishing vessel in the circumstances provided in Annex II to the Treaty shall be deemed during the period of validity of the licence to be a permit granted under section 5(3) of the Act in respect of the fishery limits but excluding the closed areas for Tuvalu. Regional fishing licences

- (2) This article shall not apply unless a regional fishing licence is –
- (a) in the form set out in Schedule 3 to Annex II to the Treaty and shown in the Schedule to this Order; and
  - (b) subject to the terms and conditions specified and referred to in Annex I to the Treaty.
- Enforcement
5. Notwithstanding any other written law or the powers of any court, in accordance with Article 5.3 of the Treaty, in respect of a U.S. fishing vessel authorised by or under a regional fishing licence or to which the Treaty applies
- (a) where the master, owner, charterer or any member of the crew of the U.S. fishing vessel is in pre-trial custody in respect of an offence which amounts to a breach of the Treaty, he shall be promptly released if he enters into a bond or recognizance with or without sureties for a reasonable amount to appear before the appropriate court at a stated time and place and subject to such conditions as are stated in the bond or recognizance;
  - (b) where the U.S. fishing vessel is seized in respect of an offence which amounts to a breach of the Treaty, the vessel (together with its equipment, stores and cargo) shall be promptly released if the master, owner, charterer or another person enters into a reasonable bond or other security for a reasonable amount for the vessel, equipment, stores, and cargo to be delivered back to the custody of an authorised officer at a stated time and place, and the release of the vessel, equipment, stores and cargo shall be subject to such conditions as are stated in the bond;
  - (c) the master, owner, charterer or any of the crew of the U.S. fishing vessel shall not be liable to imprisonment on conviction for an offence under the Act, this Order or regulations made under the Act if the offence is a fishing violation.
- Observers
- 6.(1) Observers on U.S. fishing vessels in accordance with Part 6 of Annex I to the Treaty are authorised in respect of Tuvalu.
- (2) No operator or crew member of a fishing vessel shall assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an observer in the performance of his duties.
- (3) Notwithstanding any sanction which may be imposed under the Treaty, an operator or crew member who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$100.
- Application of Regulations  
L.N. 6/83  
L.N. 22/84
7. In order to avoid doubt, the Foreign Fishing Vessels Regulations 1982 (as amended by the Fisheries (Foreign Fishing Vessels) (Amendment) Regulations 1984) are applicable national laws for Tuvalu in terms of Article 4 of and Schedule 1 to Annex I to the Treaty and except for Regulations 3 and 4 apply to U.S. fishing vessels holding regional fishing licences.

Article 4(2)(a)

SCHEDULE  
FORM OF REGIONAL FISHING LICENCE  
(Treaty, Annex I)

SCHEDULE 3  
TREATY ON FISHERIES BETWEEN THE  
GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES  
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

LICENCE FORM

The vessel described in this Licence is hereby authorised to engage in fishing in the Licensing Area for the period described in this Licence, in accordance with the terms and conditions referred to in Annex I.

FULL NAME OF VESSEL: \_\_\_\_\_

RADIO CALL SIGN OF VESSEL: \_\_\_\_\_

REGIONAL REGISTER NUMBER OF VESSEL: \_\_\_\_\_

HELICOPTER OR OTHER AIRCRAFT WHICH MAY BE USED IN ASSOCIATION WITH THE FISHING ACTIVITIES OF THE VESSEL: \_\_\_\_\_

PERIOD OF VALIDITY: \_\_\_\_\_

The period of validity of thin licence shall be no longer than one year:

FROM \_\_\_\_\_ 19\_\_\_\_

TO \_\_\_\_\_ 19\_\_\_\_

FOR AND ON BEHALF OF THE PACIFIC ISLAND PARTIES

DATE OF ISSUE: \_\_\_\_\_

LICENCE NUMBER: \_\_\_\_\_

WARNING: IT IS AN OFFENCE AGAINST THE LAWS OF MANY NATIONS, INCLUDING THE UNITED STATES OF AMERICA, TO VIOLATE THE REQUIREMENTS OF ANNEX I. PENALTIES MAY INCLUDE SUBSTANTIAL FINES AND VESSEL FORFEITURE.

