Tonga

OCEAN MANAGEMENT ACT 2025

Act 41 of 2025

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OCEAN MANAGEMENT ACT 2025

Act 41 of 2025

AN ACT TO PROVIDE FOR PLANNING THE USE, DEVELOPMENT, MANAGEMENT AND PROTECTION OF THE OCEAN IN THE KINGDOM IN THE PUBLIC INTEREST AND FOR RELATED PURPOSES

I assent,
TUPOU VI,
16th December 2025.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

PART I – PRELIMINARY

1 Short Title

This Act may be cited as the Ocean Management Act 2025.

2 Interpretation

In this Act, unless the context otherwise requires –

"Advisory Committee" means that Ocean Advisory Committee established under section 16 of this Act;

"authorised officer" means any government officer or any qualified person designated by the Commission under section 86;

"CEO" means the Chief Executive Officer for the Ministry responsible for Environment;

"Commission" means the Ocean Management Commission established under section 7 of this Act;

"consultation draft" means the draft policy prepared and published by the CEO under section 26 of this Act;

"development consent" means a consent provided for under Part VI of the Act;

"development" means any activity including the use of the ocean within the Kingdom's ocean area that is not regulated under any existing laws of Tonga;

"**environmental impact assessment**" has the meaning provided in the Environmental Impact Assessment Act [Cap. 21.04] or any Act replacing that Act;

"island district" means a district as defined in the District and Town Officers Act;

"land" includes –

(a) land covered with water; and

(b) any estate, interest, easement, privilege or right in or over land;

"Marine Spatial Plan" means that national plan provided for under Part V of the Act;

"Minister" means the Minister responsible for Environment;

"National Ocean Policy" means the Policy made under Part IV of the Act;

"ocean activity" means any activity conducted within Tonga's maritime zones as defined under the Maritime Zones Act [Cap. 1.03];

"ocean area" covers all maritime zones of the Kingdom as defined in the Maritime Zones Act [Cap 1.03];

"OMA" means the Ocean Management Areas designated under this Act and under the Marine Spatial Plan established under this Act for the purposes of setting restrictions on activities within defined areas;

"placement principles and guidelines" means the principles and guidelines set out to establish the placement of OMAs as designated under this Act and under the Marine Spatial Plan established under this Act;

"public notice" means a publication of a notice by electronic means as well a national newspaper widely distributed across the Kingdom; and

"Secretariat" means the Secretariat nominated by the Ministry under section 19 of this Act.

3 Application to other Acts

(1) Except as provided in this Act, the powers conferred under this Act are in addition to and do not limit or restrict the exercise of power under any other Act. Reconciliation of any conflicts that may arise by the joint exercise of powers under this Act and any other Act shall be guided by reference to the National Ocean Policy, the Marine Spatial Plan, and any applicable Regulations that may be promulgated under this Act or other Acts.

(2) For the purposes of this Act, the Tonga Ocean Area covers all maritime zones of the Kingdom as defined in the Maritime Zones Act [Cap 1.03].

4 Act binds the Crown

This Act binds the Crown.

PART II – OBJECTIVES

5 Priorities

This Act shall where possible be interpreted, and all persons performing functions and duties or exercising powers under it shall act, subject to any Act of the Kingdom to the contrary, consistently with the Kingdom's obligations to –

(a) minimize conflicts between users;

(b) ensure good governance;

(c) protect and rehabilitate the environment;

(d) conserve biodiversity using the precautionary principle and ecosystems approach;

(e) promote sustainable blue economy;

(f) ensure food security;

(g) build climate change resilience, mitigation and adaptation; and

(h) utilize best available science.

PART III – ESTABLISHMENT OF THE COMMISSION

6 Functions of the Minister

Functions of the Minister are to –

(a) convey to the Commission national policy objectives of the Government in relation to the ocean sector;

(b) ensure the enforcement, monitoring and evaluation the Kingdom's progress towards achieving the Marine Spatial Plan and National Ocean Policy, and to report on progress;

(c) create an enabling environment which will allow all stakeholders to work towards financing, contributing to and implementing the Government's objectives for the ocean sector;

(d) at a high level, liaise with development partners, private sector and philanthropic and charitable organisations to ensure access to funding, attract investment and facilitate development of the ocean sector;

(e) make such determinations and directions as are required or considered necessary for the performance of the Ministry's functions under this Act;

(f) exercise any other function under this Act or as may, from time to time, be lawfully conferred upon the Minister; and

(g) impose fees, charges and levies.

7 Ocean Management Commission

The Ocean Management Commission is hereby established.

8 Appointment

(1) The Cabinet shall, on the recommendation of the Minister, appoint no less than five and no more than seven people as members of the Commission.

(2) The Cabinet shall appoint the chair and deputy chair for the Commission.

(3) A person who is recommended for appointment to the Commission shall be properly qualified by skill, qualifications, knowledge or experience in the ocean sector, having due regard to the functions and powers of the Commission under this Act including but not limited to –

(a) a qualified law practitioner with more than 10 years' experience from the Tonga Law Society;

(b) a representative from the Civil Society Forum of Tonga;

(c) a representative from the National Private Sector Organization;

(d) the Chief Executive Officer responsible for fisheries;

(e) the Chief Executive Officer responsible for tourism; and

(f) the Chief Executive Officer responsible for lands and natural resources.

(4) A member of the Commission shall hold office for a period of up to 5 years and may be reappointed for one further term of office.

9 Relationship with Government

(1) The Commission shall be a statutory body, exercising its powers subject to policy directives of Government, to oversee and coordinate the development of the enabling environment for integrated and sustainable ocean management and planning in Tonga for the benefit of all Tongans.

(2) The policy directive of Government shall be issued by Cabinet Order conveyed by the Minister to the chairman of the Commission.

(3) The Commission shall be assisted by the CEO, a Senior Officer or any other person appointed under this Act.

10 Dismissal

Cabinet may, on the advice of the Minister, in writing, dismiss a member of the Commission, for the –

(a) inability to perform the functions of the Commission;

(b) failure, without reasonable cause, to follow the directives of the Government;

(c) neglect of duty;

(d) serious misconduct;

(e) conviction of a criminal offence in the Kingdom or abroad;

(f) a re-organisation of the membership of the Commission; or

(g) any other reason approved by Cabinet.

11 Vacancy

In the event that a member of the Commission resigns, is unable to perform his functions or is dismissed, then Cabinet, on the recommendation of the Minister, shall appoint a replacement member.

12 Remuneration

The members of the Commission shall be paid remuneration or allowances in accordance with Government policy.

13 Functions and powers of the Commission

The Commission shall have the functions and powers to –

(a) provide policy advice to Government to ensure sustainable ocean planning and management;

(b) approve any policy, plan, report or programme required to be prepared by the Commission for submission to Government, or to any other agency or body;

(c) grant consents and relevant authorisations under Part VI designated to the Commission under this Act or any Regulations made under this Act;

(d) appoint persons and establish committees, as required for the implementation of this Act;

(e) give directions to the CEO to prepare any report required to be prepared by the Commission, on behalf of the Government;

(f) give directions to the CEO with respect to matters of policy approved by Cabinet;

(g) give advice to the Minister with respect to Regulations for the implementation of this Act;

(h) ensure coherence, cooperation, coordination, collaboration and multi-disciplinary approach across Government Ministries and agencies;

(i) issue such Orders and take such other action as is provided under this Act; and

(j) take such enforcement action as is provided for by this Act.

14 Chief Executive Officer's functions

The CEO shall have the functions to –

(a) assist the Commission in carrying out its functions under this Act;

(b) carry out the duties for the proper administration of the Advisory Committee;

(c) develop and implement strategies, policies and plans which deliver the objectives as outlined in this Act;

(d) promote strategic planning and coordinated action in relation to the conservation and sustainable use of the ocean;

(e) ensure that the operation of this Act and the performance of the functions of the Commission are coordinated with the exercise by any other agencies of related functions and powers;

(f) liaise with and assist other ministries and agencies to meet the objectives of this Act;

(g) prepare reports in relation to implementation of this Act for the Commission or Cabinet;

(h) promote the preservation of those ocean areas of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;

(i) ensure that education and community awareness concerning ocean planning and management is conducted;

(j) assist with the coordination of the provision of infrastructure and services by ministries and public authorities for the benefit of the community;

(k) serve as the repository for ocean data and information gathered in accordance with this Act;

(l) ensure that persons affected by the operation of this Act are given due notification and are accorded such rights as are provided for in this Act;

(m) encourage the resolution of outcomes, disagreements and disputes arising from the operations of this Act by the reaching of consensus decisions; and

(n) facilitate such reviews of decisions as are provided for in this Act.

15 Delegation

(1) The Commission may delegate one or more of his powers or functions under this Act to the CEO or a senior officer of the Ministry or a senior officer of another Ministry any Ministerial powers provided under this Act or Regulations made under this Act.

(2) The Commission shall not delegate this power of delegation.

