

Reprint
as at 20 September 2007

Tokelau Marriage Regulations
1986

(SR 1986/320)

Tokelau Marriage Regulations 1986: revoked, on 20 September 2007, by section 9(2) of the Tokelau Amendment Act 2007 (2007 No 84).

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.

Contents

	Page
1 Title and commencement	3
2 Interpretation	3

Part 1

Registrar and marriage officers

3 Registrar and Deputy Registrar	3
4 Appointment of marriage officers	4

Note

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

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

These regulations are administered in the Ministry of Foreign Affairs.

Part 2		
Restrictions on marriage		
5	Marriage of persons within prohibited degrees of relationship void	4
6	Minimum age of marriage	5
7	Consent to marriage of minors	6
Part 3		
Solemnisation of marriage		
8	Notice of marriage	6
9	Marriage to take place before marriage officer	6
10	Mode of solemnisation	7
Part 4		
Registration of marriages		
11	Marriage Registers	7
12	Record of marriage	7
13	Marriage Register to be signed	7
14	Transmission of record to Registrar	7
15	Marriage certificate	8
Part 5		
General provisions		
16	Custody of Marriage Registers	8
17	Marriage Registers open to public, and Registrar to issue certificate of any entry	8
18	Issue of certified copies of entries for official purposes	8
19	Certified copy of any entry in Registers to be received in Court	9
20	Correction of errors	9
21	Registrar to keep indexes	9
22	Discretion of Registrar	9
23	Fees	9
24	Unlawfully acting as marriage officer	10
25	Offence by marriage officer	10
26	Signature of false record by party or witness	10
27	Misrepresentation as to facts to procure marriage	10
28	Revocations	10

Schedule 1	10
Forbidden marriages	
Schedule 2	12
Forms	
Schedule 3	16
Fees to be taken by Registrar	

1 Title and commencement

- (1) These regulations may be cited as the Tokelau Marriage Regulations 1986.
- (2) These regulations shall come into force on the 1st day of December 1986.

2 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
Administration Officer means any employee of the Tokelau Public Service who holds office as the Administration Officer for a village in Tokelau
Administrator means the Administrator of Tokelau
Marriage officer means any person who is appointed as, or who is deemed to be, a marriage officer in Tokelau under or by virtue of these regulations
Registrar means the Registrar of Marriages appointed under these regulations; and includes the Deputy Registrar so appointed.
- (2) In these regulations, a reference to a numbered form is a reference to the form so numbered in Schedule 2 to these regulations.

Regulation 2(1) was substituted by regulation 2 Tokelau Marriage Regulations 1986, Amendment No 1 (SR 1988/254).

Part 1

Registrar and marriage officers

3 Registrar and Deputy Registrar

There shall from time to time be appointed pursuant to the provisions of Part 1 of the Tokelau Amendment Act 1967 such fit

and proper persons as may be required to be Registrar of Marriages and Deputy Registrar of Marriages under these regulations.

4 Appointment of marriage officers

- (1) Every person who holds office as an Administration Officer shall be deemed to be a marriage officer.
- (2) The Official Secretary may, by warrant signed by the Official Secretary, appoint as a marriage officer in Tokelau—
 - (i) Any minister of religion:
 - (ii) Any person, not being a minister of religion, who is recognised by the adherents of any religion as a person who may officiate at religious ceremonies for that religion.
- (3) The Official Secretary may, by warrant signed by the Official Secretary, after consultation with the Taupulega which, in the Official Secretary's opinion, is the relevant Taupulega to consult, appoint any fit and proper person to be a marriage officer.
- (4) Any appointment under subclause (2) or subclause (3) of this regulation may at any time be revoked by the Official Secretary, by warrant signed by the Official Secretary.
- (5) Every person who, immediately before the commencement of this regulation, held office as a marriage officer in Tokelau shall, without further appointment, be deemed as from the commencement of this regulation to have been appointed as a marriage officer under this regulation.

Regulation 4 was substituted by regulation 3 Tokelau Marriage Regulations 1986, Amendment No 1 (SR 1988/254).

