

1989/268



**THE TOKELAU (EXCLUSIVE ECONOMIC ZONE) FISHING  
REGULATIONS 1988, AMENDMENT NO. 1**

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PAUL REEVES, Governor-General

**ORDER IN COUNCIL**

At Wellington this 18th day of September 1989

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 8 and 11 of the Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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**ANALYSIS**

- 1. Title and commencement
- 2. Interpretation
- 3. Condition of licence that driftnet not to be used or carried
- 4. New regulations inserted

*Miscellaneous Provisions*

- 13A. Trans-shipment of catch
- 13a. Prohibition on possession of driftnets in exclusive economic zone
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- 5. Court may order forfeiture

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**REGULATIONS**

**1. Title and commencement—**(1) These regulations may be cited as the Tokelau (Exclusive Economic Zone) Fishing Regulations 1988, Amendment No. 1, and shall be read together with and deemed part of the

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*Tokelau (Exclusive Economic Zone) Fishing  
Regulations 1988, Amendment No. 1*

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Tokelau (Exclusive Economic Zone) Fishing Regulations 1988, hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of November 1989.

*\*S.R. 1988/262*

**2. Interpretation**—Regulation 2 of the principal regulations is hereby amended by inserting, after the definition of the term "Agency", the following definition:

"'Driftnet' means a gillnet or any other net—

"(i) Which is more than 1 kilometre in length; and

"(ii) Which acts by enmeshing, entrapping, or entangling any fish; and

"(iii) Which is used or intended to be used by being left to drift in, or on the surface of, the water; and

"(iv) Which is not used or intended to be used while attached to any point of land or the sea bed irrespective of whether the net is used or intended to be used while attached to any vessel:".

**3. Condition of licence that driftnet not to be used or carried**—The principal regulations are hereby amended by inserting, after regulation 7, the following regulation:

"7A. The following conditions shall be deemed to be implied in every licence granted under regulation 6 or regulation 7 of these regulations in respect of a foreign fishing craft:

"(i) That the craft may not use a driftnet for fishing within the exclusive economic zone:

"(ii) That no driftnet may be on board the craft while the craft is within the exclusive economic zone."

**4. New regulations inserted**—The principal regulations are hereby amended by inserting, after regulation 13, the following heading and regulations:

*"Miscellaneous Provisions*

"13A. **Trans-shipment of catch**—(1) No fish shall be trans-shipped from a foreign fishing craft in the exclusive economic zone to any other craft.

"(2) Subclause (1) of this regulation shall not apply to a trans-shipment at the direction of an authorised officer.

"(3) Where subclause (1) of this regulation is contravened or is not complied with in respect of any foreign fishing craft to which that subclause applies, each of them, the licensee, the owner, the master, and every other crew member of the foreign fishing craft commits an offence and is liable on summary conviction to a fine not exceeding,—

"(i) In the case of the owner or master of an unlicensed foreign fishing craft, \$100,000; and

"(ii) In the case of any other crew member of an unlicensed foreign fishing craft, \$5,000; and

"(iii) In the case of the licensee or master of a licensed foreign fishing craft, \$25,000; and

"(iv) In the case of any other crew member of a licensed foreign fishing craft, \$1,500.

**"13B. Prohibition on possession of driftnets in exclusive economic zone—**(1) No foreign fishing craft in the exclusive economic zone shall have any driftnet on board that craft.

"(2) Where subclause (1) of this regulation is contravened or is not complied with in respect of any foreign fishing craft to which that subclause applies, each of them, the licensee, the owner, the master, and every other crew member of the foreign fishing craft commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

**"13C. Prohibition on possession of driftnets in territorial sea—**(1) No foreign fishing craft in the territorial sea shall have any driftnet on board that craft.

"(2) Where subclause (1) of this regulation is contravened or is not complied with in respect of any foreign fishing craft to which that subclause applies, each of them, the licensee, the owner, the master, and every other crew member of the foreign fishing craft commits an offence and is liable on summary conviction to a fine not exceeding \$10,000."

**5. Court may order forfeiture—**Regulation 17 of the principal regulations is hereby amended by omitting from subclause (1) and from subclause (2) the expression "subclause (1) or subclause (2) of regulation 15", and substituting in each case the expression "regulation 13A or regulation 13B or regulation 15 (1) or regulation 15 (2)".

C. J. HILL,  
for Clerk of the Executive Council.

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#### EXPLANATORY NOTE

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

These regulations, which come into force on 1 November 1989, amend the Tokelau (Exclusive Economic Zone) Fishing Regulations 1988.

The effect of the amendments is as follows:

- (a) Every licence granted under regulation 6 or regulation 7 of the principal regulations in respect of a foreign fishing craft will be subject to the conditions that—
  - (i) The craft may not use a driftnet (as defined in the regulations) for fishing in the exclusive economic zone of Tokelau; and
  - (ii) The craft may not have a driftnet on board while it is in the exclusive economic zone of Tokelau;
- (b) It will be an offence to trans-ship fish from a foreign fishing craft in the exclusive economic zone of Tokelau to any other craft, except where the trans-shipment is carried out at the direction of an authorised officer (as defined in the principal regulations);
- (c) It will be an offence for a foreign fishing craft in the exclusive economic zone of Tokelau to have any driftnet on board that craft;
- (d) It will be an offence for any foreign fishing craft in the territorial sea of Tokelau to have any driftnet on board that craft;
- (e) The provisions in the principal regulations relating to forfeiture on conviction for an offence against the regulations are extended to cover the offences of trans-shipment of fish within the exclusive economic zone of Tokelau and the possession of driftnets within the exclusive economic zone of Tokelau.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 22 September 1989.

These regulations are administered in the Ministry of External Relations and Trade.