16 Advisory Committee

The Commission shall, with the consent of Cabinet, establish the Ocean Advisory Committee.

17 General functions of the Advisory Committee

The Advisory Committee shall have the functions, roles and responsibilities to –

(a) provide advice to the Commission and CEO on such matters relating to the conservation, management, sustainable use and development of the Kingdom’s ocean resources;

(b) periodically review the National Oceans Policy, Marine Spatial Plan, OMAs, and Placement Principles and Guidelines and submit recommendations to the CEO and the Commission;

(c) promote and advance the implementation of the National Oceans Policy and Marine Spatial Plan;

(d) provide a forum for discussing oceans policy, planning and management issues;

(e) consult with and provide recommendations to the Chief Executive Officer and the Commission with regard to multiple-use and spatial conflicts; and

(f) promote and encourage public participation and consultation in discussion and resolution of ocean governance, management, and planning issues affecting the Kingdom.

18 Advisory Committee Membership

(1) The Advisory Committee shall comprise the following expert members —

(a) National Planning Office;

(b) representative from the Ministry responsible for environment;

(c) representative from the Ministry responsible for finance;

(d) representative from the Ministry responsible for climate change;

(e) representative from the Ministry responsible for lands and natural resources;

(f) representative from the Ministry responsible for fisheries;

(g) representative from the Ministry responsible for marine and ports;

(h) representative from the Ministry responsible for tourism;

(k) representative from His Majesty's Armed Forces;

(m) representative from the Ministry responsible for foreign affairs;

(n) representative from the Ministry responsible for police;

(o) representative from the Ministry responsible for customs (border control);

(p) representative from the Attorney General's Office;

(q) representative from the Ports Commission of Tonga; and

(r) three such other persons from outside Government, whom the Chairman shall appoint. These shall include at minimum one representative from NGOs, academia, and private sector.

(2) The Chairman, on the advice of the Advisory Committee, may co-opt any person or agency or organization with relevant expertise, knowledge or skill. Such person shall not be entitled to vote.

(3) The CEO shall be the chairperson of the Advisory Committee.

(4) The quorum for a meeting of the Advisory Committee shall be 5 members, no less than 3 government representatives.

(5) Members of the Advisory Committee may be remunerated in accordance with Government policy.

(6) The Advisory Committee shall determine its procedures to execute and advance the objectives of this Act.

19 Advisory Committee Secretariat

(1) The Secretariat for the Commission and Advisory Committee shall be provided by the Ministry responsible for Environment.

(2) The Secretariat shall be responsible to the Chairman for the efficient and effective operation of the Advisory Committee.

(3) The Secretariat shall also be responsible for the following –

(a) request and obtain information, document or data from a person, company, Government ministry and agency, or any other persons necessary for the conduct of the Commission's functions and duties under this Act;

(b) publish documents or provide information about any matter relating to any of its functions or its general objective or assist in the publication of such documents or the provision of such information; and

(c) issue, publish and disseminate procedures, standards, manuals, recommended practices and guidelines of a technical or administrative nature relating to oceans management and planning or to assist interested parties in the implementation of the Act and the Regulations.

(4) The Secretariat may, with the approval of the Chairman, and the endorsement of the Chief Executive Officer, engage qualified and experienced consultants and staff, as may be required for the proper conduct of the business of the Advisory Committee.

(5) That the Secretariat administers the Sustainable Ocean Management Fund established under Part VIII through the recommendations of the Advisory Committee approved by the Commission;

20 Sub-Committees

(1) The Advisory Committee may establish a –

(a) Public Consultation Sub-Committee;

(b) Science and Technical Sub-Committee;

(c) Compliance and Enforcement Coordination Sub-Committee; and

(d) any other Sub-Committee as the Committee deems necessary.

(2) A sub-committee established under this section shall be established for a specified term and with specific terms of reference.

(3) Members of a sub-committee shall include members of the Advisory Committee.

(4) Members of a sub-committee may be remunerated in accordance with Government policy.

21 Annual Report

The Commission shall report on its activities for each financial year in a written report submitted to the Prime Minister, the Cabinet and the Legislative Assembly. The availability of the Annual Report for public inspection shall thereafter be published in at least one digital or print news publication circulating in the Kingdom, with notice as to how it may be accessed.

PART IV – NATIONAL OCEAN POLICY

22 Preparation and coming into effect of Policy

(1) A National Ocean Policy shall be prepared by the CEO with the assistance of the Advisory Committee.

(2) The Policy shall be prepared by the CEO no later than 12 months from the date that this Act comes into force.

(3) The CEO shall, in the preparation and review of each Policy consult as appropriate with —

(a) other government ministries and agencies, including any Island District;

(b) any entity, person or group of persons, coastal community, private organization or similar body who has an interest in, or is affected, by the Policy; and

(c) such other person or groups of persons as may be required under this Act or any other law.

(4) The Policy and its Tongan translation, including each review or amendment thereof shall be –

(a) submitted to the Commission for endorsement; and

(b) upon granting of the Commission's endorsement, the Policy shall be submitted to the Cabinet for approval.

(5) The Policy comes into effect when it has been published in accordance with this Part of the Act.

23 Content of the Policy

(1) The Policy may include the following sections —

(a) context for the Kingdom's National Ocean Policy;

(b) Integrated and Ecosystem Based Oceans Governance, Management and Planning;

(c) Principles for Ecologically Sustainable Ocean Management;

(d) Marine Science and Technology and Marine Industries;

(e) Marine Spatial Plan;

(f) Oceans Policy – Next Steps;

(g) Policy Guidance; and

(h) any other sections necessary for the purposes of this Part.

(2) The Policy shall be consistent with the objectives of the Act and including but not limited to the principles of –

(a) minimize conflicts between users, including –

(i) scenario planning, and evaluating trade-offs among competing or conflicting uses; and

(ii) setting priorities in an equitable and just way;

(b) ensure good governance, including –

(i) participation, ensuring all stakeholders have a voice;

(ii) transparency, with open flow of information;

(iii) accountability of decision-makers;

(iv) effectiveness and efficiency, producing results to meet needs;

(v) rule of law, with fair and impartial enforcement;

(vi) consensus orientation, to mediate differences and build agreement;

(vii) responsiveness, serving stakeholder needs; and

(viii) equity and inclusiveness, ensuring everyone benefits;

(c) ensure to protect, restore and rehabilitate the environment, including coastal and marine ecosystems;

(d) conserve biodiversity using the precautionary principle and ecosystems approach, including –

(i) applying the precautionary approach, when there is evidence of unsustainability, threats of serious or irreversible damage;

(ii) ensuring the long-term conservation and sustainable use of aquatic living resources and marine biodiversity for present and future generations (principle of inter-generational equity);

(iii) applying the ecosystem approach, by utilizing appropriate scientific methodologies focused on levels of biological organization and interconnectivities which encompass the essential processes, functions and interactions among organisms and their environment and recognizing that humans are an integral component of ecosystems; and

(iv) promoting the understanding, management, conservation and protection of the marine biological diversity of the Kingdom;

(e) Sustainable Blue Economy, including –

(i) making efficient use of marine resources, recognizing that marine resources, including ocean space, are increasingly in short supply.

Those that are available should be used to produce goods and services in a sustainable manner;

(ii) promoting resilient and sustainable marine transportation and infrastructure;

(iii) adopting management measures which promote optimum utilization and equitable access to achieve economic growth, human resource development, employment creation and sound ecological balance;

(iv) promoting the concept of sustainable development in relation to the ocean and ocean resources of the Kingdom; and

(v) adopting a national blue economy concept in relation to the ocean and ocean resources of the Kingdom;

(f) ensure food security;

(g) build climate change resilience, mitigation, and adaptation, including enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, in the context of the globally-agreed temperature goal; and

(h) utilize best available science, including –

(i) ensuring that management measures are based on the best scientific information available;

(ii) promoting and conducting ethical and relevant scientific research;

(iii) promoting effective data and information governance, and management; and

(iv) developing appropriate technologies in support of marine conservation and management.

(3) The Policy shall include statements or information relating to policies and guidelines in the Marine Spatial Plan.

(4) If, to any extent, a policy stated in the Marine Spatial Plan conflicts with any other statement or information in the Policy, that conflict shall be resolved in favour of the Policy.

24 Review of Policy

The CEO shall review the Policy, once enforced, every seven years thereafter in accordance with this Act.

25 Amendment of Policy

(1) The CEO may, from time to time, amend the Policy.

(2) Any amendment of the Policy shall be prepared and adopted in accordance with this Part of the Act.

(3) Any amendment of the Policy comes into effect when it has been published in accordance with this Part of the Act.

(4) Any reference in this Part to an amendment of a Policy is a reference to the final text of the amendment being adopted by the Commission in accordance with this Part of the Act.

(5) Any reference in this Act to a Policy includes a reference to a Policy as amended.

26 Preparation of consultation draft

(1) The CEO shall prepare and publish a consultation draft of the proposed Policy.

