

**REPUBLIC OF KIRIBATI**  
(No. 4 of 2011)

I assent,

Beretitenti  
*Assented: 5 September 2011*

**An Act to make provisions in respect of the internal waters, the archipelagic waters, the contiguous zone, the territorial sea, the exclusive economic zone, and the continental shelf of Kiribati and for connected purposes**

Commencement:  
2011

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

**PART I - PRELIMINARY**

**1. Short title**

(1) This Act may be cited as the Marine Zones (Declaration) Act 2011.

**2. Interpretation**

(1) In this Act, unless the context otherwise requires-

“archipelagic waters” means the archipelagic waters of Kiribati as defined in section 7 of this Act;

“baseline of Kiribati” means the baseline prescribed under section 4 of this Act;

“conservation and management” includes all rules, regulations, methods and measures that -

- (a) are required to build, restore or maintain, or are useful in rebuilding, restoring or maintaining, any fishery resource or the marine environment; or
- (b) are designated to ensure that -
  - (i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis; and
  - (ii) irreversible or long-term ill-effects on fishery resources or the marine environment are avoided; and
  - (iii) there will be a multiplicity of options available with respect to future uses of these resources;

“contiguous zone” means the contiguous zone as defined under section 8 of this Act.

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

“nautical mile” means an international nautical mile of 1,852 metres;

“prescribed” means prescribed by regulations made under this Act;

- (2) For the purposes of this Act, permanent harbor works that form an integral part of a harbor system shall be treated as forming part of the coast.

### **3. References to International Law**

Where in this Act it is possible that anything shall be done, or any law shall be made in accordance with the rules of international law, the question, whether it was done so or made, is non-justiciable.

## PART II – THE MARINE ZONES

### 4. Baseline of Kiribati

- (1) The Minister shall prescribe the baseline of Kiribati, from which the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of Kiribati shall be measured.
- (2) For the purposes of subsection (1), the Minister may prescribe archipelagic baseline which shall form part of the baseline of Kiribati.

### 5. Internal Waters of Kiribati

- (1) Subject to section 4, the internal waters of Kiribati comprise all waters on the landward side of the baseline of Kiribati or any closing lines to the extent that those closing lines are outside the baseline of Kiribati.

### 6. Territorial Sea

- (1) The territorial sea of Kiribati comprises those waters having, as their inner limits, the baseline of Kiribati and, as their outer limits, a line measured seaward from that baseline, every point of which is at a distance of twelve (12) nautical miles from the nearest point of the baseline.
- (2) Subject to subsection (3), Kiribati has sovereignty beyond its land territory and internal waters over the territorial sea, and to the airspace above and the seabed and subsoil beneath the territorial sea.
- (3) Ships of all States shall enjoy the right of innocent passage in accordance with international law in the territorial sea of Kiribati.

### 7. Archipelagic waters

- (1) The Archipelagic waters of Kiribati comprise all areas of seas contained within the archipelagic baseline established under section 4(2).
- (2) Subject to subsection (3), any law in force in Kiribati, including the common law, shall apply in its archipelagic waters, regardless of their depth or distance from the coast.

- (3) Ships of all States shall enjoy the right of innocent passage in accordance with international law in the archipelagic waters of Kiribati.
- (4) Ships of all States shall enjoy archipelagic sea lanes passage in the archipelagic waters of Kiribati in any sea lanes and air routes there-above that have been designated under section 9.

## **8. Contiguous Zone**

- (1) The waters beyond the territorial sea referred to in section 6, but within the distance of twenty-four (24) nautical miles from the baseline of Kiribati, shall be the contiguous zone of the Republic of Kiribati.
- (2) Within the contiguous zone and the airspace above it, Kiribati shall have the right to exercise all the powers which may be considered necessary to prevent contraventions of any fiscal law or any customs, sanitary, immigration laws.

## **9. Exclusive Economic Zone**

- (1) Subject to subsection (2), the waters beyond the territorial sea of Kiribati, but within a distance of two hundred (200) nautical miles from the baseline of Kiribati, shall be the exclusive economic zone of the Republic of Kiribati.
- (2) Where an agreement is in force between the Republic of Kiribati and an opposite or adjacent coastal State provides for the delimitation of an exclusive economic zone boundary, the relevant area of exclusive economic zone shall be delimited in accordance with such agreement.

## **10. Continental Shelf**

- (1) Subject to subsection (2), the continental shelf of the Republic of Kiribati comprises the seabed and subsoil of the submarine areas that extend beyond the limit of the territorial sea throughout the natural prolongation of the land territorial of the Republic of Kiribati:
  - (a) to the outer edge of the continental margin; or,
  - (b) to a distance of two hundred (200) nautical miles from the baseline where the outer edge of the continental margin does not extend up to that distance.

- (2) Where an agreement is in force between the Republic of Kiribati and an opposite or adjacent coastal State providing for the delimitation of a continental shelf boundary, the relevant area of continental shelf of the Republic of Kiribati shall be delimited in accordance with such agreement.

