



REPUBLIC OF KIRIBATI

ENVIRONMENT ACT 1999

PHOENIX ISLANDS PROTECTED AREA REGULATIONS 2008

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In exercise of the powers conferred by sections 43(1) and 86(1) of the *Environment Act* 1999, and acting in accordance with the advice of the Cabinet, I hereby make the following Regulations—

1. Title

These regulations are called the *Phoenix Islands Protected Area Regulations* 2008.

2. Objective

- (1) The objective of these Regulations is to prescribe a protected area for the terrestrial and marine resources of the Phoenix Islands, subject to such conditions as are included herein.
- (2) The further objective of these Regulations is to prescribe particular licences and permits for regulating certain activities in the Phoenix Islands Protected Area and to establish a schedule of penalties for all activities affecting the Phoenix Islands Protected Area.
- (3) The further objective of these Regulations is to implement the Cabinet decision of 20 March 2006, approving the nomination of the Phoenix Islands Protected Area to the World Heritage Committee established under the World Heritage Convention, for inclusion on the World Heritage list.

3. Commencement

These regulations come into operation on the day they are published at the Office of the Beretitani.

4. Definitions

In these Regulations—

“Act” means the *Environment Act* 1999;

“IUCN” means the World Conservation Union;

“management plan” means a set of principles, practices, and procedures applicable to the terrestrial and marine resources of the Phoenix Islands, duly established pursuant to the terms of sections 45 and 47 of the Act;

“management committee” means that committee duly established by the Minister pursuant to the terms of section 46 of the Act;

“Minister” means the Minister for the time being responsible for the environment;

“Ministry” means the Ministry for the time being responsible for the environment;

“PIPA” means the Phoenix Islands Protected Area;

“protected area” within the context of the PIPA means a large, zoned, multi-use land and marine area managed for conservation and sustainable use under IUCN Category Ib - Wilderness Area;

“public authority” has the same meaning as in the Act.

5. Protected area prescription and World Heritage nomination

- (1) The Minister hereby prescribes the following area as an area protected for conservation and sustainable use purposes pursuant to section 43 of the Act—

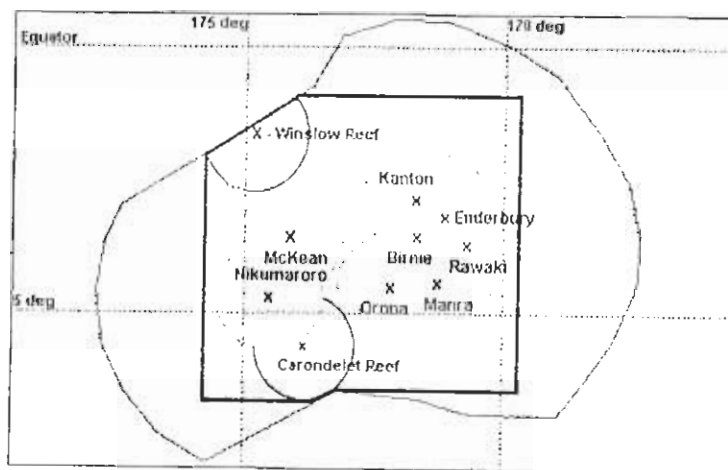
Birnie Island
 Enderbury Island
 Kanton (otherwise known as Abariringa or Canton) Island
 Manra (otherwise known as Sydney) Island
 McKean Island
 Nikumaroro (otherwise known as Gardner) Island
 Orona (otherwise known as Hull) Island and
 Rawaki (otherwise known as Phoenix) Island,

the lagoons and internal waters (if any) of each island, and those parts of the adjacent Kiribati territorial sea and exclusive economic zone within the area bounded by straight lines connecting the following points in the order stated.

PIPA Boundaries

| LONGITUDE | LATITUDE |
|-----------|----------|
| 185.757 | -0.983 |
| 190.294 | -0.983 |
| 190.294 | -2.298 |
| 190.294 | -4.846 |
| 190.294 | -6.466 |
| 186.831 | -6.471 |
| 186.490 | -6.616 |
| 184.685 | -6.616 |
| 184.134 | -6.618 |
| 184.134 | -2.091 |
| 190.292 | -3.722 |

Map



- (2) This protected area shall be known as the Phoenix Islands Protected Area.

- (3) This protected area shall also be nominated to the World Heritage Committee established under the World Heritage Convention, for inclusion on the World Heritage list.
- (4) The Phoenix Islands Protected Area shall be recognised and managed as a Category Ib Wilderness Area according to the definitions, objectives for management, and guidance provided by the IUCN's 1994 *Guidelines for Protected Area Management Categories*. The relevant extract of the *Guidelines* is attached as appendix 1.

