

**Reprint
as at 1 October 1997**



**Tokelau Village Incorporation
Regulations 1986**
(SR 1986/319)

Paul Reeves, Governor-General

Order in Council

At Wellington this 3rd day of November 1986

Present:
His Excellency the Governor-General in Council

Pursuant to the Tokelau Act 1948, 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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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Foreign Affairs and Trade.

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Regulations

1 Title and commencement

- (1) These regulations may be cited as the Tokelau Village Incorporation Regulations 1986.
- (2) These regulations shall come into force on 1 December 1986.

2 Interpretation

In these regulations, unless the context otherwise requires,—

Administrator means the Administrator of Tokelau

Faipule, in relation to any village, means the person elected as the Faipule for the island on which that village is located; and includes any person performing the functions and duties of the office of Faipule pursuant to regulation 10 or regulation 11

Failautuhi, in relation to any village, means the person appointed by that village under regulation 12

General Fono rule means a rule made by the General Fono under section 3A of the Tokelau Act 1948

Puleuku, in relation to any village, means the person elected as Puleuku for that village; and includes any person perform-

ing the functions and duties of the office of Puleuku pursuant to regulation 10 or regulation 11

Taupulega, in relation to any village, means the council of that village constituted in accordance with the custom and usage of that village

village means a village incorporated under regulation 3

village rule or **rule** means a rule made by a village pursuant to regulation 18.

Regulation 2 **General Fono rule**: inserted, on 1 August 1996, by regulation 2 of the Tokelau Village Incorporation Regulations 1986, Amendment No 1 (SR 1996/181).

3 Villages incorporated

The villages of Atafu, Fakaofu, and Nukunonu are hereby each established as bodies corporate with perpetual succession.

4 Objects of village

The objects of a village shall be to provide for the efficient and orderly conduct of village affairs, and generally to promote the economic and social well-being of the people of the village and of the island of which it is part.

5 Powers of village

- (1) Subject to these regulations, a village shall have and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.
- (2) Without limiting the generality of subclause (1), a village may, subject to these regulations, to any Act or regulations in force in Tokelau, and to any General Fono rule, do all such things as are necessary, advantageous, or conducive to the attainment of the objects of the village.

Regulation 5(2): amended, on 1 August 1996, by regulation 3 of the Tokelau Village Incorporation Regulations 1986, Amendment No 1 (SR 1996/181).

6 Property of village

- (1) The property of a village includes all property vested in the nuku immediately before the commencement of these regulations, which property is hereby vested in the village.

- (2) The property of a village includes all property to which the village becomes entitled on or after the commencement of these regulations.

7 Management of village

- (1) A village shall be managed by the Taupulega of that village, and for that purpose the Taupulega shall have and may exercise all the powers of the village.
- (2) The Taupulega shall meet at least once a week.
- (3) Subject to these regulations, and to any rules made under these regulations, the Taupulega may organise its meetings and regulate its procedure as it thinks fit.

8 Election of Faipule and Puleuku

- (1) Subject to subclause (3), an election for the offices of Faipule and Puleuku shall be held in each village at intervals of not more than 3 years.
- (2) The date and place of such election shall be determined by the Taupulega, and shall be publicly notified at least 2 clear days before the election is to be held.
- (3) The next election for the offices of Faipule and Puleuku shall be held no later than 31 January 1987.
- (4) Every person who, on the commencement of these regulations, holds office as a Faipule or a Puleuku shall continue in office subject to these regulations.

9 Term of office of Faipule and Puleuku

- (1) A person elected as a Faipule or a Puleuku shall, unless that person sooner vacates or is removed from office under subclause (3), hold office until that person's successor comes into office.
- (2) A person elected as a Faipule or a Puleuku shall be eligible for re-election.
- (3) A person holding office as a Faipule or a Puleuku may at any time be removed from office by the Taupulega for disability, consistent failure to pay that person's debts, neglect of duty, or serious misconduct, proved to the satisfaction of the

Taupulega, and may at any time resign that office by notice in writing addressed to the Taupulega.

10 Vacancy in office of Faipule or Pulenuku

If any person holding office as a Faipule or a Pulenuku dies, resigns, or is removed from office, the vacancy so created shall, until the next election for that office, be filled, and the functions and duties of that office performed, by a person appointed for that purpose by the Taupulega.