**LAWS OF TUVALU  
REVISED EDITION 1982**

**CHAPTER 106**

**NATIONAL FISHING CORPORATION OF TUVALU**

**ARRANGEMENT OF SECTIONS**

Section

**PART I**

**PRELIMINARY**

1. Short title
2. Interpretation

**PART II**

**ESTABLISHMENT, FUNCTION AND POWERS**

3. Establishment of the Corporation
4. Functions and powers
5. Ministerial directions

**PART III**

**BOARD MANAGEMENT AND EMPLOYERS**

6. The Board
7. Constitution of Board
8. Disqualification
9. Chairman and Deputy Chairman
10. Meetings of the Board
11. Conflict of interest
12. Management
13. Manager

**PART IV**

**CAPITAL, PROFITS AND RESERVES**

14. Funds
15. Profits

## PART V

## ANNUAL REPORTS AND FINANCIAL STATEMENTS

- 16. Financial Year
- 17. Annual Reports and Financial Statements

## PART VI

## MISCELLANEOUS

- 18. Regulations
- 19. Income Tax

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13 of 1981	<b>An Ordinance to provide for the establishment and incorporation of a corporation known as the National Fishing Corporation of Tuvalu for the exploitation of the marine resources of Tuvalu</b>
L.N. 46/81	<i>Commencement: 1<sup>st</sup> January 1982</i>
Short title	<b>1.</b> This Ordinance may be cited as the National Fishing Corporation of Tuvalu Ordinance.
Interpretation	<p><b>2.</b> In this Ordinance unless the context otherwise requires-</p> <p>"Board" means the Board of Directors of the Corporation established under section 6;</p> <p>"Chairman" means the chairman appointed by the Minister under section 9 (1)</p> <p>"Corporation" means the National Fishing Corporation of Tuvalu;</p> <p>"Deputy Chairman" means Deputy Chairman appointed by the Minister under section 9 (1); and</p> <p>"Ex-officio Director" means a director. holding ,office by virtue of section 7 (1) (a) and 7 (1) (b).</p>

## PART II

## ESTABLISHMENT, FUNCTION AND POWERS

**3.** (1) There is established by this Ordinance a Corporation to called the National Fishing Corporation of Tuvalu. Establishment of the Corporation

(2) The Corporation–

- (a) shall be a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) subject to section 5 of the Native Land Ordinance may acquire hold and dispose of property of every description; Cap.22
- (d) may sue or be sued in its corporate name; and
- (e) may do or perform such acts and things as bodies corporate may by law do and perform.

**4** (1) The Corporation shall carry on business generally in the exploitation of marine resources. Function and powers

(2) Without in any way limiting the generality of subsection (1) the Corporation shall have the powers, in addition to any other powers conferred on it by this Ordinance, to–

- (a) engage in fishing, culturing and harvesting of all forms of aquatic life;
- (b) encourage and assist in the development of locally owned fishing enterprises;
- (c) encourage the people of Tuvalu to exploit marine resources of all kinds;
- (d) borrow money whether by overdraft or otherwise, or accept aid by way of grant or loan in cash or kind;
- (e) draw, make, accept, endorse, discount, execute and issue Bills of Exchange, Bills of Lading, Warrants and other negotiable or transferable instruments;
- (f) enter into contracts, working arrangements or joint enterprises with any person or Government to accomplish works of all description in keeping with the objects of the Corporation;
- (g) incorporate a company under any law of Tuvalu to exercise or carry out all or any of the powers or functions of the Corporation and to be owned either wholly by the Corporation or jointly with any other person or persons;
- (h) raise such capital in such manner as the Board deems to be necessary from time to time for the better implementation of the functions or powers of the Corporation;



- (i) make a financial contribution to the Consolidated Fund of the Government of Tuvalu;
- (j) do in Tuvalu or elsewhere, either alone or jointly with any person or institution, all things necessary or convenient to be done for or in connection with or consequential upon any of its powers or functions.