(2) The CEO shall also take such steps as he considers appropriate to ensure that the proposals contained in the consultation draft are brought to the attention of stakeholders.

27 Submissions on the consultation draft

(1) Any person may make submissions in relation to the consultation draft to the -

(a) CEO;

(b) Governor's Office; or

(c) Office of Designated Government Representative.

(2) The CEO shall determine the procedures for making submissions on the consultation draft.

(3) The CEO shall ensure receipt of any submission presented to Governor's Office or office of the designated Government Representative.

(4) If any submissions are made about the consultation draft, the CEO shall consider them while settling the final text.

28 Scrutiny procedure

(1) The CEO may submit to Cabinet a copy of the consultation draft.

(2) The Cabinet may, within one month of receiving the consultation draft, make recommendations regarding the consultation draft and the CEO shall consider these in the course of settling the final text of the Policy.

29 Differences between the consultation draft and the final text of the Policy

(1) The CEO shall publish any differences between the proposed policies, statements and information contained in the consultation draft, and that contained in the final text.

(2) The publishment in subsection (1) shall include –

(a) a summary of the differences; and

(b) a statement of the reasons for them.

30 Adoption and publication of the Policy

(1) The final text of the Policy shall be adopted by—

(a) receiving the endorsement of the Commission; and

(b) receiving the approval of Cabinet.

(2) The CEO shall notify the public of the adoption Policy by public notice.

(3) The CEO shall also make available copies of the Policy online via the Ministry's website and through the Governor's Office and offices of the designated Government Representatives.

PART V – MARINE SPATIAL PLANS

31 Marine Spatial Plans

(1) The CEO shall be responsible for the preparation of all national and island district marine spatial plans.

(2) All marine spatial plans shall be made in accordance with this Part to achieve any of the objectives of this Act.

(3) All marine spatial plans shall be presented to the Governor's Office and the office of the designated Government Representative.

32 Ocean Management Areas

A marine spatial plan may designate one or more of the following OMAs for any specified area. Each OMA have restrictions as set out for each of the following areas –

(a) No-Take Marine Reserve to protect natural biodiversity along with its underlying ecological structure, support natural environmental processes, and to promote education and recreation by prohibiting all extractive uses;

(b) Habitat Protection Management Area to protect the integrity of habitats by supporting limited artisanal fishing, as well as non-extractive activities, that do not directly impact habitats;

(c) Limited Use Management Area to protect local food security, livelihoods and biodiversity by allowing limited fishing, including non-artisanal fishing, and promoting non-extractive activities;

(d) Sustainable Use Management Area to allow for sustainable use of Kingdom's renewable marine resources including non-artisanal commercial fishing;

(e) Unique Marine Reserve to protect, conserve and restore specific species, habitats or cultural value of concern by eliminating the key threats;

(f) General Use Management Area to allow for and manage multiple uses of Kingdom's marine environment; and

(g) Special Management Area for coastal community management to ensure effective conservation and management of fisheries resources, are designated in accordance with Fisheries Management Act [Cap. 18.02] and related amendments.

33 Amendments or additional OMAs or placement guidelines

(1) Amendments to, or additional OMA types may be established by Order of the Commission acting on the advice of the Advisory Committee.

(2) Amendments to, or additional placement guidelines may be established by Order of the Commission acting on the advice of the Advisory Committee.

34 Placement Principles and Guidelines

(1) Placement of all OMAs shall be guided by the following principles –

(a) maximize complementarity of OMAs with human values, activities and opportunities;

(b) ensure that final site selection of OMA recognizes social, environment, cultural and economic costs and benefits;

(c) maximize placement of OMAs in locations which complement and consider present and future management and tenure arrangements;

(d) maximize community and public understanding and acceptance of new OMAs, and facilitate compliance; and

(e) consistent with the objectives of the Policy.

(2) Placement of all OMAs shall be further guided by placement guidelines as described in Schedule 1.

35 Preparation of plans

(1) For the purposes of this Part, "Plan" means the Marine Spatial Plan established under this Part.

(2) A plan shall be prepared by the CEO with the approval of, and in accordance with the direction of the Commission.

(3) The CEO shall prepare the plan acting on the advice of the Advisory Committee.

36 Statement

(1) A plan shall state the aims and objectives that such plan is designed to achieve.

(2) Where a provision of a plan is genuinely capable of different interpretations, that interpretation which best meets the aims and objectives stated in that plan shall be preferred.

37 Content of plan

(1) A spatial plan shall include —

(a) the reasons for preparing the Plan;

(b) the aim and objectives of the Plan;

(c) a description and name of the marine area to be affected by the Plan;

(d) identify areas in accordance with the OMA typology established in accordance with this Part or otherwise established in accordance with this Part;

(e) a map of the proposed marine area with zone designations including coordinates for the OMA;

(f) description of each OMA, including prohibitions, restrictions, and allowable uses; and

(g) any other provision which relates to the use, development, protection or conservation in a zone.

(2) Accompanying materials to the spatial plan include –

(a) strategic plans, policy statements, scientific reports, codes, or guidelines relating to the use or development of an OMA or Plan;

(b) other supporting documents on consultations held in regard to the proposed marine area under the Plan; and

(c) any other materials which the CEO considers relevant.

(3) A provision of a plan may operate for a specified period.

(4) The Commission may, on the advice of the CEO, issue directions or guidelines as to the form and content of any plan.

38 Notification of intention to prepare a plan

The Advisory Committee, after advice to prepare the plan is given to the CEO under this Part, shall give public notice of the preparation of a Plan stating those matters described in accordance with this Part.

39 Consultation

(1) The Advisory Committee shall consult with stakeholders where possible and shall provide them with all relevant information described in accordance with this Part.

(2) The Advisory Committee shall consider all information obtained from the consultation process.

(3) Submissions collected during the consultation process shall serve as submissions for purposes of sections 41(a) and 42(1).

40 Preparation of a draft plan

When the Advisory Committee is satisfied that all information from the consultation process has been collected and assessed, a draft plan shall be prepared.

41 Notification of draft plan

When the draft plan has been prepared, the Advisory Committee shall give public notice stating —

(a) the places, dates and times at which the draft plan may be inspected by the public; and

(b) that any person may make submissions to the Advisory Committee during the time specified in the notice.

42 Submissions on draft plan

(1) Any person affected by the draft plan may, during the period specified in the notice, make submissions to the Advisory Committee.

(2) The Advisory Committee shall consider and respond to submissions made to it on the contents of the draft plan.

43 Recommendations to the CEO

When the Advisory Committee has considered all submissions, it shall provide the CEO with a report recommending that –

(a) the draft plan be abandoned;

(b) the plan making process be recommenced because the contents of the final plan are likely to be substantially different from the contents of the draft plan;

(c) the draft plan be amended; or

(d) the draft plan be approved unchanged.

44 Structure of recommendations

The recommendation of the Advisory Committee to the CEO shall state -

(a) whether to abandon, recommence the process, amend or approve the plan;

(b) the reasons for that recommendation; and

(c) any conditions that shall be attached to any approval.

45 Decision by the Commission

(1) The CEO shall submit the Advisory Committee's report on the draft plan to the Commission.

(2) The Commission shall consider the Advisory Committee's report on the draft plan and the recommendations made and the Commission may decide to approve or decline the CEO's recommendation.

(3) The decision of the Commission shall not come into effect until the expiration of 28 days from the date of public notification of that decision or, where the decision is appealed, until the Supreme Court has determined the appeal.

46 Notification

After the Commission had made its decision on the draft plan, the CEO shall give a public notice stating –

(a) the Commission's decision; and

(b) that the draft plan, if approved by the Commission, will come into effect on date specified in the notice.

47 Effective date

(1) Where the Commission has approved a plan, the final plan shall be signed by the Commission and Notice of Approval of the Plan shall be published. It shall take effect 28 days after the publication.

(2) The CEO shall make a public notice of the notice in subsection (1).

48 Island District Plan

(1) An island district plan may be prepared for an island district by the CEO on the advice of the Governor or Government Representative.

(2) An island district plan shall be –

(a) approved within 24 months of the adoption of a national plan;

(b) no less protective than the national plan; and

(c) have a strong justification for preparing it.

(3) Any designations made in an island district plan shall only be made within General Use Management Areas, Sustainable Use Management Areas, Special Unique Marine Areas and Limited Use Management Areas.

(4) An island district plan shall designate the boundaries of that plan.

49 Relationship between plans

(1) To the extent of the inconsistency and unless otherwise expressly provided, a national plan prevails over an island district plan.

(2) Nothing in this section prevents a plan from being expressly amended by a later plan, of the same or a different kind, to provide for the way in which an inconsistency between them is to be resolved.

50 Amendment of plans

(1) The CEO may prepare an amendment to any provision of a plan after an implementation period of at least five years with the approval of, or in accordance with the direction of, the Commission.

(2) The CEO shall prepare an amendment acting on the advice of the Advisory Committee.