## 11. Exercise of Sovereign Rights

- (1) Subject to subsection (2), within the exclusive economic zone and continental shelf the Republic of Kiribati exercises:
  - (a) sovereign rights for the purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the seabed and subsoil and the waters over the seabed, and with regard to other activities for the economic exploration and exploitation of the exclusive economic zone, such as the production of energy from the water, currents and winds;
  - (b) jurisdiction with regard to:
    - (i) the establishment and use of artificial island, installations and structures;
    - (ii) marine scientific research; and
    - (iii) the protection and preservation of the marine environment;
  - (c) such other rights and duties provided for under the international law.
- (2) In any area where the continental shelf extends beyond two hundred (200) nautical miles from the baseline of Kiribati, the Republic of Kiribati exercises:
  - (a) sovereign rights for the purpose of exploring, conserving and managing the natural resources, whether living or non-living, of the seabed and subsoil;
  - (b) jurisdiction with regard to:
    - (i) the establishment and use of artificial islands, installations and structures;

- (ii) the regulation of drilling on the continental shelf for all purposes; and
- (iii) prevention, reduction and control of pollution from pipelines.

## **12. Designation of Sea Lanes and Air Routes**

- (1) The Minister may by order designate sea lanes and air routes, including archipelagic sea lanes and air routes, suitable for the continuous and expeditious passage of foreign ships and aircraft, through and over the archipelagic waters and territorial sea of the Republic of Kiribati, and may also prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in any such sea lanes.
- (2) In sea lanes and air routes designated under subsection (1) all ships and aircraft may enjoy the right of navigation and over-flight, in their normal modes, for the purpose of continuous, expeditious and unobstructed transit through and over the archipelagic waters and territorial sea, from one part of the exclusive economic zone of the Republic of Kiribati to another part of it.
- (3) Until the sea lanes, and air routes are prescribed under subsection (1), the rights of navigation and overflight referred to in subsection (2) may be exercised through and over all routes normally used for international navigation and overflight.

## **13. Due Publicity**

The Minister may cause to be publicized materials, including where appropriate, lists of coordinates, charts, maps, diagrams and databases, for the purpose of depicting the baseline of Kiribati and any other matters relating to the limits of the territorial sea, contiguous zone, exclusive economic zone and continental shelf of Kiribati.

### **PART III – REGULATIONS, REPEAL AND SAVINGS**

## **14. General Regulations are to the Exclusive Economic Zone**

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

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

## **15. Repeal and Savings**

- (1) The Marine Zones (Declaration) Act 1983 and any subsidiary legislation made thereunder are repealed.
- (2) Any subsidiary legislation repealed by subsection (1) that could be made under this Act continues in force as if made under this Act until amended, replaced or repealed under this Act, unless and to the extent that-
  - (a) the matter is provided for in this Act; and
  - (b) the subsidiary legislation is inconsistent with the provisions of this Act or any other Act.

# MARINE ZONES (DECLARATION) ACT 2011

## EXPLANATORY MEMORANDUM

This Act replaces the Marine Zones (Declaration) Act 1983 which lacks sufficient provision upon the establishment of the maritime zones of Kiribati, with implications for the management for the ocean space of Kiribati. It requires update to enable the proper establishment of the maritime zones and to ensure that Kiribati's rights and obligations concerning these maritime zones under the United Nations Convention on the Law of the Sea (UNCLOS) are reflected in the Act. In essence the intent is still the same as the 1983 Act except for a few new insertions and some adjustments to the old sections.

The Act consists of three Parts in which Part I provides for the Short Title, Interpretation and the Reference to International Law.

Section 2 (Interpretation) provides for the definitions of terms under the Act. The definitions of *the baseline of Kiribati*, *the low-tide elevation*, *the low-water line*, and *the median line* are repealed. The new definitions for *archipelagic waters*, *the baseline of Kiribati*, *contiguous zone*, and *prescribed* are incorporated under the Interpretation.

Section 3 (Reference to the International Law) is simplified for clarity. The phrases "*by the Republic of Kiribati or by the Cabinet or a Minister*," are deleted.

Part II consists of 13 sections elaborating on the definitions of the marine zones the exercise of sovereign rights, designation of sealanes and air routes, and due publicity.

New definitions are inserted under this Part as sections 4, (Baseline of Kiribati), 8 (Contiguous zone), and 10 (Continental Shelf). The rest of the sections i.e. section 5 (Internal waters of Kiribati), 6 (Territorial Sea), 7 (Archipelagic waters), 9 (Exclusive Economic Zone), 11 (Exercise of Sovereign rights), 11 (Designation of Sealanes and Air Routes), and 13 (Due Publicity) remained as they were but had been slightly amended/re-phrased for simplicity.

Part III is now inserted as a final part which covers 2 sections. Section 14 specifies the Minister's power to make regulations for the purposes of carrying into effect this Act which was originally addressed under Part II of the 1983 Act. Section 15 provides for provisions on the repeal and savings from the old Act to this 2011 Act.

Titabu Tabane  
Attorney-General  
1July 2011