



Tuvalu

VISITING FORCES ACT

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Tuvalu

VISITING FORCES ACT

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Tuvalu

VISITING FORCES ACT

AN ACT TO MAKE PROVISION FOR THE BASIC CONDITIONS ON WHICH DEFENCE FORCES OF FRIENDLY COUNTRIES, TOGETHER WITH CIVILIAN SUPPORT STAFF, AND THEIR FAMILIES, MAY BE IN TUVALU; AND THE APPLICATION OF THE LAWS OF TUVALU IN SUCH CASES; AND AGREEMENTS BETWEEN TUVALU AND OTHER COUNTRIES IN SUCH MATTERS, AND FOR RELATED PURPOSES.¹

Commencement [1 June 1984]

PART I. - PRELIMINARY

1 Short title

This Act may be cited as the Visiting Forces Act.

2 Interpretation

(1) In this Act —

“**authorized officer**” means a person appointed by the Secretary to Government to be an authorized officer for the purposes of this Act;

“**dependant**”, in relation to a member of a visiting force or of a civilian component of a visiting force, means a person (not being a citizen of, or a person ordinarily resident in, Tuvalu) who —

- (a) is the spouse of the member; or
- (b) is wholly or mainly maintained by the member; or
- (c) is in the custody, care or charge of the member; or
- (d) is one of the family of the member residing with the member;

“**the designated authority**” has the meaning given to it by Subsection (5);

“**forces**”, in relation to a country, means the naval, military and air services of that country;

“**member of a civilian component**”, in relation to a visiting force, means a person (not being a member of the visiting force or a citizen of, or a person ordinarily resident, in Tuvalu) —

- (a) who is employed by or in the service of —
 - (i) the visiting force or a part of the visiting force; or
 - (ii) an organization established for the benefit or welfare of the visiting force and recognized by the designated country; or
- (b) who is —
 - (i) serving in an organization that, with the approval of the Minister or in accordance with a visiting forces agreement, is accompanying the visiting force; or
 - (ii) attached to or accompanying the visiting force and, in accordance with the law of the sending country, is subject to the service law of that country, but does not include a dependant of a member of the visiting force or of a person referred to in paragraph (a) or (b);

“**member of a visiting force**” means a person who, in accordance with the law of the sending country, is serving as a member of the visiting force, including a person to whom Subsection (4) applies;

“**ordinarily resident**” shall be read subject to Subsection (3);

“**person subject to the jurisdiction of foreign service tribunals and service authorities**” has the meaning given to that expression by Section 9;

“**relevant association**”, in relation to a visiting force, has the meaning given to that expression by Subsection (2);

“**the sending country**”, in relation to a visiting force, means the country to whose forces the visiting force belongs;

“**service authorities**”, in relation to a country, means the naval, military and airforce authorities of that country;

“**service law**”, in relation to a country, means the law (including any document having the force of law) governing all or any of the forces of that country;

“**service tribunal**”, in relation to a country or a visiting force, means a court martial or analogous tribunal established under the service law of that country, or of the country sending the visiting force, as the case may be, and includes any authority of that country that is empowered by or under the law of that country —

- (a) to review the proceedings of such tribunal, or
- (b) to try or investigate charges brought against persons subject to the service law of that country;

“**visiting force**” means any body, contingent or detachment of the forces of a country that is present in Tuvalu under a visiting forces agreement;

“**visiting forces agreement**” means an agreement under Section 6.

- (2) A reference in this Act to a person’s having at any time a relevant association with a visiting force shall be read as a reference to his being at that time —
 - (a) a member of the visiting force or of a civilian component of that force; or
 - (b) a person (not being a citizen of, or a person ordinarily resident in, Tuvalu) who is a dependent of a member of —
 - (i) the visiting force; or
 - (ii) a civilian component of that force.
- (3) For the purposes of this Act, in determining whether a person is, or was at any time, ordinarily resident in Tuvalu, account shall not be taken of any period during which he has been or intends to be in Tuvalu as —
 - (a) a member of a visiting force or of a civilian component of a visiting force; or
 - (b) a dependant of a member of a visiting force or of a member of a civilian component of a visiting force.
- (4) For the purposes of this Act, a member of a force of a country that is in the nature of a reserve or auxiliary force shall be deemed to be a member of the forces of that country while —
 - (a) he is called into actual service (by whatever expression described) with those forces; or
 - (b) he is called out for training with those forces,and any reference in this Act to a person’s becoming a member of the forces of a country shall be read accordingly.
- (5) A reference in any provision of this Act to the designated authority of a country shall be read as a reference to the authority designated for the purposes of that provision by the appropriate authority or officer of that country, and where any question arises as to what or who is the appropriate authority or officer the certificate of the Minister is final.