(3) The procedure prescribed in this Part shall apply to an amendment, provided that in the case of a minor amendment the Commission may approve the recommendation of the CEO to amend the plan without the need to give notice or consult with stakeholders.

(4) A minor amendment is an amendment which does not alter the aims and objectives of the plan.

51 Anti-degradation

When amending a plan, the resulting plan may be no less protective of the ocean environment than the existing plan.

52 Review of plans

(1) The CEO may review a plan –

(a) after the five-year implementation period has been completed; or

(b) due to exceptional circumstances including but not limited to, an emergency, natural disaster, or significant change in ecological conditions based on best available science or technology.

(2) The CEO shall act with the approval of, or in accordance with the direction of, the Commission and acting on the advice of the Advisory Committee.

53 Availability of plans

All plans shall be available for public inspection at the offices of the CEO, Governors, and Government Representatives during normal business hours.

54 Validity of plans

The validity of a plan shall not be challenged on the ground that the law relating to the making of the plan has not been complied with except by legal proceedings commenced in the Supreme Court by a stakeholder within 28 days of the plan taking effect.

55 Validity of Process

(1) The Marine Spatial Planning process, if not completed at the date of commencement of this Act, shall be deemed to have been conducted in accordance with the requirements of this Act and shall form an integral part of the Policy.

(2) Only those processes described in Part XI will be deemed to be completed in satisfaction of requirements of the Act as described.

PART VI – DEVELOPMENT CONSENT

56 Development consent

(1) Where an ocean development or activity is not regulated under an existing legislation (such as fisheries, maritime transportation, renewable energy or tourism) the provisions relating to development consent shall apply.

(2) A development consent is mandatory and shall be obtained for the conduct of development in the Kingdom's ocean area.

(3) Any person proposing to conduct development in the Tonga Ocean Area shall obtain a development consent in accordance with –

(a) the provisions of this Act;

(b) Regulations made under this Act; or

(c) the provisions of any applicable Act or Regulation.

(4) A development requiring consent shall not be carried out unless –

(a) consent has been granted in accordance with another Act or Regulation;

(b) consent has been obtained in accordance with this Act and is in force; and

(c) the activity is carried out in accordance with the terms of the consent.

57 Development not requiring consent

(1) A development specified in a plan or an Act or Regulation as not requiring consent, may be carried out without consent under this Act.

(2) A plan or Regulations made under this Act may provide that development of a specified class or description that is of minimal environmental impact is exempt development.

(3) If a development is exempt development, the development may be carried out without the need for development consent.

58 Prohibited development

A plan or Regulations made under this Act may declare that a specified development is prohibited.

59 Application for development consent

(1) Where development consent is required, a person shall apply to the Commission for consent to carry out a development.

(2) The development application shall be made in accordance with Regulations made under this Act and shall –

(a) be made in the prescribed form;

(b) be accompanied by the prescribed fee;

(c) be accompanied by any information required by the Commission; and

(d) in accordance with this Act.

60 Action on application

(1) The Commission shall direct the CEO to review, assess, evaluate and consider every development application.

(2) The Commission may require an applicant to provide the CEO with additional information at any time during the consideration of the application.

61 Changes to application

Changes to a development application after the applicant has submitted it to the Commission shall be in accordance with this Act or any Regulation made under this Act.

62 Submission of a development plan

(1) Where circumstances so require, the CEO may require the applicant to submit with the development application a development plan which assesses the strategic planning, use and development setting of the proposal.

(2) Where the Commission decides that a development plan should be submitted with a development application, the Commission shall specify in writing to the applicant, the format, structure, subject matter and any procedure for the preparation of the development plan.

(3) The development plan shall comply with the provisions of any plan or draft plan, which may apply to the ocean area to which the development application relates.

63 Environmental Impact Assessment

An application shall be accompanied by an environmental impact assessment satisfying, at minimum, the requirements set forth in the Regulations developed under this Act.

64 Notification of application

(1) The Commission shall, as soon as practicable after it receives an application for a development consent, cause a public notification of the application.

(2) Notwithstanding subsection (1), where the Commission considers that the circumstances are appropriate, it may request that all or any of the notices referred to in that subsection be given by the applicant.

(3) The Commission may give any further notice that it considers appropriate of an application for development which is likely to be of interest or concern to the community.

65 Referral to relevant authorities

(1) Before the Commission determines a development application, the CEO shall ensure the notification of all ministries or government agencies and public authorities considered by the CEO to be a relevant authority.

(2) The CEO may advise the authority of any plan or draft plan relating to an ocean management area the subject of the development application.

(3) The authority shall consider every development application referred to it and may advice the Commission in writing that –

- (a) it does not object to the granting of development consent;
- (b) it does not object if the development consent is subject to the conditions specified by the relevant authority; or

(c) it objects to the granting of the development consent on any specified ground.

(4) The relevant authority may provide comments to the CEO in relation to the application.

66 Submissions on development applications

(1) Any person who may be affected by a development application may make a submission to the CEO in accordance with the Regulations made under this Act.

(2) A submission to the application by way of objection shall be in writing and shall state how the objector would be affected by the grant of development consent.

(3) The CEO may reject an objection that it considers has been made primarily to secure or maintain a direct or indirect commercial advantage for the objector.

67 Matters to be considered

In determining a development application, the Commission shall consider –

(a) all submissions received;

(b) any advice and comments of a relevant authority;

(c) the provisions of any plan or draft plan;

(d) the contents of any development plan which the CEO has requested the applicant to submit;

(e) the potential environmental effects of any development proposal, including any environmental impact assessment which has been prepared;

(f) the objectives of this Act; and

(g) any other relevant matter.

68 Decision on application

The Commission may decide to –

(a) grant a development consent;

(b) grant a development consent subject to such conditions as it thinks fit;

(c) refuse to grant a development consent on any grounds it thinks fit; or

(d) vary, suspend or revoke a development consent on the grounds under this Act.

69 Development consent where there are submissions

(1) The Commission shall give the applicant and each person who made a written submission a notice of its decision to grant a development consent.

(2) The notice shall set out any conditions to which the development consent shall be subjected to.

70 Refusal of development application

(1) The Commission shall give the applicant and each person who made a submission a notice of its decision to refuse the development application.

(2) The notice shall set out the grounds on which the development application is refused, and may state whether those grounds were those of the Commission or a relevant authority.

71 Commencement and expiration of development consent

(1) A development consent is effective from the date specified in the notice of development consent.

(2) A development consent expires if –

(a) the development or any stage of the development does not commence within the date specified in the notice of development consent;

(b) no date is specified in the notice of development consent, within two years after the issue of the development consent; or

(c) the use is discontinued for a period of two years.

72 Extension of time for development consent

(1) An applicant may request the Commission for an extension of time for the development consent within three months before the expiry of the consent or within three months after the consent has expired and the Commission may in its discretion grant an extension of time for the development consent.

(2) If the time is extended after the development consent has lapsed, the extension operates from the day the development consent expires.

73 Variation, suspension or revocation of a development consent

(1) The Commission may vary, suspend or revoke any development consent previously issued under this Act, where –

(a) any of the conditions issued with the consent is breached;

(b) any of the qualification criteria prescribed under this Act or Regulations made under this Act, have ceased to be met;

(c) the variation, suspension or revocation of the consent is in the reasonable opinion of the Commission necessary to –

(i) prevent serious risk to safety, health, welfare of any person;

(ii) prevent serious risk to the Tonga ocean area environment;

(iii) prevent any conflict with any obligations or objectives of this Act or any other laws of Tonga.

(2) The Commission shall give to the person, whose development consent is affected under this section, a notice of its decision to vary, suspend or revoke the consent. Such notice shall state the reasons for its decision and the effective date of the notice including any penalties for non-compliance, if any.

(3) Any person issued a notice under this section and continues to resume activities and fails to comply with such notice commits an offence under this Act.

74 Development standards

In relation to the carrying out of development, including any matter identified in a plan, the Commission may cause to be prepared and may approve a set of development standards by or under which requirements are specified or standards are prescribed in respect of any aspect of that development.

75 Publication

The Commission shall publish a notice of the development standards in the Gazette and one other newspaper circulating in the Kingdom.

PART VII – INFORMATION AND DATA MANAGEMENT

76 Data Management

The Commission shall, with the approval of Cabinet, by Order impose rules for data management. Essential elements of data management include –

(a) data governance (policies and standards);

(b) data quality (accuracy and consistency);

(c) data security and privacy (protection);

(d) data integration (combining data);

(e) data analytics (insight generation);

(f) metadata management (data context);

(g) data architecture (design); and

(h) data lifecycle management (from creation to deletion).

77 Information

(1) In performing its public interest functions, and subject to the provisions of this Act, the Commission may direct the CEO to gather, retain and publish or disseminate information relating to any application, consent, plan, policy, guidelines, license or permit.