Ministerial  
Directions

**5.** In carrying out its powers, duties and functions under the provisions of this Ordinance, the Board shall act in accordance with any policy directions in the national interest given to it from time to time in writing by the Minister.

### PART III

#### BOARD MANAGEMENT AND EMPLOYERS

The Board

**6.** (1) There shall be a Board of Directors of the Corporation which shall be constituted as hereinafter provided.

(2) It shall be the duty of the Board to ensure that the policy of the Corporation is directed towards the national interest and has regard to the exploitation and conservation of the marine resources of Tuvalu.

Constitution  
of Board

**7.** (1) The Board shall consist of—

- (a) the Secretary for the Ministry for the time being responsible for fisheries or his nominee; and
- (b) the Secretary for the Ministry for the time being responsible for Finance or his nominee; and
- (c) not more than 4 other directors to be appointed by the Minister by notice.

(2) Directors other than ex-officio Directors or their nominees shall be appointed for a period to be determined by the Minister but shall be eligible for re-appointment.

(3) Any nomination by an ex-officio Director of a person to be a Director in his place shall be in writing addressed to the Chair-man and such nomination may be withdrawn at any time by notice addressed to the Chairman.

(4) Directors other than public officers shall be paid by the Corporation such fees and allowances as may be determined by the Board and approved by the Minister.

(5) The Manager shall, unless otherwise directed by the Board or given leave of absence in writing by the Chairman of the Board, be present at all meetings of the Board but shall not be entitled to any vote.

**8.** (1) No person shall be capable of appointment under section 7 (1) (c) Disqualification as a Director, who—

- (a) is a Member of the Parliament of Tuvalu;
- (b) is an officer or employee of the Corporation;
- (c) has been declared bankrupt or insolvent by a court in Tuvalu or elsewhere and has not received his discharge;
- (d) is found lunatic or becomes of unsound mind;
- (e) has been convicted anywhere of an offence involving dishonesty.

(2) A Director other than an ex-officio Director or his nominee may resign his office by giving notice in writing to the Minister.

(3) The Minister shall, by notice displayed at the Office of the Government, Funafuti, terminate the appointment of a Director, other than an ex-officio Director if—

- (a) the Director is, without the prior written permission of the Chairman, absent from 3 successive meeting of the Board;
- (b) in relation to the Director any circumstances arise which, if he were not a Director, would make him incapable of appointment under section 8 (1)

(4) The Minister, after consultation with the Board, may, by notice displayed at the Office of the Government, Funafuti, terminate the appointment of any Director, other than an ex-officio Director, but shall inform the Director in writing of the reason for so doing.

**9.** (1) The Minister shall appoint two Directors to be Chairman and Deputy Chairman respectively of the Board for such period as the Minister determines but any such appointment shall cease immediately on the Chairman or Deputy Chairman ceasing to be a Director. Chairman and Deputy Chairman

(2) The Chairman or the Deputy Chairman may resign his appointment by giving notice in writing to the Minister.