3 General application of laws of Tuvalu

- (1) Except as expressly provided by or under this Act, all members of visiting forces and of civilian support staff, and their dependants, are subject to all laws of Tuvalu.

- (2) Subject to Part II, this Act does not confer any rights or privileges on members of a visiting force, or on civilian support staff, or their dependants, who are citizens of, or persons ordinarily resident in, Tuvalu.

4 Effect of visiting forces agreements

This Act (other than Part II) shall be read subject to any provision to the contrary contained in a visiting forces agreement.

5 Countries to which this Act applies

A reference in this Act to a country in relation to which a provision of this Act applies shall be read as a reference to a country declared by the Minister, by notice, to be a country to which that provision applies.

PART II. - VISITING FORCES AGREEMENTS

6 Visiting forces agreements

- (1) Subject to this Act, the Minister may enter into an agreement with the appropriate authorities of another country relating to the presence of the forces, or any part of the forces, of the other country in Tuvalu, and for purposes connected with their presence.
- (2) An agreement under Subsection (1) may provide that any of the provisions of this Act —
- (a) do not apply; or
 - (b) apply subject to such variations, conditions or restrictions as are provided for in the agreement,
- to or in relation to —
- (c) part or all of a visiting force of a country that is a party to the agreement or of a civilian component of any such force; or
 - (d) a dependant of a member of such a force or of a member of a civilian component of such a force.
- (3) An agreement referred to in Subsection (2) —
- (a) shall be laid before Parliament as soon as practicable, and in any event not later than the end of the first session to commence after it is entered into; and
 - (b) may be disallowed by Parliament, by resolution, during the session at which it is so laid or the next session.

7 Settlement of certain claims

- (1) A visiting forces agreement may provide for the settlement of claims arising out of death or injury to persons or damage to property.
- (2) Where a visiting forces agreement by which payments of amounts in satisfaction of claims arising out of nets or emissions of —
 - (a) members of a visiting force; or
 - (b) members of a civilian component of a visiting force; or
 - (c) persons connected with a visiting force or a civilian component of a visiting force,

are to be, or may be, made by the Government, payment by the Government of such an amount, as agreed on or determined by judicial process between the Government and the claimant, is a full discharge of the liability of the Government or other person against whom the claim was made.

PART III. - JURISDICTION**8 Basic right to jurisdiction of foreign service tribunals, etc.**

For all purposes of the law of Tuvalu, the service tribunals and service authorities of a country in relation to which a visiting forces agreement has been entered into may, within Tuvalu and to the extent provided for by this Part, exercise over persons subject to their jurisdiction all such powers as are conferred on them by the laws of that country.

9 Persons subject to foreign service tribunals, etc.

- (1) Subject to Subsection (2), the persons subject to the jurisdiction of the service tribunals and service authorities of another country for the purposes of this Part are —
 - (a) members of any visiting force of the other country; and
 - (b) all other persons (not being citizens of, or persons ordinarily resident in, Tuvalu) who are otherwise subject to the service law of the other country, as provided in that law.
- (2) Subsection (1) does not apply in relation to a person —
 - (a) who became, or last became, a member of the forces of the country concerned at a time where he was in Tuvalu; and
 - (b) did so without his consent.

10 Exclusive jurisdiction of foreign service tribunals, etc.

Subject to Sections 11 and 12, the service tribunals and service authorities of a country to which a visiting forces agreement applies have jurisdiction, to the exclusion of the courts, tribunals and authorities of Tuvalu, in respect of all acts and omissions in Tuvalu committed by persons subject to the jurisdiction of those service Tribunals and service authorities punishable under the laws of that country but not under the laws of Tuvalu.

11 Exclusive jurisdiction of Tuvalu tribunals, etc.

The courts, tribunals and authorities of Tuvalu have jurisdiction, to the exclusion of the courts, tribunals and authorities of another country to which a visiting forces agreement applies, in respect of all acts and omissions committed in Tuvalu by persons subject to the jurisdiction of the service tribunals and service authorities of the other country that are punishable under the laws of Tuvalu but not under the laws of that country.