(2) The Commission shall not disclose information that it receives in relation to an application for a development consent made under this Act unless –

(a) the applicant gives its consent;

(b) the information is not information about an Applicant's technical specifications or financial resources, confidential information contained in an application, a trade secret, or information the disclosure could reasonably be expected to adversely affect the applicant's business, commercial or financial affairs; or

(c) the disclosure is made by order of the Court.

(3) The Commission may by Order require any person to furnish it within a reasonable time with any information it reasonably believes is in that person's possession which relates to any matter within the ambit of this Act and is relevant to the execution of the Commission's functions.

(4) The Commission may by Order summon a holder of a development consent or its authorised representative, for the purposes of furnishing information under subsection (3).

(5) Any person who fails to comply with an Order made under this section without reasonable justification commits an offence.

(6) Any person guilty of an offence under this section shall be liable to a fine not exceeding $100,000.

78 Supply of false or misleading information to the Commission

(1) Any person who knowingly or recklessly provides the Commission with information which is false or misleading in a material particular, commits an offence if the information —

(a) is provided in purported compliance with a requirement imposed by or under this Act; or

(b) is provided otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Commission for the purpose of discharging their functions under this Act.

(2) Any person who wilfully alters, suppresses, conceals or destroys any document which he is or is liable to be required, by or under this Act, to produce to the Commission commits an offence.

(3) Any person guilty of an offence under this section shall be liable to a fine not exceeding $150,000.

PART VIII – FUNDING FOR SUSTAINABLE OCEAN MANAGEMENT

79 Funds and Revenue Generation

The funds available to the Secretariat for purposes of implementing this Act shall be –

(a) moneys allocated by the Legislative Assembly for that purpose;

(b) moneys paid to, and for it, by any philanthropic or charitable organization for general purposes or for a specific purpose;

(c) moneys paid to, and for it, by an external agency or Government for general purposes or for a specific purpose;

(d) moneys paid to, and for it, by private persons; and

(e) penalties and fines, including those imposed by the Supreme Court, for ecosystem or natural resource damages arising from violations of this Act.

80 Establishment of the Ocean Management Fund

(1) There shall be established under the control and management of the Ministry responsible for Finance a fund to be called the Ocean Management Fund into which there shall be paid any sums paid to the Secretariat under Part VIII, excepting any funds allocated by the Treasury to be used directly for the purposes of covering the costs of administering this Act.

(2) The Ocean Management Fund is established and the Secretariat shall promote the objective of the Fund for the wise management of Tonga's ocean resources for the benefit of both current and future generations.

(3) The purposes of the Fund are to –

(a) collect resources and direct them toward approved ocean governance and management programmes, projects and activities;

(b) manage funds from public, private, multilateral and bilateral sources to maximise the Kingdom's ability to advance oceans management and planning priorities and ensure sustainability of the Fund;

(c) strengthen capacities for national ownership and management of sustainable ocean finance, including for direct access to funds;

(d) assist the Kingdom to achieve the goals for oceans-related international obligations;

(e) provide supplemental coverage for rehabilitation and restoration costs in instances where recovery from the person(s) or entity liable for loss or damage to the ocean environment is insufficient;

(f) resource implementation which includes monitoring, control, surveillance and enforcement;

(g) clean up, restoration and rehabilitation; and

(h) any other sustainable developments initiatives that will benefit all Tongans.

(4) The Minister shall act upon the recommendation of the Commission with respect to Regulations for the operation and management of the Ocean Management Fund in accordance with this Act.

(5) The Ministry of Finance and the Secretariat shall provide a joint report bi-annually to the Cabinet and Legislative Assembly on the financial status, receipts, and expenditures of the Fund.

81 Ocean Development Levy

There shall be charged, levied and paid a levy (which shall be known as an ocean development levy) in respect of ocean-based development and activities.

82 Fees and Charges

(1) The Minister shall, with the approval of Cabinet, by Order –

(a) impose, revoke, suspend, reduce or increase fees and charges; and

(b) provide for exemptions from fees and charges.

(2) An Order relating to charges and fees shall be published in the Gazette and one newspaper circulating in the Kingdom.

(3) An Order made under subsection (2) shall take effect on the date prescribed in the Gazette.

PART IX – ENFORCEMENT AND LEGAL PROCEEDINGS

83 Offences

(1) Any person who engages in or conducts a development that requires development consent without obtaining such consent, or fails to comply with a development consent is guilty of an offence and is liable to a fine not exceeding \$1,000,000, and in the case of continuing offences to a further fine not exceeding \$100,000 for every day or part of a day during which such offence continues.

(2) Any person who uses or develops an ocean area in contravention of or fails to comply with a plan is guilty of an offence and is liable to a fine not exceeding $1,000,000, and in the case of continuing offences to a further fine not exceeding $100,000 for every day or part of a day during which such offence continues.

(3) Any person who acts in contravention to an Order established by the Commission is guilty of an offence and is liable to a fine not exceeding $1,000,000 or both, and in the case of continuing offences to a further fine not exceeding $100,000 for every day or part of a day during which such offence continues.

(4) Any person who destroys, causes the loss of, or injures any ocean resource in contravention of this Act, an existing approved plan, or a development consent is guilty of an offence and is liable to a fine not exceeding $1,000,000,000, and in the case of continuing offences to a further fine not exceeding $500,000 for every day or part of a day during which such offence continues.

(5) Any person who possesses, sells, offers for sale, purchases, imports, exports, delivers, carries, transports, or ships by any means, ocean resource taken in contravention of this Act, an existing approved plan, or a development consent is guilty of an offence and is liable to a fine not exceeding $1,000,000,000 or both, and in the case of continuing offences to a further fine not exceeding $500,000 for every day or part of a day during which such offence continues.

(6) Any person who contravenes any other provision of this Act is guilty of an offence and is liable to a fine not exceeding $1,000,000, and in the case of continuing offences to a further fine not exceeding $100,000 for every day or part of a day during which such offence continues.

(7) In addition to any other penalty, the Court may issue an order of forfeiture.

84 Offences by corporations

(1) Where a person charged with an offence against this Act or the Regulations is a body corporate, any person who is concerned or takes part in the management of that body corporate at the time the offence is committed may be charged with the same offence.

(2) Where a body corporate is convicted of an offence against this Act, a person charged under this section with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that person proves that the act or omission constituting the offence took place without that person's knowledge or consent.

85 Order by the Commission

(1) In this section –

(a) a reference to a breach of this Act is a reference to –

(i) a contravention of or failure to comply with this Act; or

(ii) a threatened or an apprehended contravention of or a threatened or apprehended failure to comply with this Act; and

(b) a reference to this Act includes a reference to the following –

(i) the Regulations;

(ii) a plan; or

(iii) a development consent granted under this Act, including a condition subject to which such consent is granted.

(2) The Commission may issue an Order and cause the same to be served on any person specified in subsection (2) to do or refrain from doing a thing specified in the Order within a specified time, if a use or development of an ocean area contravenes or has contravened, or, unless prevented by the Order, will contravene this Act, an existing approved plan, or a condition of a development consent.

(3) An Order under subsection (2) may be issued to one or more of the following persons —

(a) a person who engages or who is likely to engage in a use or development this Act; or

(b) a person by whom or on whose behalf the use or development was, is being, or is to be carried out.

(4) Where a person fails to comply with the terms of an Order issued under subsection (1), the Commission may do all such things as are necessary or convenient to give effect to the terms of the Order.

(5) Where a breach of this Act would not have been committed but for the failure to obtain a development consent, the Commission, upon application being made by the defendant, may enable a development application to be made to obtain that consent.

(6) Any person aggrieved with an Order made by the Commission may appeal to the Supreme Court.

86 Designation of authorised officers

(1) The Commission may, in writing, designate any government officer or any person who the Commission considers suitable to be an authorised officer for the purposes of this Act.

(2) The instrument of appointment shall specify when such person shall become an authorised officer and when he stops being an authorised officer.

(3) The Commission shall not appoint any person under subsection (1) unless the Commission is satisfied that such person is —

(a) adequately trained to exercise the powers conferred on authorised officers and to perform the role of an authorised officer; and

(b) capable of exercising the powers and performing the role.

(4) The Commission may at any time, in writing, terminate the authorised officer's appointment.

87 Powers of authorised officers

(1) Any authorised officer, without a warrant, may —

(a) stop, board and search any vessel suspected of being used in violation of this Act, an existing approved Plan, or any development consent issued under this Act and search any equipment, stores, and cargo of such vessel;

(b) require the master or any crew member or other person aboard to inform him of the name, call sign and country of registration of the vessel and the name of the master, owner, charterer, or any crew member;

(c) question the master or any crew member or other person aboard about the cargo, contents of holds and storage spaces, voyage and activities of the vessel, vehicle or aircraft;

(d) require to be produced, examine and take copies of any license, logbook, record or other document required under this Act or concerning the operation of any vessel;

(e) make an entry dated and signed by him in any vessel's log;

(f) give directions to the master and any crew member of any vessel stopped, boarded or searched as may be necessary or expedient for any purpose specified in this Act or to provide for the compliance of the vessel or master or any crew member with the conditions of any license; and

(g) make such inspection and inquiry as may appear necessary to him concerning any place, premises, vessel, vehicle or aircraft in relation to which any of the powers conferred by this Act have been or may be exercised.