11 Absence or incapacity of Faipule or Pulenuku

Whenever the holder of the office of Faipule or Pulenuku is absent from the village in respect of which that person holds office, or is for any reason unable to perform all or any of the functions and duties of the office, the functions and duties of the office shall be performed by a person appointed for that purpose by the Taupulega.

12 Failautuhi

- (1) Each village shall appoint a person to be the Failautuhi of that village.
- (2) Every such person shall be appointed on such terms and conditions as the village thinks fit.
- (3) The functions of a Failautuhi shall be—
 - (i) to be the secretary and the treasurer for the village;
 - (ii) to keep and maintain financial records for the village, including records of and receipts for all payments made to or by the village;
 - (iii) to carry out such other functions or duties as may be conferred on a Failautuhi by these regulations, or by any other enactment, or by any General Fono rule, or by any village rule, or by custom.
- (4) Every person who, on the commencement of these regulations, holds office as the Failautuhi of a village shall be deemed to have been appointed by that village, and to hold office, pursuant to this regulation.

Regulation 12(3)(iii): substituted, on 1 August 1996, by regulation 4 of the Tokelau Village Incorporation Regulations 1986, Amendment No 1 (SR 1996/181).

13 Record of meetings of Taupulega

- (1) Where a meeting of the Taupulega is held, the Failautuhi shall make a record of the proceedings of that meeting, which record shall include—
 - (i) the date, time, and place of the meeting;
 - (ii) the names of those present at the meeting;
 - (iii) the name of the person chairing the meeting;
 - (iv) a note of every matter discussed at the meeting;
 - (v) any resolution voted on at the meeting, and the result of the vote;
 - (vi) such other matters as the Failautuhi is directed by the Taupulega to record.
- (2) The record of those proceedings shall be submitted to the Taupulega at its next meeting, and upon being confirmed as correct shall be signed by the person chairing that later meeting.
- (3) Every such record shall be retained in the custody of the Failautuhi.

14 Village finances

- (1) Each village shall establish accounts with the Tokelau Savings System.
- (2) All money received by the village shall be paid into such accounts, and all payments required to be made by the village shall be paid out of such accounts.
- (3) Notwithstanding anything in subclause (2), any money which belongs to a village may be invested on term deposit with the Tokelau Savings System.
- (4) No village may borrow money without the prior approval of the Administrator.

15 Annual financial statement

- (1) The financial year of a village shall end with 31 December in each year.
- (2) Within 3 months of the end of each financial year, the Failautuhi of each village shall prepare an income and expenditure account showing the village's financial transactions for that

year, together with a statement of financial position showing the assets and liabilities of the village at the end of that year.

- (3) As soon as practicable after the end of its financial year, a village shall submit its income and expenditure account and statement of financial position for audit by an auditor appointed for that purpose by the village.
- (4) For the purposes of carrying out such audit, an auditor appointed pursuant to subclause (3) shall have a right of access at all times to the books and papers of the village, and shall be entitled to require from the officers of the village such information and explanation as the auditor thinks necessary.
- (5) On completion of an audit of a village's accounts and statement of financial position, the auditor shall make a report, in writing, on the state of those accounts and statement of financial position to the Faipule of that village.
- (6) On the presentation of the auditor's report pursuant to subclause (5), a copy of that report, and of the income and expenditure account and statement of financial position to which it relates, shall be deposited in the Administration Office of the village, and those copies shall be available for inspection at all reasonable times, without fee, by any member of the village.
- (7) Notwithstanding anything in this regulation, nothing in subclauses (2) to (6) shall apply in respect of the period beginning with the date of the commencement of these regulations and ending with 31 December 1986.

Regulation 15(2): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Regulation 15(3): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Regulation 15(5): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Regulation 15(6): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

16 Official documents

- (1) Each village shall have a seal, which shall be kept in the custody of the Failautuhi, and shall be impressed on every document to which the village is a party.

- (2) Every document required to be signed by a village, including cheques and other authorities for the payment of money, shall be signed on behalf of the village,—
- (i) in the case of the village of Atafu, by the Faipule, or the Pulenuku, or the Failautuhi:
 - (ii) in the case of the village of Fakaofu, by both the Pulenuku and the Failautuhi:
 - (iii) in the case of the village of Nukunonu, by the Pulenuku, or the Failautuhi, or any other person appointed by the Taupulega for the purpose.