12 Concurrent jurisdiction

In the case of an act or omission by a person subject to jurisdiction of the service tribunals and service authorities of another country to which a visiting forces agreement applies that is punishable under the laws of Tuvalu and under the laws of the other country, then unless the Minister, on behalf of Tuvalu¹ or the designated authority of the other country, on behalf of his country, waives jurisdiction by written notice to the other —

- (a) the service tribunals and the service authorities of the other country have, subject to Section 13, exclusive jurisdiction if the act or omission constitutes an offence under the laws of Tuvalu that —
 - (i) arose out of and in the course of the duties of the member as a person subject to the jurisdiction of the service tribunals and service authorities of the other country; or
 - (ii) is an offence solely against the property or security of the other country; or
 - (iii) is an offence solely against the person or the property of a member of a visiting force or a member of a civilian component of a visiting force, or a dependant of any such person; and
- (b) in any other case the courts and tribunals of Tuvalu have exclusive jurisdiction.

13 Procedural provisions

- (1) This Part —

- (a) does not prevent a person from being tried by a court or tribunal of Tuvalu in a case where the Attorney-General certifies in writing, before or during the course of the trial, that the designated authority of the sending country has notified him that it is not proposed to deal with the case under the law of that country; and
 - (b) does not affect anything done or omitted in the course of a trial before a court or tribunal of Tuvalu unless in the course of the trial objection has already been made that, by person of this Part, the court or tribunal is not competent to deal with the case; and
 - (c) shall not be treated after the conclusion of a trial as having affected the validity of the trial, if no objection was made in the proceedings at any stage before the conclusion of the trial.
- (2) Where the charge is a charge (by whatever words expressed) of attempting or conspiring to commit an offence or of aiding, abetting, inciting, procuring or being necessary to the commission of an offence —
- (a) Section 12 (a) (ii) and (iii) have effect as if the references in those subparagraphs to the alleged offence were references to the offence —
 - (i) that the person charged is alleged to have attempted or conspired to commit; or
 - (ii) the commission of which it is alleged that he aided, abetted, incited or procured; or
 - (iii) to the commission of which he was accessory; and
 - (b) references in those subparagraphs to a person in relation to whom, or property in relation to which, the offence is alleged to have been committed shall be construed accordingly.
- (3) The preceding provisions of this Part do not derogate from any provision of law that restricts the prosecution of any proceedings or requires the consent of any authority to the prosecution of any proceedings.

14 Effect of decisions of foreign service tribunals

- (1) Where a person has, in accordance with this Part, been tried for an offence by a service tribunal of another country, he shall not be tried by a court or tribunal of Tuvalu for an offence that is substantially the same offence.
- (2) Where —
- (a) a person who has, in accordance with this Part, been convicted of an offence by a service tribunal of another country is convicted by a court or tribunal of Tuvalu of a different offence; and
 - (b) it appears to the court or tribunal that the conviction by the service tribunal was wholly or partly in respect of acts or omissions in respect of which he is convicted by the court or tribunal,

then in determining any penalty that may be imposed or order that may be made the court or tribunal may have regard to the sentence of service tribunal.

15 Arrest, custody, etc., of offenders against law of Tuvalu

- (1) The preceding provisions of this Part do not affect —
 - (a) any power of arrest, search, entry, seizure or custody exercisable under any law with respect to offences; or
 - (b) any obligation of a person in respect of a recognizance or bail bond entered into in consequence of his arrest, or the arrest of another person, or
 - (c) any power of a court or tribunal to remand (whether in custody or otherwise) a person brought before a court or tribunal in connexion with an offence.
- (2) Where a person is charged before a court or tribunal of Tuvalu with an offence against a law of Tuvalu and it appears that under this Act he is subject to the jurisdiction of the service tribunal of another country, the designated authority of that country shall be notified.
- (3) Where a person is charged before a court or tribunal of Tuvalu with an offence against a law of Tuvalu and it appears to the court or tribunal before which he is charged that he is a person subject to the jurisdiction of a country to which this Part applies, the court or tribunal shall determine a period that it thinks reasonable to enable enquiries to be made with a view to determining whether he should be dealt with by a court or tribunal of Tuvalu or by a service tribunal of that country, and further proceedings with respect to the offence are stayed for that period.
- (4) Where —
 - (a) a person referred to in Subsection (3) is remanded in custody by order of a court or tribunal; and
 - (b) the Minister, by writing under his hand —
 - (i) states that the designated authority of the sending country has requested that the person be delivered into the custody of a service authority of that country pending trial; and
 - (ii) requests that he be so delivered, the court or tribunal shall revoke the order and order that the person be so delivered.
- (5) Where a member of a visiting force or of a civilian component of a visiting force or a dependant of such a person, is sentenced to a term of imprisonment by a court or tribunal of Tuvalu, the Minister may arrange with the authorities of the country to which the force belongs for all or part of that sentence to be served, under agreed conditions, in that country.