- Meeting of the Board
- 10.** (1) The Board shall meet as often as the business of the Corporation may require but not less frequently than once in every 6 months.
- (2) Such meetings shall be at such times and places as the Board shall determine or as the Chairman or, in his absence, the Deputy Chairman shall direct.
- (3) The Chairman, or, in his absence, the Deputy Chairman, shall be chairman at meetings of the Board and in the absence of both the Chairman and the Deputy Chairman from any meeting or any part of any meeting one of the other Directors shall be appointed by the Board to be Chairman of such meeting or part thereof.
- (4) 3 Directors shall form a quorum, at any meeting of the Board.
- (5) Each Director shall have one vote.
- (6) Questions arising at a Board meeting shall be resolved by a simple majority of the votes of the Directors present and voting, except that in the event of an equality of votes the Chairman of the meeting or part thereof shall have a second or casting vote.
- Conflict of interest
- 11.** Each Director shall disclose any financial or personal interest in any matter relating to the Corporation and in the event of such matter coming before the Board he shall not take part in the deliberation or decision of the Board on that matter:
- Provided that the holding of any such interest shall not disqualify the interested Director for the purpose of constituting a quorum at any meeting or part thereof.
- Management
- 12.** The Corporation shall be managed by the Manager who shall be answerable to and comply with any resolution of the Board.
- Manager
- 13.** (1) The Manager shall be appointed and may be removed by the Minister after consultation with the Board.
- (2) Where no Manager has been appointed or where the Manager is precluded by illness, absence from Tuvalu or any other cause from exercising his functions as Manager, the Minister may appoint an acting Manager who shall :act as the Manager until such time as a Manager -is appointed or the Manager is able to resume his functions.
- (3) The Manager shall, except as may otherwise be provided in this Ordinance or by any resolution of the Board, have the power to act, enter into

contracts and to sign instruments and documents on behalf of the Corporation and may, with the approval of the Board, delegate such powers to other officers of the Corporation.

(4) The Manager shall be paid by the Corporation such salary and allowances as may be determined by the Board and approved by the Minister.

## PART IV

### CAPITAL, PROFITS AND RESERVES

**14.** The funds of the Corporation shall consist of such money Funds as may from time to time be appropriated from the Consolidated Fund by way of grant, subsidy or loan and such other money or assets as may be paid to or handed over to or earned by the Corporation. Funds

**15.** (1) The net profits of the Corporation in any financial year Profits shall be declared by the Board after meeting all current and capital expenditures for that year and making provisions for such contingencies and purposes as are usually made by commercial enterprises: Profiles

Provided that the Board may declare an interim net profit during the course of any financial year.

(2) The net profits or interim net profit declared according to subsection (1) shall be allocated between—

- (a) profit to be retained by the Corporation for the better implementation of the purposes of this Ordinance; and
- (b) the Consolidated Fund, in such proportions as the Minister after consultation with the Board of Directors determines.

## PART V

### ANNUAL REPORTS AND FINANCIAL STATEMENTS

**16.** The Financial Year of the Corporation shall end on such date in each year as the Minister may by order declare. Financial Year

**17.** (1) The Board shall as soon as practicable after the end of each financial year, and in any event not later than 6 months from the end of the financial year, prepare— Annual Reports and Financial Statements

- (a) a report on the operations of the Corporation during that year; and
- (b) financial statements, in the appropriate form, in respect of that year.

(2) The Principal Auditor, or an auditor appointed by him after consultation with the Board, shall report upon the financial statements prepared in pursuance of subsection (1) and shall in such report—

- (a) report whether the statements are in accordance with the accounts and records of the Corporation and record accurately the financial operations and the current state of the affairs of the Corporation; and
- (b) report on all such other matters arising out of the statements as he shall consider should be made known to the Government.

(3) The Board shall forthwith transmit copies of each report and of the financial statements prepared in pursuance of subsection (1) and of the report of the auditor made under subsection (2) to the Minister to be laid before Parliament.

## PART VI

### MISCELLANEOUS

**18.** (1) The Minister may make regulations for the conduct of the business of the Corporation.

(2) In particular and without prejudice to the generality of the foregoing powers such regulations may relate to—

- (a) the proceedings of the Board; (b) the custody and use of the common seal of the Board;
- (b) the custody and use of the common seal of the Board;
- (c) imposition of such restrictions, conditions or exceptions as he thinks fit on the exercise of the powers of the Corporation;
- (d) financial control.

**19.** The Corporation shall be exempt from income tax.