17 Legal proceedings

- (1) A village may sue or be sued in its corporate name.
- (2) Service of any document required to be served on a village may be effected by service on the Faipule of the village.
- (3) No proceedings, civil or criminal, shall lie against the Government of New Zealand or any of its servants or agents, or against the Administrator or any person employed by the Tokelau Administration, in respect of anything done or omitted by a village which is within that village's authority.
- (4) No proceedings, civil or criminal, shall lie against a village, or any member of a Taupulega, or any officer of a village, in respect of anything done or omitted in good faith by a member of the Taupulega of the village, or by an officer of the village, in the fulfilment or intended fulfilment of the objects of the village.
- (5) The maximum civil liability of a village in respect of any one transaction, matter, or event shall be \$10,000.
- (6) Any civil proceedings against a village in respect of any cause of action shall be commenced within 12 months of the date when that cause of action arose, or within such further time as a court may allow on application made before or after the expiration of that period.

18 Village rules

- (1) Subject to subclause (4) and to regulation 19, a village may from time to time make such rules as it thinks fit for the purpose of attaining the objects of the village.

- (2) The power conferred by subclause (1) to make rules includes—
- (i) the power to impose tolls, rates, dues, fees, fines, taxes, and other charges; and
 - (ii) the power to prescribe criminal offences in respect of the contravention of or non-compliance with any rules made under subclause (1), and to prescribe fines, not exceeding \$150, that may be imposed in respect of any such offence.
- (3) Any fine imposed by any court for a breach of a village rule shall be paid to the Failautuhi of that village, and credited to the funds of the village.
- (4) Any rule made under this regulation that is inconsistent with—
- (i) any Act of Parliament that is in force in Tokelau; or
 - (ii) any regulation that is in force in Tokelau; or
 - (iii) any international obligation of Tokelau or applying in respect of Tokelau; or
 - (iv) any General Fono rule—
- shall, to the extent of the inconsistency, be of no effect.

Regulation 18(4): substituted, on 1 August 1996, by regulation 5 of the Tokelau Village Incorporation Regulations 1986, Amendment No 1 (SR 1996/181).

19 Procedure for making rules

- (1) Rules made pursuant to regulation 18 shall—
- (i) be made by resolution of the Taupulega; and
 - (ii) be signed by the Faipule; and
 - (iii) indicate the date of the resolution by which they were made; and
 - (iv) be impressed with the seal of the village.
- (2) No rule shall come into force until a copy of the rule has been deposited in the Administration Office of the village by which it was made.
- (3) A copy of every rule shall be available at all reasonable times—
- (i) for public inspection, without fee; and
 - (ii) for purchase, on payment of such amount (if any) as the Taupulega determines,—
- at the Administration Office of the village by which the rule was made.

- (4) Copies of every rule shall be—
- (i) printed in Tokelauan and in English; and
 - (ii) sent to the other 2 villages—
as soon as practicable after the making of the rule.
- (5) Failure to comply with subclause (3) or subclause (4) shall in no way affect the validity of any rule made under regulation 18.

Regulation 19(4): substituted, on 1 August 1996, by regulation 6 of the Tokelau Village Incorporation Regulations 1986, Amendment No 1 (SR 1996/181).

20 Proof of rules

In any proceedings, the production of any document purporting to be a copy of any rule made by a village pursuant to regulation 18, and which is endorsed with a certificate signed by the Faipule of that village certifying—

- (i) that the rule was made in compliance with the requirements of regulation 19(1); and
 - (ii) that the rule was deposited in the Administration Office of the village in compliance with the requirements of regulation 19(2); and
 - (iii) that the document is a true copy of the rule; and
 - (iv) the date on which the rule came into force—
- shall, until the contrary is proved, be sufficient evidence that the rule was duly made and is then in force.

P G Millen,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 6 November 1986.

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Notes

1 *General*

This is a reprint of the Tokelau Village Incorporation Regulations 1986. The reprint incorporates all the amendments to the regulations as at 1 October 1997, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Financial Reporting Amendment Act 1997 (1997 No 17): section 6(1)
Tokelau Village Incorporation Regulations 1986, Amendment No 1 (SR 1996/181)