16 Imprisonment, etc., of persons sentenced by foreign service tribunals

- (1) Where the designated authority of a country to which this Part applies asks the Minister for assistance in carrying out a sentence of imprisonment or detention imposed on a person by a service tribunal of that country, the Minister may, by writing under his hand, authorize —
 - (a) the reception of the person sentenced, and
 - (b) his confinement for the whole or part of the term of his sentence, in a prison or other place in Tuvalu for the confinement of persons convicted of offences against the law of Tuvalu.
- (2) A person held under custody or restraint, or kept in confinement, for the purpose of giving effect to an authority under Subsection (1) is in lawful custody, and the Prisons Act² applies to and in relation to him as if he were a prisoner serving a sentence of imprisonment imposed by a court of Tuvalu.
- (3) The regulations made under section 47 may make provision with respect to the circumstances under which persons imprisoned or detained in accordance with this section may be discharged or returned to the service authorities of the country under the service law of which they were sentenced.

17 Carrying out of death penalties

Notwithstanding any other law, a sentence of death passed by a service tribunal of another country shall not be carried out in Tuvalu.

18 Validity of acts of foreign service tribunals, etc.

- (1) Where a sentence has been passed, whether inside or outside Tuvalu, by a service tribunal of a country to which this Part applies on a person who, immediately before the sentence was passed, was subject to the jurisdiction of the tribunal, then for the purpose of any proceedings before a court or tribunal of Tuvalu —
 - (a) the service tribunal shall be deemed to have been properly constituted; and
 - (b) the sentence shall be deemed to be within the jurisdiction of the service tribunal and in accordance with the laws of that country; and
 - (c) subject to Section 17, the sentence, if executed according to its tenor, shall be deemed to have been lawfully executed.
- (2) For the purpose of any proceeding before a court or tribunal of Tuvalu, a person who —
 - (a) is detained in custody under a sentence with respect to which subsection (1) has effect; or

- (b) being subject to the jurisdiction of a country to which this Part applies - is detained in custody pending or clueing the trial, by a service tribunal of that country, of a charge brought against him,
- shall be deemed to be in lawful custody.

19 Assistance to foreign service tribunals, etc.

For the purpose of enabling the service tribunals and service authorities of a country to which a visiting forces agreement applies to exercise more effectively their powers under this Part, the Minister; if requested by the designated authority of that country, may authorize members of the Police Force —

- (a) to arrest any person who, being a person subject to the jurisdiction of the service tribunals and service authorities of that country, is alleged to have committed and act or omission punishable under the law of that country; and
- (b) to deliver him to such service authority of that country as the Minister specifies.

PART IV. - DESERTERS AND ABSENTEES WITHOUT LEAVE

20 Interpretation of Part IV

Subject to Section 24, a reference in this Part to the country to which a person belongs shall be read as a reference to the country from whose forces he is suspected of being, or, where he has surrendered himself, appears from his statement to be, a deserter or absentee without leave.

21 Apprehension of deserters and absentees without leave

Where the designated authority of a country to which a visiting forces agreement applies requests, in writing, an authorized officer for assistance in the apprehension of a member of the forces of that country who is a deserter or an absentee without leave from those forces, the authorized officer may issue a warrant in the prescribed form authorizing any police officer to arrest the deserter or absentee.

22 Detention of illegal absentees

A police officer may detain —

- (a) a person arrested under Section 21; or
- (b) a person who surrenders himself as being illegally absent from the forces of a country to which a visiting forces agreement applies, at a

police station or at a place provided for the confinement of persons in lawful custody for such time as is reasonably necessary to enable the person to be dealt with in accordance with Section 23.

23 Disposal of detained illegal absentees

- (1) Subject to this section, a person detained under Section 22 shall be delivered into the custody of the service authorities of the country to which he belongs at the place, inside or outside Tuvalu, specified in the warrant or otherwise directed by an authorized officer.
- (2) Where the person detained, claims that there is a good and sufficient reason why he should be released from custody, his claim shall be referred to an authorized officer.
- (3) After such investigation of the matter as he thinks necessary, the authorized officer may —
 - (a) if he is satisfied that the person detained should be released - direct that he be released; or
 - (b) if he is not so satisfied, refer the matter to the Minister.
- (4) Where a matter is referred to the Minister under Subsection (3) (b), the Minister may direct that the person detained be released or be delivered into custody in accordance with Subsection (1).
- (5) Where the Minister or an authorized officer directs under this section that a person be released, he shall be released accordingly.
- (6) For the purposes of any law of Tuvalu, a person detained under Section 22 or delivered into custody in accordance with Subsection (1) is a person in lawful custody.
- (7) A person shall not be delivered into custody in accordance with Subsection (1) unless arrangements have been made, to the satisfaction of the Minister, for the payment by the other country concerned of any expense involved in his detention and delivery.