(2) Any authorised officer, where he has reasonable grounds to believe that an offence under this Act has been committed may, without a warrant —

(a) order the suspension or cessation of any activity that the officer believes is being conducted in contravention of the provisions of this Act, an existing approved Plan, or any development consent issued under this Act;

(b) seize —

(i) any vessel together with its gear, equipment, stores and cargo, and any vehicle, aircraft or hovercraft which he believes has been or is being used in the commission of an offence, or which he knows or believes has been forfeited in accordance with any provision of this Act;

(ii) any logs, charts or other documents required to be maintained by this Act or under the terms of any license or authorization or which he believes show or tend to show the commission of an offence against this Act; and

(iii) anything which he has reasonable grounds to believe might be used as an exhibit in any proceedings under this Act;

(c) execute any warrant or other process issued by any Court of competent jurisdiction;

(d) arrest any person whom he has reasonable grounds to believe has committed an offence against this Act and, where it is impracticable immediately to bring that person before a Magistrate or Court of competent jurisdiction without unnecessary delay, detain him; and

(e) arrest any person who assaults, obstructs, resists, delays, refuses boarding or entry, intimidates or fails to take all reasonable measures to ensure the safety of or otherwise interferes with an authorised officer in the performance of his duties or fails to comply with any lawful order, requirement or request of an authorised officer or otherwise contravenes this section, where it is impracticable immediately to bring that person before a Magistrate or Court of competent jurisdiction without unnecessary delay, detain him.

(3) Where any vessel is seized under this Act, the master and crew shall take it to the nearest or the most convenient port that the authorised officer shall designate and the vessel may there be detained pending the outcome of any legal proceedings under this Act or until its lawful release, or until it is decided not to lay an information or charge provided that –

(a) the master shall be responsible for the safety of the crew, vessel, himself and any other person on board while bringing the vessel to the designated port;

(b) if the master fails or refuses to take the seized vessel to the designated port then an authorised officer may do so; and

(c) when the vessel is brought to the designated port under the provisions of paragraph (c), no action shall lie against the authorised officer or the Government of Tonga for any death, injury, loss or damage occurring while the vessel is being so brought unless it arose from an act of the authorised officer that was outside his duties under this Act or was done maliciously.

(4) Where any vehicle or aircraft is seized under this Act the driver or pilot shall take it to the nearest or most convenient place for the holding of such vehicle or aircraft that the authorised officer shall designate and the vehicle or aircraft may there be detained pending the outcome of any legal proceedings under this

Act or until its lawful release, or until it is decided not to lay an information or charge provided that –

(a) the driver of the vehicle or pilot of the aircraft shall be responsible for the safety of the vehicle or aircraft and for any crew, himself and any other person thereon or in while bringing the vehicle or aircraft to the designated place;

(b) if the driver or pilot fails or refuses to take the seized vehicle or aircraft to the designated place then an authorised officer may do so; and

(c) when a vehicle or aircraft is brought to the designated place under the provisions of paragraph (c), no action shall lie against the authorised officer or the Government of Tonga for any death, injury, loss or damage occurring while the vehicle or aircraft is being so brought unless it arose from an act of the authorised officer that was outside his duties under this Act or was done maliciously.

(5) An authorised officer may remove any part or parts of any vessel, vehicle or aircraft detained under the provisions of this Act for the purpose of immobilizing that vessel, vehicle or aircraft provided that –

(a) any part or parts removed under paragraph (a) shall be kept safely and returned to the vessel, vehicle or aircraft immediately upon any lawful release thereof from custody; and

(b) any person who possesses or arranges to obtain any part or parts removed under paragraph (a) or who possesses or arranges to obtain or make any replacement or substitute part or parts for those removed under paragraph (a) or who fits or attempts to fit any part or parts or any replacement or substitute part or parts to a vessel, vehicle or aircraft detained under the provisions of this Act with the intention of mobilizing the vessel, vehicle or aircraft shall be guilty of an offence and is liable to a fine not exceeding $500,000 or imprisonment not exceeding 10 years or to both such fine and imprisonment.

(6) An authorised officer may when exercising his powers under subsection (2)(a) and (b), use such force as is reasonably necessary in the circumstances.

(7) An authorised officer may, during the exercise of powers under this section, direct a person under his command to carry out such duties of an authorised officer and for such period as he specifies.

(8) A person who receives a direction under subsection (7) has, for the purpose of carrying out the specified duties, all powers and protection accorded to an authorised officer under this Act.

(9) A written receipt shall be given for any article or thing seized under this section and the grounds for such seizure shall be stated in the receipt.

88 Duty to comply with instructions

The master and all members of the crew of any vessel, the driver and any passenger of any vehicle and the pilot and each member of the crew of any aircraft shall immediately comply with every lawful boarding, entry and inspection of the vessel, vehicle or aircraft and of any gear, equipment, records and products and shall take all measures to ensure the safety of an authorised officer in the performance of his duties.

89 Powers beyond Tonga's waters

(1) Where, following the commission of an offence under this Act by any person or vessel, the person or vessel is pursued to a place at sea beyond the limits of Tonga's waters, or if the person or vessel is otherwise pursued to a place at sea beyond the limits of Tonga's waters in circumstances and to the extent recognised by international law, any power conferred on an authorised officer under this Act shall be exercisable at such a place beyond the limits of Tonga's waters provided that the pursuit was not terminated or interrupted at any time before the authorised officer or officers concerned arrived at such a place with a view to exercising that power.

(2) For the purposes of subsection (1), a pursuit of a person or vessel is not taken to be terminated or interrupted only because the authorised officer or officers concerned lose sight of the person or vessel.

(3) A reference in subsection (2) to losing sight of a person or vessel includes a reference to output from a radar or other sensing device.

90 Identification of authorised officer

An authorised officer in exercising any of the powers conferred on him by this Act shall on demand produce identification to show he is an authorised officer under this Act.

91 Offences committed against an authorised officer

Any person who —

(a) assaults, obstructs, resists, delays, refuses boarding or entry, intimidates or fails to take all reasonable measures to ensure the safety of or otherwise interferes with an authorised officer in the performance of his duties, or any person lawfully acting under the order of the authorised officer or in his aid;

(b) fails to comply with any lawful order, requirement or request of an authorised officer or otherwise contravenes section 92 or 93;

(c) uses threatening language or behaves in a threatening manner or uses abusive language towards an authorised officer while in the execution of his duties, or any person lawfully acting under the order of the authorised officer or in his aid;

(d) incites or encourages any other person to assault, obstruct, resist, delay, refuse boarding or entry, intimidate or otherwise interfere with an authorised officer while carrying out his duties, or any person lawfully acting under the order of the authorised officer or in his aid;

(e) knowingly furnishes to an authorised officer any particulars which are false or misleading in any respect;

(f) impersonates or falsely represents himself to be the master or other officer of a vessel;

(g) resists lawful arrest; or

(h) interferes with, delays or prevents by any means, the lawful apprehension or arrest of another person under this Act,

is a breach of any duty to the authorised officer required under this Act, shall be guilty of an offence and shall be liable to a fine not exceeding $500,000 or imprisonment not exceeding 10 years or both.

92 Impersonating an authorised officer

Any person who impersonates or falsely represents himself to be an authorised officer shall be guilty of an offence and shall be liable to a fine not exceeding $250,000 or imprisonment not exceeding 7 years or to both.

93 Destruction of evidence and avoidance of seizure

Any person who being on board any vessel being pursued, about to be boarded or notified it will be boarded by any authorised officer, throws overboard, discards and destroys any ocean resources, fish, gear, explosive, poison, noxious substance, chart, log, document or other thing with intent to avoid the seizure thereof or the detection of any offence against this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $500,000 or imprisonment not exceeding 10 years or to both such fine and imprisonment.

94 Release of seized vessel, vehicle and/or aircraft

(1) Subject to subsection (3) the Court may, and in the case of a foreign vessel, vehicle or aircraft shall, on application order the release of any vessel together with its gear, equipment, stores and cargo, and any vehicle, aircraft or other item or items seized under this Act on receipt of a bond or other form of security acceptable to the Court from the owner or other person claiming such property for the aggregate value of the property to be released, the total maximum fine or fines provided for the offences charged or likely to be charged and the costs the prosecution would be likely to recover if a conviction were entered.

(2) Where any vessel, vehicle, aircraft or other item seized is released upon the lodging of a bond or other form of security under subsection (1) or (3), the Court shall in the order state separately the sums which are attributable to the property to be released, the total fine or fines and the likely costs and, in the case of a release under subsection (3), the full value of the property released.

(3) The Court may, in such special circumstances as it considers fit and taking into account the gravity of the offence alleged, release any vessel, vehicle, aircraft or other item seized for a bond of an amount less than that prescribed by subsection (1).