6. PIPA Management Committee and Management Plan

- (1) The Minister shall establish a PIPA Management Committee, which shall be chaired by the Secretary of the Ministry, and shall comprise representatives of—
 - (a) the Principal Environment Officer;
 - (b) the Environment and Conservation Division of the Ministry;
 - (c) the Ministry's PIPA Office;
 - (d) the Ministries for the time being responsible for—
 - (i) fisheries;
 - (ii) the Phoenix Islands;
 - (iii) finance;
 - (iv) tourism;
 - (v) foreign affairs; and
 - (vi) commerce;
 - (e) the Office of the Attorney-General;
 - (f) the Kiribati Police Service; and
 - (g) the Atoll Research Centre of the University of the South Pacific.
- (2) The PIPA Management Committee shall—
 - (a) prepare a draft management plan for the PIPA;
 - (b) resolve inter-agency differences and make recommendations to the Minister relating to actions associated with the management of the PIPA;
 - (c) provide such advice as the Minister may seek related to activities in the PIPA, including proposed development activities; and
 - (d) monitor the management of the PIPA and make such reports as the Minister might require to ensure compliance with the terms of the Act, these regulations, the PIPA management plan, and any international treaty agreements or third party contractual agreements entered into for the purposes sustaining the conservation and sustainable use of the PIPA.
- (3) Within 12 months of the entry into force of these Regulations, the PIPA Management Committee shall develop and the Minister, acting in accordance with the advice of the Cabinet, shall adopt a PIPA management plan that is consistent with the Act, these Regulations, and any international treaty agreements or third party contractual agreements entered into for the purpose of sustaining the conservation and sustainable use of the PIPA.

- (4) The PIPA management plan shall identify such management zones and associated allowable activities as are appropriate for implementing the purposes of this regulation and the Act.
- (5) Except as provided in regulation 11 below, pending adoption of the management plan, no activity that takes place in or affects the PIPA or places at risk the ecological integrity of the PIPA shall be licensed, approved or undertaken by any public authority without the express written authorisation of the Minister.
- (6) As part of the management plan, and subject to available funding, the Minister shall develop and implement a monitoring program designed to ensure that the objectives of the Act, these Regulations, and the PIPA management plan are being accomplished.

7. **Marine conservation, management and development**

In addition to such other requirements as may be established by these regulations or the management plan, all provisions of Parts III, IV, V, VI, and VII of the Act shall fully apply within the PIPA at all times.

8. **PIPA Management Plan**

- (1) The objectives of the PIPA are specified in a management plan developed by the PIPA Management Committee and the Principal Environment Officer, in accordance with the provisions of Part V of the Act.
- (2) In addition to the management principles set out in section 45(1) of the Act, the PIPA management plan shall ensure that all activities that take place in the PIPA are designed for the benefit of present and future generations. To that end, the PIPA management plan shall implement such measures as are necessary for the following objectives—
 - (a) to conserve and manage substantial examples of marine and terrestrial systems to ensure their long-term viability and to maintain genetic diversity;
 - (b) to conserve depleted, threatened, rare or endangered species and populations and, in particular, to preserve habitats considered critical for the survival of such species;
 - (c) to conserve and manage areas of significance in the PIPA to the life cycles of economically important species such as tuna;
 - (d) to prevent human activities from detrimentally affecting the PIPA;
 - (e) to preserve, protect, and manage historical, cultural and archeological sites and natural aesthetic values;
 - (f) to facilitate the interpretation of marine and terrestrial systems for the purposes of conservation, education, and tourism;
 - (g) to accommodate within appropriate management regimes a broad spectrum of multi-use human activities compatible with the primary goal of marine and terrestrial conservation and sustainable use, including appropriate fishing, ecologically-sound tourism, and sustainable economic development;
 - (h) to provide for research and training and for monitoring the environmental effects of human activities, including the direct and indirect effects of development activities; and

- (i) to ensure consistency between all activities taking place in the PIPA and any third-party conservation contracts into which the Minister may choose to enter with the advice and approval of the Cabinet for the conservation and long-term sustainable use of the PIPA.

9. Conservation and management measures

- (1) All persons and corporations engaged in conduct in the PIPA must comply with all conservation and management measures as specified in the Act, these Regulations and the PIPA Management Plan.
- (2) All public authorities are obliged to conduct all activities within the PIPA, or that are likely to have effects on the PIPA, consistently with the Act, these Regulations and the PIPA Management Plan.
- (3) The PIPA Management Plan shall be consistent with any international obligations or agreements relating to the environment entered into by Kiribati.
- (4) Additional conservation and management measures may be specified by the Minister or in the PIPA Management Plan as required.