24 Evidence

For the purposes of this Part and of any proceedings in a court or otherwise arising in connexion with any action taken under this Part, where the designated authority of a country in relation to which a visiting forces agreement applies certifies in writing that a person named and described in the certificate was, on a specified date, a deserter or an absentee without leave from the forces of that country, the certificate is sufficient evidence of the facts certified, unless the contrary is proved.

PART V. - INQUESTS AND REMOVAL OF DEAD BODIES

25 Inquests

- (1) In this section, “homicide” includes murder, manslaughter and infanticide, and any other offence under the law of the country concerned that is substantially similar to any of those offences.
- (2) Where a magistrate having jurisdiction to hold an inquiry into the manner and cause of a death is satisfied that the deceased person had, at the time of his death, relevant association with a visiting force, the magistrate shall advise the Attorney-General accordingly and —
 - (a) shall not hold the inquiry; or
 - (b) if the inquiry has been commenced but has not been completed, shall adjourn the inquiry.
- (3) Subject to Subsection (4), if on an inquiry into the manner and cause of a death the magistrate is satisfied —
 - (a) that a person who, in accordance with Part III, is subject to the jurisdiction of the service tribunals of a country to which a visiting forces agreement applies, has been charged before a service tribunal of that country with the homicide of the deceased person, whether or not the charge has been dealt with; or
 - (b) that such a person is being detained by an authority of that country with a view to his being so charged,

the magistrate shall adjourn the inquiry and advise the Attorney-General accordingly.
- (4) Subsection (3) does not prevent the magistrate from —
 - (a) taking evidence of the identity of the deceased person and of the time and place of his death; or
 - (b) furnishing information to the appropriate authority of Tuvalu for the purpose of the registration of the death; or
 - (c) subject to Section 26, authorizing the burial, cremation or other disposal of the body of the deceased person.
- (5) Notwithstanding this section, the Attorney-General may notify the magistrate that there are no circumstances connected with the operation of this Act that make it undesirable that an inquiry into the manner and cause of a specified death should be held or continued, as the case may be, and if the Attorney-General gives such a notification the inquiry may be held or resumed.
- (6) In this section —

“**inquiry**” means an inquiry under the Death and Fire Inquiries Act;³

“**magistrate**” includes a person appointed under Section 14 of the Death and Fire Inquiries Act to hold inquiries under that Act.

26 Removal of dead bodies

- (1) This section applies to the body of a deceased person who, immediately before his death, had a relevant association with a visiting force.
- (2) Except as provided in Subsection (3), no law of Tuvalu that prohibits or restricts the removal from Tuvalu, or from a part of Tuvalu, of the bodies of deceased persons applies to or in relation to a body to which this section applies.
- (3) A body to which this section applies may be disposed of in such manner as the Minister determines, having regard to any request by the designated authority of the country concerned.

PART VI. - RESTRICTIONS ON CERTAIN PROCEEDINGS

27 Restrictions on proceedings in respect of certain service

Proceedings shall not be brought in any court or Tribunal of Tuvalu in respect of —

- (a) the pay or allowances of a person in respect of his service as a member of a visiting force or of a civilian component of a visiting force; or
- (b) the terms of a person’s service as such a member; or
- (c) a person’s discharge from the service of a visiting force or of a civilian component of a visiting force.

PART VII. - CONCESSIONS, PRIVILEGES, ETC.

28 Application of certain laws

- (1) Subject to this Act, all laws relating to —
 - (a) quarantine; and
 - (b) public health and buildings; and
 - (c) plant and animal diseases and pests; and
 - (d) firearms; and
 - (e) explosives and ammunition; and
 - (f) inflammable liquids; and
 - (g) alcoholic drinks; and

- (h) drugs and poisons; and
- (i) motor traffic,

with any necessary modifications, apply to and in relation to a visiting force or a civilian component of a visiting force in the same way that they apply to and in relation to the Police Force.

- (2) The regulations made under Section 47, or in any particular case a visiting forces agreement, may determine the modifications to be made, for the purpose of Subsection (1), to any law referred to in that subsection.

29 Official documents of visiting forces

- (1) Official documents and official correspondence to, from or within a visiting force are subject to Customs or other inspection under any law only if similar documents and correspondence of Tuvalu would be subject to inspection, and on the same terms and conditions.
- (2) For the purposes of Subsection (1), if the liability to inspection of any document or correspondence of Tuvalu would depend on the giving or withholding by a Minister of a permission, consent or certificate, or on some other action of a Minister, that subsection applies as if any relevant reference to the Minister were a reference to the designated authority of the country concerned.
- (3) For the purpose of identifying official documents and official correspondence, the sending country may provide to the Minister a facsimile of an official seal which, when placed on a document or placed on or attached to a container, shall be taken as a certificate that —
 - (a) the document is an official document; or
 - (b) the container contains only official documents and official correspondence,as the case may be.

