

# **Tokelau Amendment Act 1996 (NZ)**

## **TOKELAU**

### **TOKELAU AMENDMENT ACT 1996**

1996, No. 31

#### **An Act to amend the Tokelau Act 1948**

*[10 June 1996]*

WHEREAS -

1. The Tokelau Act 1948 provides that Tokelau is part of New Zealand, and further provides, among other things, that the Governor-General may, by Order in Council, make regulations for the peace, order, and good government of Tokelau:

2. Tokelau is a non-self-governing territory under the Charter of the United Nations:

3. New Zealand, as the state responsible for the administration of Tokelau, has an obligation, by virtue of New Zealand's membership of the United Nations, to develop self-government in Tokelau:

4. Traditional authority in Tokelau is vested in its villages, and the needs of Tokelau at a local level are generally met through the administration of customary practices by elders:

5. The needs of Tokelau at a national level are the responsibility of the Government of New Zealand, and in particular the Administrator of Tokelau:

6. The elders of Tokelau have for many years wished to have a greater and more direct involvement in the government of Tokelau at a national level:

7. As part of New Zealand's obligation and desire to comply with those wishes, -

(i) In 1993, the powers of the State Services Commissioner in relation to Tokelau were delegated to Tokelau Public Service Commissioners; and

(ii) In 1994, the powers of the Administrator of Tokelau were delegated to the General Fono when in session, and to the Council of Faipule when the General Fono is not in session:

8. On 7 April 1995, the Council of Faipule issued the following statement:

"To the Administrator of Tokelau

'Tokelau is aware of the proposal to change the Tokelau Act to give the General Fono a power to make laws. This proposal has been discussed again by the people and the Taupulega of each Village during the last month.

"We confirm the strong and unanimous view of Tokelau that –

"1. It is now essential to the development of self-government to have a legislative power.

"2. Since the conferral of administrative power by delegation by the Administrator in 1994, it has on several occasions proved an embarrassment to the Government of Tokelau that it has had no power to enforce its governmental decisions.

"3. Any power the Parliament may give may be subordinate to Acts & Treaties but must be sufficient to enable amendment or repeal of (1) pre-1949 law, (2) regulations made by the Governor-General under the Tokelau Act, and (3) the law relating to taxes.

"4. Any power may be subject to disallowance by the Administrator.

"Tokelau asks for the exercise of your good offices in this as a matter of high priority.":

9. This Act –

(i) Confers on the General Fono a power to make rules for Tokelau, including the power to impose taxes, and to declare public holidays; and

(ii) Provides that any such rules may be disallowed by the Administrator of Tokelau; and

(iii) Amends the Tokelau Act 1948 as it relates to the sources of law for Tokelau and the jurisdiction of Tokelau Commissioners, and

(iv) Makes other amendments to the Tokelau Act 1948:

10. Tokelau welcomes this Act, as in accordance with its wish to paddle its canoe to the greatest extent possible, and as consistent with a longstanding desire by three dispersed atoll communities to come together and become stronger, on the basis of their shared language and culture, as one family and nation:

11. Tokelau also welcomes this Act as a fresh breeze to fill the sails of Tokelau's canoe, and in the knowledge that the conferral of legislative power is a step of large constitutional significance which strengthens the General Fono in its role as Tokelau's supreme national body:

13. Both Tokelau and New Zealand recognise that the role this Act gives to the Administrator of Tokelau in the rule-making process reflects the present constitutional relationship between Tokelau and New Zealand. However, both also acknowledge that this Act, in conferring greater powers on Tokelau's own political institutions, looks forward in a constructive spirit. Both Tokelau and New Zealand expect that the established patterns of consultation and advice will continue in relation to the rule-making power, in order to further the development of self-government in Tokelau:

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**1. Short Title and commencement** - (1) This Act may be cited as the Tokelau Amendment Act 1996, and shall be read together with and deemed part of the Tokelau Act 1948 (hereinafter referred to as the principal Act).

(2) Except as provided in section 10(2) of this Act, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council. [1 August 1996 - SR 1996/180]

[Part I incorporated into the Tokelau Act 1948]

[Part II incorporated into the Tokelau Amendment Act 1986]

**PART III  
CONSEQUENTIAL AMENDMENTS**

**11. Consequential repeals and revocation** - (1) The following enactments are hereby consequentially repealed:

- (a) The Tokelau Amendment Act 1982;
- (b) Section 19 of the Tokelau Amendment Act 1986.

(2) The Tokelau Amendment Act (Community Services Levy) Order 1994 (S.R. 1994/187) is hereby consequentially revoked.

**12. Community services levy to continue until rules made by General Fono** - Until such time as the General Fono makes rules under section 3A of the principal Act (as inserted by section 3 of this Act) imposing any levy or tax on income, then, notwithstanding –

- (a) The repeal, by section 11(1) (a) of this Act, of the Tokelau Amendment Act 1982; and
- (b) The revocation, by section 11(2) of this Act, of the Tokelau Amendment Act (Community Services Levy) Order 1994, -

the provisions of that Act, as they existed immediately before the commencement of this section, and that order, shall continue in force as if that Act had not been so repealed, and as if that order had not been so revoked, and the community services levy imposed by that Act shall be payable accordingly.

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