(4) Nothing in subsection (1) or (3) shall require a Court to release any vessel, vehicle, aircraft or other thing if it may be required as an exhibit in Court proceedings or is reasonably required under the Act.

95 Disposal of perishable goods seized

(1) The Commission may direct that any ocean resource or other article of a perishable nature seized under this Act be sold and the proceeds of sale shall be held and dealt with in accordance with the provisions of this Act.

(2) Where the Commission is unable to sell the ocean resource or other articles referred to in subsection (1), or where such ocean resource or other articles are unfit for sale, they may be disposed of in such manner as he directs.

96 Seized vessel to be held by Government

Any vessel, vehicle, aircraft or other item seized under this Act or any bond or other security or proceeds of any sale in respect thereof shall be held by the Government of Tonga pending the outcome of any legal proceedings under this Act or until is decided not to lay any information or charge and any monies due in respect of a compounding under section 109 have been paid.

97 Orders of forfeiture and return of seized property

(1) Where any person is convicted of an offence against this Act, the Court –

(a) may order that any vessel together with any ocean resources, gear, equipment, stores and cargo and any vehicle or aircraft used or involved in the commission of the offence be forfeited; and

(b) shall order that any ocean resources obtained unlawfully or the proceeds of sale of such resources be forfeited.

(2) Where any vessel including its gear, equipment, stores and cargo, vehicle, aircraft or other item seized under this Act or any bond or other security or proceeds of sale in respect thereof is not forfeited or applied in the discharge of any fine, order for costs or compounding under section 109 –

(a) such vessel together with its gear, equipment, stores and cargo shall be released or returned to the operator, or such vehicle, aircraft or other item shall be released or returned to the owner or his agent; or

(b) such bond or other security shall be returned to the person who posted or paid the bond or security in respect of the vessel, vehicle, aircraft or other item seized under this Act.

98 Operation of order of forfeiture

(1) Where any vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security, an order for forfeiture shall, unless the Court for special reasons fixes a smaller sum, operate as an order for forfeiture of the bond or security to the full value of the item forfeited as stated under section 94(2) or where a smaller sum is ordered in accordance with section 94(3) that smaller sum, or failing such determination the value of the item forfeited.

(2) Where any vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security under section 94(2), the Court may order any convicted person and the owner of the vessel, vehicle, aircraft or other item concerned, to pay the difference between the bond or amount lodged in respect of the forfeited property and the full value of the forfeited property as stated under section 94(2).

99 Application of bond

Any bond, security or proceeds of sale held in respect of any vessel, vehicle or aircraft or other items shall be applied in the following order to —

(a) the expenses of any sale under this Part;

(b) the discharge of any forfeiture;

(c) the payment of all fines for offences under this Act or monies due in respect of a compounding under section 109 arising out of the use of or in connection with the vessel, vehicle, aircraft or other item;

(d) the discharge of all orders for costs in legal proceedings arising out of the use of or in connection with the vessel, vehicle, aircraft or other item; and

(e) the person entitled under section 97(2).

100 Disposal of vessel forfeited

Any vessel, vehicle, aircraft or other item ordered to be forfeited under this Act shall be forfeited to the Crown and may, at the expiry of the time limited for appeal if no appeal is lodged, or after the determination of any appeal, be disposed of in such manner as the CEO, or in the case of a foreign vessel or aircraft, the Commission may direct.

101 Sale of seized item

Any vessel, vehicle, aircraft or other item seized under this Act but not forfeited in any legal proceeding may be held by the Government of Tonga until all fines, orders for costs and monies due in respect of a compounding under section 109 have been paid and, failing payment within the time allowed, be sold and the balance of the proceeds returned to the person who appears to be entitled thereto after deduction of all fines, orders for costs, monies due in respect of a compounding under section 109 and costs of sale in that order.

102 Liability of government

The Government of Tonga shall not be liable to any person for any loss, damage to or deterioration in the condition of any vessel, vehicle, aircraft or other item while in the custody of the Government under this Act unless such loss, damage or deterioration is the result of wilful default or gross negligence by the Government.

103 Offence to remove vessel from custody of government

Any person who removes any vessel, vehicle, aircraft or other item held in the custody of the Government of Tonga under this Act shall be guilty of an offence whether or not he knew the vessel, vehicle, aircraft or other item was so held and shall be liable to a fine not exceeding $500,000 or to imprisonment not exceeding 10 years or to both such fine and imprisonment.

104 Costs of forfeiture

Any person whose act or admission was the basis for the seizure may be charged a reasonable fee for expenses to Tonga connected with the transfer, board, handling or storage of such property. Within a reasonable time after forfeiture, Tonga shall send to such person by registered or certified mail a bill for such fee. The bill shall contain an itemized statement of applicable costs, together with instructions on the time and manner of payment. Payment shall be made in accordance with the bill. Within 30 days of receipt of the bill, the recipient may file an objection with the Commission. The Commission will promptly review the objection and within 30 days issue a written decision.

105 Jurisdiction of the Courts

Any act or omission in contravention of any of the provisions of this Act which takes place within or outside Tonga’s waters shall be dealt with and judicial proceedings taken as if such act or omission had taken place in Tonga within the local limits of the jurisdiction of the Court in which proceedings are taken.

106 Onus of proof for license and information

(1) Where a person is charged with having committed an offence involving an act for which a license, permit or authorization is required under this Act, the onus shall be on that person to prove that at the relevant time the requisite license, permit or authorization was held by that person.

(2) Where a person is charged with the contravention of section 112, the onus shall be on that person to prove that the information given was true, complete and accurate.

107 Certificate of evidence

(1) The Minister may give a certificate stating –

(a) that an appended document is a true copy of the license, permit, authorization or certificate of registration issued to a vessel or person;

(b) that a particular location or area of water was within Tonga's waters or within any OMA and subject to specified conditions;

(c) that an appended chart shows the boundaries of Tonga's waters, OMAs, or other areas delineated for any specified purpose;

(d) that particular item or piece of equipment is gear utilized to harvest or extract renewable or non-renewable resources;

(e) the cause or manner of death of or injury to any natural resources; or

(f) that a call sign, name or number and the system under which they are allotted are that of a particular vessel.

(2) A certificate given under subsection (1) shall state the name of the person making the certificate and —

(a) his address, official position, country of appointment and Commission under which he is appointed;

(b) the name and call sign, if known, of the vessel concerned;

(c) the place or area in which the vessel was located;

(d) the date and time or period of time the vessel was in the place or area stated in paragraph (c); and

(e) a declaration that he checked the position fixing instruments used to fix the place or area stated in paragraph (c) and their accuracy within the internationally accepted margin of errors or standards relating to such instruments.

(3) Any certificate given under this section shall be headed "Certificate Made Under Section 107 of the Oceans Management Act".

108 Procedure for certificates

(1) Subject to subsection (2) any certificate given under sections 107 served on a defendant seven or more days before its production in Court in any proceedings under this Act shall, unless the contrary is proved, be evidence of all the facts stated therein.

(2) Where a certificate given under sections 107 is served on a defendant fourteen or more days before its production in Court in any proceedings under this Act and no objection is notified in writing within seven days of service, it shall be conclusive proof of all the facts contained therein unless the Court considers that the defendant is prejudiced by any failure to object.

109 Compounding offences

(1) Subject to subsection (3) the Commission may, where he is satisfied that any person has committed an offence against this Act, compound such offence by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence.

(2) Where the Commission has compounded an offence under this section, he may order the release of any article seized under section 94 or the proceeds of sale of such article under section 95 on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

(3) Where a person who has committed an offence is no longer within Tonga, the Minister may send written notice of his intention to compound the offence to any known address of the person outside Tonga, or to the address of his agent in Tonga where such an agent has been appointed.

(4) No offence shall be compounded under this section unless the person who has committed the offence has expressed his willingness in writing that the offence be so dealt with or, where notification has been given under subsection (3), notifies the Minister in writing that he does not wish the offence to be compounded, and that he submits to the jurisdiction of the Court and, where so required by the Court, files a bond or other form of security in accordance with section 99.

(5) In any proceedings brought against any person for an offence against this Act or any Regulation made under this Act, it shall be a defence if such person proves that the offence with which he is charged has been compounded under this section.

110 Immunity

Any person who does any act in pursuance of any power conferred on him under this Act or omits to do any act required of him under any power conferred on him under this Act shall not be liable unless such act or omission was committed in bad faith.

111 Liability of master

Where an offence against this Act has been committed by any person on board or employed on a vessel, the master, owner and charterer of such vessel shall also be guilty of the offence.

112 Correct information

(1) Any information required to be recorded, or to be provided, notified, communicated or reported pursuant to a requirement of this Act or a requirement under any access agreement or arrangement entered into under this Act shall be true, complete and accurate.

(2) Any person who is required to provide information in accordance with subsection (1) shall report any changes in circumstances immediately.