30 Imports

- (1) Subject to this section, all goods required by a visiting force or a civilian component of a visiting force for its official use may be imported free of all duties, levies and taxes.
- (2) The Minister or a visiting forces agreement may impose limitations and restrictions on the exercise of the privilege granted by Subsection (1) in order to ensure that, subject to considerations of operational efficiency, the maximum use is made of goods and services available in Tuvalu.
- (3) Goods imported in accordance with Subsection (1) may be disposed of only —

- (a) by destruction or re-export; or
 - (b) in the case of unforeseen surpluses or damaged or unserviceable goods, and with the consent of the Minister - by gifts or sale.
- (4) Unless the Minister otherwise determines, where goods are disposed of in accordance with Subsection (3) (b) the person to whom they are disposed of, or at its option the visiting force, is liable to pay the amount as assessed by the Customs Officer, of all duties, levies and taxes that would be payable if the goods were imported from the sending country on the date of disposal, less an allowance for any part or component of the goods or of their value that represents goods or services obtained in Tuvalu.

31 Dangerous goods

- (1) The Minister may direct that any explosive, oil or nuclear material, or any other prescribed dangerous substance or thing, shall not be imported, held or disposed of except into or in such places, and in such manner, as he directs.
- (2) The Minister may direct that nuclear material or any other prescribed dangerous substance or thing shall not be imported or brought into the waters of Tuvalu or any part of those waters, (whether as part of the equipment of a vessel or aircraft or otherwise) except with his prior consent and subject to such conditions as he thinks proper.

32 Official vehicles, vessels and aircraft

- (1) Subject to Subsection (2), a vehicle, vessel or aircraft —
 - (a) that is for the official use of a visiting force or of a civilian component of a visiting force; and
 - (b) as to which there is an official certificate by the designated authority of its roadworthiness, seaworthiness or airworthiness, as the case may be —
 - (i) to the standard required of vehicles, vessels or aircraft for the official use of the Government, or
 - (ii) if in any case there is no such standard prescribed to a standard approved by the Minister for the purpose, is exempt from any requirement of any law for the registration or licensing of vehicles, vessels or aircraft, as the case may be.
- (2) Notwithstanding subsection (1), the regulations made under Section 47 may require that the prescribed details of a vehicle, vessel or aircraft to which that subsection refers be furnished to the prescribed authority.
- (3) The provisions of any law relating to —
 - (a) compensation or damages arising out of the use of a vehicle, vessel or aircraft; or

- (b) insurance against liability for any such compensation or damages; or
 - (c) insurance against liability for any such compensation or damages, apply to a vehicle, vessel or aircraft to which Subsection (1) applies.
- (4) A licence or similar document is sued by a visiting force, or by a civilian component of a visiting force, authorizing a member of that force or civilian component to drive, or to perform any other function in relation to, a vehicle, vessel or aircraft to which Subsection (1) applies shall be deemed to be a licence or other document required by any law to be held by persons driving or performing that function in relation to other vehicles, vessels or aircraft.
- (5) The privileges conferred by this section apply only while a vehicle, vessel or aircraft is in official use by the visiting force or the civilian component.

33 Movement of official vehicles, vessels and aircraft

- (1) Subject to this Act and to any directions of the Minister as the priority for vehicles, vessels and aircraft of the Government, official vehicles, vessels and aircraft of a visiting force, or of a civilian component of a visiting force, may enter and move about, and use facilities, in, Tuvalu on the same conditions (including conditions relating to fees, charges and tolls) as vehicles, vessels and aircraft of the Government.
- (2) Subject to this Act and to any directions of the Minister as to the manner of exercise of the privilege, official vehicles, vessels and aircraft of a visiting force, or of a civilian component of a visiting force, have the right to freedom of movement into and out of any land, premises or place occupied or used by the visiting force under Section 34.

34 Occupation of land, premises and places

- (1) Subject to any directions of the Minister and to Section 5 of the Native Lands Act⁴ a visiting force, or a civilian component of a visiting force, may enter into an agreement or arrangement with any person for the occupation or use by it of any land, premises or place.
- (2) By arrangement with the Minister, a visiting force may occupy or use any land, premises or place the property of, or under the control of, the Government.
- (3) Unless the arrangement under Subsection (2) provides otherwise, all installations placed on any land, premises or place occupied or used under that subsection become, on the cessation of the occupation or use, the property of the Government.