10. PIPA permit, licence and penalty provisions

- (1) With respect to any activity having an effect or the potential for an effect on the PIPA, all licences, permits, or other approvals issued by the Minister, as well as any other licence, permit, or approval issued by any other public authority, shall be consistent with the provisions of the PIPA management plan, these Regulations and the Act.
- (2) In addition to any other licence, permit or approval required by the Act, and subject to further specification in the PIPA management plan, the following permit and licence requirements shall be in force in the PIPA and implemented as part of the management activities in the PIPA—
 - (a) scientific, cultural, or educational studies – special permission is required from the Principal Environment Officer for conducting any scientific or educational study within the PIPA;
 - (b) collection of specimens – special permission is required from the Principal Environment Officer for the collection of any scientific specimens or samples from the PIPA;
 - (c) special permits – any special permission must be obtained from the Principal Environment Officer prior to the start of any activity. Special conditions may be attached to the permit including reporting requirements. The Principal Environment Officer shall promptly notify the PIPA Management Committee of all special permits in force for the PIPA protected area;
 - (d) the PIPA management plan shall further specify permits, the conditions of permits and the process for obtaining permits for visitors to the PIPA for the purposes of diving, visiting the atolls in the PIPA, and recreational fishing; and
 - (e) the PIPA management plan shall further specify fees schedules for any processing or use fees associated with PIPA permits and licences.

- (3) In addition to the offences set out in Part III of the Act, the PIPA management plan shall establish such additional offences punishable by fines not to exceed \$100,000 or terms of imprisonment not to exceed five years, or both, that are considered necessary to enforce the practices and procedures established in the PIPA management plan. Any violation of those practices or procedures shall constitute a violation of these regulations and the Act.
- (4) The Principal Environment Officer shall have primary responsibility and authority to commence civil, criminal, injunctive, or other action against any person or corporation reasonably believed to be in violation of the Act, these regulations, or the PIPA management plan.
- (5) The Principal Environment Officer shall have the primary responsibility and authority to amend, suspend, revoke or withhold any licence or other authorisation issued to a person or corporation reasonably believed to be in violation of the terms of their licence or authorisation, the terms of the PIPA management plan, these Regulations or the Act.

11. Savings and transitional

Distant water fishing nation tuna fishing access licences and agreements shall remain valid in the PIPA, and tuna fishing activities carried out pursuant to those licences and agreements shall continue in the PIPA according to their terms, until and unless otherwise decided by the Cabinet.

12. Miscellaneous

- (1) The Minister, in consultation with the PIPA Management Committee and the Principal Environment Officer, shall issue a report on the state of the PIPA every five years. The report shall include the following environmental and management indicators—
 - (a) bird population trends;
 - (b) bird nesting pairs population trends;
 - (c) live coral cover trends;
 - (d) selected reef fish population trends;
 - (e) reef shark population trends;
 - (f) turtle population trends;
 - (g) pelagic conditions within the PIPA, including fisheries landings trends;
 - (h) annual visitor number trends; and
 - (i) such other matters as the PIPA Management Committee shall choose to report.
- (2) The Minister may require, by written notice, a licensee or permittee, public authority, or other person to present information relevant to the report. Such person or entity shall comply with a request of the Minister within one month of receiving it.

Appendix I

Extract - Guidelines for Protected Area Management Categories (IUCN, 1994)

Category I - Strict Nature Reserve/Wilderness Area: protected area managed mainly for science or wilderness protection

Category Ib - Wilderness Area: protected area managed mainly for wilderness protection

Definition: Large area of unmodified or slightly modified land, and/or sea, retaining its natural character and influence, without permanent or significant habitation, which is protected and managed so as to preserve its natural condition.

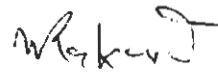
Objectives of Management:

- to ensure that future generations have the opportunity to experience understanding and enjoyment of areas that have been largely undisturbed by human action over a long period of time;
- to maintain the essential natural attributes and qualities of the environment over the long term;
- to provide for public access at levels and of a type which will serve best the physical and spiritual well-being of visitors and maintain the wilderness qualities of the area for present and future generations; and
- to enable indigenous human communities living at low density and in balance with the available resources to maintain their lifestyle.

Guidance for Selection:

- The area should possess high natural quality, be governed primarily by the forces of nature, with human disturbance substantially absent, and be likely to continue to display those attributes if managed as proposed.
- The area should contain significant ecological, geological, physiogeographic, or other features of scientific, educational, scenic or historic value.
- The area should offer outstanding opportunities for solitude, enjoyed once the area has been reached, by simple, quiet, non-polluting and non-intrusive means of travel (i.e. non-motorised).
- The area should be of sufficient size to make practical such preservation and use.

Dated this 7th day of February, 2008.



HON. TETABO NAKARA
Minister for Environment, Lands
and Agricultural Development

Published by exhibition at the Office of the Beretitenti this 14th day of February, 2008.



TAAM BIRIBO
Ag Secretary to the Cabinet