(3) Any person who contravenes subsections (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $250,000.

113 Confidentiality

(1) Any person carrying out duties or responsibilities under this Act shall not, unless authorized in accordance with this Act, reveal information or other data of a confidential nature acquired by virtue of their said Commission, duties and responsibilities to any person not having Commission to receive it.

(2) The CEO may designate any information as confidential and may authorize in writing any person to receive confidential information.

(3) The CEO may authorize the release of any information supplied by a vessel monitoring system relating to the position of any vessel at the request of the responsible Commission for purpose of surveillance, search, rescue and other emergency operations.

(4) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding $20,000 or imprisonment not exceeding 5 years, or both.

PART X – REGULATIONS

114 Regulations

The Minister may, with the consent of Cabinet, make Regulations for the proper administration and implementation of this Act.

PART XI – TRANSITIONAL PROVISIONS

115 Marine Spatial Plan

The Marine Spatial Plan that shall be approved by Cabinet, prior to this Act coming into force, is deemed to fulfil the requirements of this Act.

116 National Oceans Policy

The National Oceans Policy that shall be approved by Cabinet, prior to this Act coming into force, is deemed to fulfil the requirements of this Act.

117 Continuation of ocean activities

Any new ocean activities not covered explicitly under existing legislation, shall be covered under this Act once it comes into force.

PART XII – DISPUTE RESOLUTION

118 Scope

For purposes of this Part, the term “dispute” refers specifically to any challenge on the part of a private or public entity or person, or department or ministry of Government, based on actual or anticipated injurious consequences of an action taken or to be taken under Part VI of this Act. This Part shall not apply to any actions, decisions, or proceedings to which any other Part of the Act, including but not limited to Part IX, applies.

119 Prerequisites

(1) In the event of a dispute as defined in this Part, the parties shall in the first instance attempt to reach settlement by mutual agreement.

(2) Where the parties to a dispute to which this Part applies –

(a) have taken reasonable efforts to resolve the dispute under subsection 1; and

(b) are unable to reach an agreement, the dispute may, with the consent of all parties, be referred to the Commission for decision by notification made to the CEO.

120 Notification

(1) Any dispute notification submitted to the CEO shall be in writing, and may be submitted by any party to the dispute, or any person designated by that party.

(2) The notification shall include the following –

(a) the facts and parties involved;

(b) a description of actual or anticipated infringements of rights of the petitioning party and/or substantial harm to the ocean environment;

(c) a concise description of the actions which have been taken to resolve the dispute;

(d) identification of specific applicable provisions of this Act and/or the Marine Spatial Plan at issue;

(e) evidence, including any available data, supporting the petitioner's alleged infringement of rights and/or alleged substantial harm to the ocean environment; and

(f) the specific remedy sought.

(3) A copy of the notification shall be delivered to all other parties to the dispute at the same time it is submitted to the CEO. Any other party may submit a written response to the notification within 14 days of receipt. Responses shall be delivered to the notifying party and the CEO.

121 Handling and assessment

(1) The CEO shall receive disputes to which the Part applies only where –

(a) the notification complies with the requirements under this Part;

(b) the dispute is not otherwise governed by Part IX or any other part of this Act;

(c) the dispute is not part of any active proceedings in any court of law;

(d) the parties have demonstrated compliance with section 119(1) and (2) herein; and

(e) the relief sought is consistent with the provisions of this Act and all relevant legislation.

(2) The CEO shall, within 15 days after receiving a notification and any responses thereto, provide an acknowledgment of receipt to the parties.

(3) The CEO shall conduct an initial review of the notification and response materials submitted by the parties, and may request any additional information from the parties deemed necessary.

(4) Following initial review, the CEO shall provide a report of its recommendations regarding the dispute, together with all materials submitted by the party, to the Commission and to the Advisory Committee.

(5) The Advisory Committee, or any sub-committee thereof designated for dispute resolution purposes in accordance with Part III, section 20 of this Act, may submit a report of its recommendations to the Commission regarding the dispute.

122 Decision-making

(1) The Commission shall consider all materials, information and recommendations submitted and shall make determinations regarding the dispute.

(2) Any such determinations shall be consistent with the application of this Act and any other applicable laws, and shall be binding on the parties, subject to any legal rights of appeal to the Tongan Supreme Court that the parties may have.

(3) Any determinations made by the Commission shall be rendered within three months of receiving the dispute notification. In the event, a longer period is required for the Commission to make a determination, the Commission shall inform the parties as soon as practicable, and provide a reasonable estimate of the date by which the decision will be communicated.

Passed by the Legislative Assembly on this **18th** day of **September** 2025.

SCHEDULE 1

PLACEMENT GUIDELINES FOR OCEAN MANAGEMENT AREAS

BIOPHYSICAL PLACEMENT GUIDELINES FOR NO-TAKE (TAPU) OR MARINE RESERVE (FEITU‘U TAPU)

(1) Include at least 20% of each marine bioregion in MR areas.

(2) Ensure a minimum amount of each community type, habitat and physical environment type in the overall network is included in MR areas.

(3) Have at least 3 replicate MR areas per bioregion.

(4) Ensure that MR areas include critical habitats and biologically or physically special or unique sites.

(5) Have larger (versus smaller) areas.

(6) Separate FT areas by 5 to 20 km apart (with a mode of ~1 to 10 km) in nearshore areas within or around archipelagic waters; 20- 200km offshore.

(7) Maximise use of environmental information to determine the configuration and location of FT areas to form viable networks.

(8) Where physically distinct habitats or geomorphological features are included in MR areas, incorporate the entire feature and, where possible, adjacent habitat.

(9) These OMAs should be in place for 20-40 years or, if possible, permanently.

BIOPHYSICAL PLACEMENT GUIDELINES FOR HABITAT PROTECTION (NOFO‘ANGA MALU‘I)

(1) Locate HP where activities that damage habitats should not occur and which have not been protected in NT areas.

(2) Where biologically important areas for marine resources, critical habitats, biologically or physically special or unique areas have not been protected in NT areas, and require additional protection, apply HP.

(3) Have larger (versus smaller) HP.

(4) Have HP at distances apart that ensure connectivity.

(5) Maximise the use of environmental information to determine the location of HP.

(6) Where physically distinct habitats are included in HP, the entire feature and, where possible, adjacent habitat, should be incorporated.

(7) These OMAs should be in place for 20-40 years or, if possible, permanently.

BIOPHYSICAL PLACEMENT GUIDELINES FOR LIMITED USE (NGAUE‘AKI FAKANGATANGATA)

(1) Apply LU in locations that would bring fisheries or biodiversity benefits if protected but not yet protected under NT or MR.

(2) Where biologically important areas for marine resources, critical habitats, biologically or physically special or unique areas have not been protected in NT areas or HP, and require additional protection, apply LU.

(3) Have larger (versus smaller) LU.

(4) Maximise the use of environmental information to determine the location of LU.

(5) Where physically distinct habitats are included in LU, the entire feature and, where possible, adjacent habitat, should be incorporated.

(6) These OMAs should be in place for 20-40 years or, if possible, permanently.

BIOPHYSICAL PLACEMENT GUIDELINES FOR SUSTAINABLE USE (NGAUE FAKAPOTOPOTO)

(1) Apply SU in locations that would bring fisheries benefits if protected but not yet protected under other, more protective OMAs.

(2) Where important areas for marine resources, critical habitats, biologically or physically special or unique areas have not been protected in other, more protective OMAs and require some protection, apply SU.

(3) Have larger (versus smaller) SU.

(4) Maximise the use of environmental information to determine the location of SU.

(5) Where physically distinct habitats are included in SU, the entire feature and, where possible, adjacent habitat, should be incorporated.

BIOPHYSICAL PLACEMENT GUIDELINES FOR UNIQUE MARINE RESERVE (MALU‘I MAKEHE)

(1) Apply UMR in locations of importance for special, unique and/or threatened species, habitats or cultural features that are not already protected within more protective OMAs and where additional protection would benefit identified habitats, species or cultural feature.

(2) The UMR should include the entire feature of interest including a 5km buffer.

(3) The duration of the UMR should align with the requirements of the species, habitat and/or cultural value being protected and the nature of the threat from which it is to be protected.

NOTE: Activities that negatively impact on the health or survival of the species, habitat and/or cultural value that the UMR is intended to protect are not to be allowed, regardless of any license or permit.

BIOPHYSICAL PLACEMENT GUIDELINES FOR THE GENERAL USE (FEITU‘U ‘ATĀ)

(1) GU should be located everywhere that other OMAs are not located including in coastal areas not protected within an SMA[1].

(2) SMA restrictions apply over and above any GU controls.

1 [1] The **Feitu’u ‘Atā** Management Area is required to (a) reinforce the existing rules and Regulations which continue to apply within the area, (b) ensure that the entire ocean environment of Tonga is within one, holistic, integrated management plan and (c) allow the government to implement any new, nation-wide controls (e.g. prohibition on bottom trawling?).