35 Control of installations

- (1) Subject to any arrangement with the Minister, where a visiting force, or a civilian component of a visiting force, has the use or occupation of any land, premises or place under Section 34 it has the same control over —
 - (a) the land, premises or place; and
 - (b) persons, goods, vehicles, vessels and aircraft entering, leaving or being on or in the land, premises or place,

as the Government would have if it had the equivalent use or occupation, and the laws that would apply to the powers of the Government if it had the use or occupation apply, with the necessary modifications, in relation to the visiting force or civilian component in the same way as they apply in relation to the Government.

- (2) Notwithstanding Subsection (1) but subject to Part III, a visiting force, or a civilian component of a visiting force, may exercise in relation to —
 - (a) its members and dependants of its members on or in the lands, premises or place of which it has the use or occupation under Section 34; and
 - (b) other persons on or in the land, premises or place only by permission or at the invitation of the visiting force or civilian component, or of a member of or a dependant of such a member;

any power that it might exercise if the land, premises or place were situated in the sending country.

36 Telecommunications

- (1) By arrangement with the Minister, a visiting force may install, maintain and operate telecommunications systems and telecommunication stations for the purpose of command and control of the force, subject to the same technical and operational requirements that would apply to similar systems and stations installed, maintained or operated by or on behalf of the Government.
- (2) A visiting force is entitled —
 - (a) to have granted to it, within the limits of frequencies available, radio frequencies for the purpose of telecommunication systems and stations installed, maintained or operated under Subsection (1), on reasonable conditions; and
 - (b) with the consent of the Minister, to make use of telecommunication systems and stations owned or operated by any other person (including the Government) on equivalent conditions to those on which the Government may do so.
- (3) A visiting force does not require, for or in connexion with the installation, maintenance or operation of a telecommunication system or station under Subsection (1), any permit, approval or licence under the Tuvalu

Telecommunications Act⁵ or any other law of Tuvalu (including any licence otherwise required by members of the visiting force, or of a civilian component of it, employed in connexion with the system or station).

- (4) Notwithstanding the preceding provisions of this section, a visiting force shall comply with any reasonable requirement of the Minister with regard to the operation of any telecommunication system or station operated under Subsection (1).

37 Navigational aids

By arrangement with the Minister, a visiting force may install, maintain and operate navigational aids and tracking stations (in addition to any such aids and stations to which Section 36 applies), subject to the same technical and operational requirements that would apply to similar aids or stations installed, maintained or operated by or on behalf of the Government.

38 Surveys, etc.

- (1) Subject to any directions of the Minister, a visiting force may conduct topographical, hydrographical, geodetic and other surveys, provided that details and results are promptly made available to the Government.
- (2) Except with the consent of the Minister, the details and results of any survey referred to in Subsection (1) shall not be made available to any person other than —
 - (a) the Government; or
 - (b) a member of the visiting force or a civilian component of the visiting force for the purpose of his duties as such.

39 Postal services

- (1) By arrangement with the Minister a visiting force, or a civilian component of a visiting force, may conduct postal services for the members of the force and of the civilian component, both within Tuvalu and between Tuvalu and other places.
- (2) An arrangement under Subsection (1) may include provision for payment to the Government or to the Tuvalu Philatelic Bureau of amounts by way of compensation for loss of revenue.
- (3) Subject to Section 29, all laws relating to the protection of postal services conducted by or on behalf of the Government, and the protection and inspection of postal articles carried in any such service, apply with any necessary modifications, to and in relation to a postal service . conducted under Subsection (i), and for the purpose of any prosecution the property in

any postal article may be laid in the commanding officer of the visiting force under that title.

40 Employment

All laws relating to employment apply to the employment of persons (other than members of the visiting force or of the civilian component) by a visiting force or by a civilian component of a visiting force.

PART VIII. - PROVISIONS RELATING TO INDIVIDUALS

41 Application of Part VIII.

This Part does not apply to citizens of or persons who are ordinarily resident in, Tuvalu, or to the dependants of any such persons.

42 Modification of certain laws

Subject to this Act, the Minister may enter into an agreement exempting the members of a visiting force or of a civilian component of a visiting force, or persons connected with a visiting force or a civilian component of a visiting force, from compliance with all or any provisions of the laws of Tuvalu relating to —

- (a) income tax; and
- (b) entry requirements; and
- (c) importation of personal effects; and
- (d) importation of vehicles and vessels,

subject to such conditions, limitations or requirements as are specified in the agreement.

43 Currency

Members of a visiting force and members of a civilian component of a visiting force, and dependants of such members, are bound by all laws of Tuvalu relating to currency and exchange control.

