

REPUBLIC OF KIRIBATI
(No. 7 of 1983)

I assent,

W. Tabai

Beretitenti.

16th May 1983.

AN ACT TO MAKE PROVISION IN RESPECT
OF THE INTERNAL WATERS, THE
ARCHIPELAGIC WATERS, THE TERRITORIAL
SEA AND THE EXCLUSIVE ECONOMIC ZONE
OF KIRIBATI.

Commencement:

16th May 1983.

MADE by the Maneaba ni Maungatabu and assented to by the
Beretitenti.

PART I - PRELIMINARY

- 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 baseline of Kiribati" means the low-water line of the seaward side of the reef fronting the coast of any part of Kiribati 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 rebuilding, 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 that 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 future 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 responsible for marine affairs;

"the median line" means a line every point of which is equidistant from the nearest point of -

(a) the inner limits of the territorial sea of Kiribati; and

(b) the corresponding baseline of any other country;

"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 treated as forming part of the coast.

Reference to rules of international law.

3. Where in this Act it is provided that anything shall be done by the Republic of Kiribati or by the Cabinet or a Minister, 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.

PART II - THE MARINE ZONES

Internal waters.

4(1) For the purposes of any law of Kiribati, the internal waters of Kiribati are all waters inland of the base-line of Kiribati, and where closing lines are drawn in accordance with subsection (2) the waters inland of those lines to the extent that they are outside the base-line of Kiribati.

(2) The Minister may, in accordance with the rules of international law, declare, by reference to physical features marked on official charts or to 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 Kiribati, in the case of the mouths of or entrances to lagoons.

Archipelagic waters.

5(1) For the purposes of any law of Kiribati, the archipelagic waters of Kiribati comprise all areas of sea contained within the baselines established under subsection (2).

(2) The Minister may, in accordance with the rules of international law, declare, by reference to physical features marked on official charts or to 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 the outer limits of the archipelagic waters of Kiribati and the inner limits of the territorial sea.

Territorial seas.

6(1) Subject to subsection (2), for the purposes of any law of Kiribati the territorial seas of Kiribati are those parts of the sea within 12 nautical miles from the outer limits of the internal waters of Kiribati.

(2) Where archipelagic baselines are drawn under Section 5(2), the breadth of the territorial sea shall be measured from those baselines to the extent to which they are outside the outer limits of the internal waters of Kiribati.

The exclusive economic zone.

7(1) Subject to the succeeding provisions of this section, for the purposes of any law of Kiribati the exclusive economic zone of Kiribati comprises those parts of the sea having as their inner limits the outer limits of the territorial sea and as their outer limits a line drawn 200 nautical miles seaward from the outer limits of the inland waters of Kiribati.

(2) The Minister may, in accordance with the rules of international law declare, by reference to physical features marked on official charts or to lists of geographical co-ordinates specifying the geodetic datums, points between which straight baselines are to be drawn for determining the outer limits of the exclusive economic zone.

(3) Where baselines are drawn in accordance with subsection (2) the breadth of the exclusive economic zone shall be measured from those baselines.

(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 Kiribati extend to such line, being a line to the landward of the outer limits of the exclusive economic zone as defined in accordance with subsection (1) or subsection (3), as the case requires as is specified in the order.

(5) Where the median line is less than 200 nautical miles from the line from which the breadth of the territorial sea is to be measured, the outer limits of the exclusive economic zone extend to the median line.

(6) All areas of seabed, and the subsoil under the seabed, of the exclusive economic zone shall be treated, for the purposes of any law of Kiribati, as part of the continental shelf of Kiribati.

Legal character
of marine zones,
etc.

8(1) The sovereignty of the Republic of Kiribati extends beyond its land territory and internal waters over the territorial sea, and to the airspace over them and the seabed and subsoil under them.

(2) Within the exclusive economic zone the Republic of Kiribati has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the seabed and the subsoil under the seabed, and the waters over the seabed.

(3) The sovereignty and sovereign rights of the Republic of Kiribati under this section shall be exercised in accordance with the rules of international law.

Rights of
other States
in marine
zones.

9(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 seas and archipelagic waters of Kiribati.

(2) The Minister may, in accordance with the rules of international law, by order designate 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 seas, and may also prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in 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 seas, from one part of the exclusive economic zone to another part of it.

(4) Until sealanes and air routes are prescribed under section (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 Kiribati 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.

General regulations as to the exclusive economic zone.

10. Where no other provision is made in or under any other Act for the purpose, the Minister may make regulations, in accordance with the rules of international law, for all or any of the following purposes:--

- (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 of the establishment of safety zones around islands, installations and structures; 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 the Republic of Kiribati in relation to the exclusive economic zone, or are necessary to give full effect to the provisions of this Act.

Charts,
publicity,
etc.

11(1) The Minister shall cause all closing lines, baselines and other lines drawn for the purposes of this Act for determining the limits of the internal waters, the archipelagic waters, the territorial seas and the exclusive economic zone of Kiribati to be clearly indicated on charts of a scale or scales adequate for them to be readily determined, and shall give adequate publicity to Gazette and otherwise.

(2) A question, whether publicity given to any matter under subsection (2) is adequate, 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
provision.

12. In any proceedings before a court or a person acting judicially, a certificate purporting to be signed by the Marine Superintendent stating that any specific nautical chart or any area is a chart to which Section 11 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.

This printed impression has been carefully examined by me with the Bill which was passed by the Maneaba ni Maungatabu on the 28th day of April 1983, and is found by me to be a true and correctly printed copy of the said Bill.

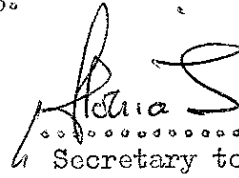
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Clerk to the Maneaba ni
Maungatabu.

I certify that the above Act was on the 28th day of April 1983 passed by the Maneaba ni Maungatabu on a certificate of urgency under Section 68(3)(a) of the Constitution.


.....
Speaker.

Published by exhibition -

- (a) at the Public Office of the Beretitenti on
16th May 1983.


.....
Secretary to the Cabinet.

- (b) at the Maneaba ni Maungatabu on
17th May 1983.


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Clerk to the Maneaba
ni Maungatabu.

THE MARINE ZONES (DECLARATION) ACT 1983

EXPLANATORY MEMORANDUM

This Act provides for an extension of the territorial seas outer limit from the previous three miles to twelve.

The Act also makes it clear that the archipelagic waters of Kiribati are as defined by baselines to be drawn under S.5(2). This will mean that where an archipelago is defined in a group of islands sovereignty will extend over the waters between the islands in such group. It is not possible to claim that the whole of Kiribati comprising several groups of islands is one archipelago.

The principal object of the Act is to declare a 200 mile exclusive economic zone the start point being the outer limit of the territorial seas. By declaring an archipelago the natural consequence is to create an extensive economic zone. Under S.11 of the Act, public charts have to be prepared indicating the extent of the zone and of internal waters, archipelagic waters and territorial seas.

The zone includes the seabed and subsoil and the Act gives the Republic sovereignty over the same, and the right to exploit any natural resources therein. The creation of the zone therefore gives wide rights to exploit resources, not merely fisheries.

R.L. Davey
Attorney General

LEGAL REPORT

I hereby certify my opinion that none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

R.L. Davey
Attorney General
8 March 1983