44 Quarantine and health

This Part does not exempt any person from the provisions of any law relating to quarantine or health.

45 Customs and migration formalities

This Part does not exempt any person from any customs or migration formalities.

PART IX. - EVIDENCE

46 Evidence of certain matters

(1) Where the designated authority of a country to which Part III applies in writing that, at a time specified in the certificate, a person so specified was or was not —

- (a) a member of a visiting force of that country; or
- (b) a member of a civilian component of a visiting force of that country; or
- (c) a person otherwise subject to the service law of that country, as provided in that law,

the certificate is, in any proceedings in a court or tribunal of Tuvalu, sufficient evidence of the facts certified, unless the contrary is proved.

(2) Where in connexion with a charge against a person of having committed an offence against a law of Tuvalu, the designated authority of a country to which a visiting forces agreement applies certifies in writing that the act or omission the subject of the charge is punishable under the law of that country, the certificate is, in any proceedings before a court or tribunal of Tuvalu, conclusive evidence, for the purposes of Sections 10, 11 and 12 of the matter certified.

(3) Where the designated authority of a country to Which Part III applies certifies in writing that a person specified in the certificate —

- (a) was on a specified date sentenced by a service tribunal of that country to a specified punishment; or
- (b) is, or was at a specified time, detained in custody under a sentence passed on him by a service tribunal of that country, or pending or during the trial by such a service tribunal of a charge brought against him; or
- (c) has been tried, at a specified time and place, by a service tribunal of that country for a specified offence,

the certificate is, in any proceedings before a court or tribunal of Tuvalu, conclusive evidence of the facts certified.

(4) Where —

- (a) a person is charged with an offence against a law of Tuvalu; and

- (b) at the time when the offence is alleged to have been committed he was a member of a visiting force or of a civilian component of a visiting force; and
- (c) the Attorney-General certifies in writing that, if the alleged offence was committed by that person, it arose out of and in the course of his duties as a person subject to the jurisdiction of the service tribunals and service authorities of a country in relation to which a visiting forces agreement has been entered into,

the certificate is, in any proceedings before a court or tribunal of Tuvalu, sufficient evidence of the facts certified, unless the contrary is proved.

- (5) Where the designated authority of a country certifies in writing that a body, contingent or detachment of the forces of that country is, or was at a time specified in the certificate, present in Tuvalu, the certificate is, in any proceedings before a court or tribunal of Tuvalu, conclusive evidence of the facts certified.
- (6) Where, in any proceedings before a court or tribunal of Tuvalu, it is admitted or proved (whether by means of a certificate under subsection (5) or otherwise) that a body, contingent or detachment of the forces of a country is, or was at a certain time, present in Tuvalu, then, for the purposes of those proceedings, the body, contingent or detachment shall be deemed to be, or to have been at that time, as the case may be, present in Tuvalu by virtue of a visiting forces agreement, unless —
 - (a) the Minister certifies to the contrary; or
 - (b) the contrary is proved.
- (7) Where —
 - (a) in a certificate given for the purposes of this Act reference is made to a person by name; and
 - (b) the certificate includes a description of the person named by reference to his physical characteristics; and
 - (c) a court or tribunal of Tuvalu is satisfied that a person before it is —
 - (i) a person having that name and answering to the description in the certificate; or
 - (ii) where his name cannot be determined with certainty a person answering to the description,

the certificate shall be taken to refer to him, unless the contrary is proved.

- (8) A document purporting to be a certificate, request or notification given or made for the purposes of this Act, and to be signed by an authority or person specified in the document, shall on its production in any proceedings before a court or tribunal of Tuvalu —
 - (a) be received in evidence; and

- (b) be taken to be a certificate, request or notification given or made by that authority or person, unless the contrary is proved.
- (9) Where under this Act a certificate, request or notification is required or permitted to be given or made for the purposes of this Act, and a certificate, request or notification purports to be signed by a person described in the document as the designated authority of a country, he shall, in any proceedings before a court or tribunal of Tuvalu, be taken to the designated authority of the country, unless the contrary is proved.

PART X – MISCELLANEOUS

47 Regulations

The Minister may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

ENDNOTES

¹ 1990 Revised Edition, Cap. 70A – Act 4 of 1984

Note also –

The United Kingdom Forces (Jurisdiction Of Colonial Courts) Order 1965 (S.I. 1965/1203) (SRO 1922/811) withdrew the jurisdiction of civil courts to try members of Her Majesty's forces, or their civilian components, for offences committed while on duty and certain offences committed while off duty.

² Cap. 20.28

³ Cap. 7.16

⁴ Cap. 46.20

⁵ Cap. 35.05