Part 2

Restrictions on marriage

5 Marriage of persons within prohibited degrees of relationship void

- (1) Subject to subclause (8) of this regulation, a marriage which is forbidden by the provisions of Schedule 1 to these regulations shall be void.
- (2) Any persons who are not within the degrees of consanguinity but are within the degrees of affinity prohibited by Schedule

1 to these regulations may apply to the Administrator for the Administrator's consent to their marriage.

- (3) Any persons who are within the degrees of relationship prohibited by any of paragraphs (21) to (24) of clause 1 of Schedule 1 to these regulations, or paragraphs (21) to (24) of clause 2 of Schedule 1 to these regulations, may apply to the Administrator for the Administrator's consent to their marriage.
- (4) Where the Administrator receives any application made under subclause (2) or subclause (3) of this regulation, the Administrator shall refer that application to the Taupulega which, in the Administrator's opinion, is the relevant Taupulega to consider the application.
- (5) A Taupulega shall, as soon as practicable after receiving an application referred to it pursuant to subclause (4) of this regulation, consider that application and report to the Administrator whether, in its opinion, the parties to that application should be permitted to marry.
- (6) In considering any such application, the Taupulega may consult with any person who, in its opinion, may be able to assist it in forming a view on the application.
- (7) On receiving a report from a Taupulega pursuant to subclause (5) of this regulation, the Administrator shall, if the Taupulega so recommends, consent to that marriage, but shall otherwise refuse such consent.
- (8) Where the Administrator consents to a marriage pursuant to this regulation, the prohibition contained in Schedule 1 to these regulations, so far as it relates to the persons to whom that consent applies, shall cease to apply to those persons.

6 Minimum age of marriage

- (1) A marriage officer shall not solemnise or record any marriage unless, on the date of that marriage, the intended husband is at least 18 years of age and the intended wife is at least 16 years of age.
- (2) Any marriage solemnised in breach of the provisions of subclause (1) of this regulation shall be void.
- (3) Nothing in this regulation affects any marriage solemnised before the 1st day of December 1986, and any such marriage

shall be valid in any case where, if this regulation had not been made, it would have been valid.

7 Consent to marriage of minors

- (1) A marriage officer shall not solemnise or record the marriage of any man under the age of 21 years, or of any woman under the age of 19 years, without the consent in writing in form 1 of one of the parents of the man or woman, if either of those parents is alive and resident in Tokelau.
- (2) The Administrator may in any case, if the Administrator thinks fit so to do, grant an exemption from the requirements of this regulation.
- (3) No marriage shall be invalidated by any breach of the provisions of this regulation.

Part 3 Solemnisation of marriage

8 Notice of marriage

- (1) A marriage officer shall not solemnise or record any marriage unless notice in form 2 of the intention of the parties to enter into the marriage has been given to the marriage officer by one of the parties to the marriage at least 2 clear days before the day of the marriage.
- (2) On receipt of that notice, the marriage officer shall publish it in such manner as the marriage officer thinks sufficient to give due publicity to the intended marriage.
- (3) No marriage shall be invalidated by any breach of the requirements of this regulation.

9 Marriage to take place before marriage officer

- (1) Every marriage in Tokelau shall be solemnised by a marriage officer in the presence of at least 2 other witnesses, and otherwise shall be wholly void.
- (2) At the time of the solemnisation of a marriage, the doors of the building (if any) shall be kept open to allow the admission of the public.

10 Mode of solemnisation

Every marriage shall, subject to the provisions of these regulations, be solemnised in such manner as the marriage officer thinks fit.

Part 4
Registration of marriages

11 Marriage Registers

Every marriage officer shall keep for the purpose of recording marriages a Marriage Register in form 3, supplied for the purpose by the Registrar.

12 Record of marriage

- (1) Every marriage officer by whom a marriage is solemnised shall forthwith record on the original and copies of the Marriage Register the particulars relating to such marriage as are prescribed in these regulations and form 3.
- (2) If a marriage officer is called upon to solemnise a marriage and at the time no Marriage Register is available, the marriage officer shall enter the particulars of the marriage on a blank form instead of in the Marriage Register, and shall, as soon as practicable, affix the form in the Marriage Register and that form shall be deemed part of the Marriage Register.
- (3) No marriage shall be invalidated by an error or defect in that form or in the particulars so required to be recorded.

13 Marriage Register to be signed

Every entry recorded in the Marriage Register, and copies of the Marriage Register, shall be signed by the parties to the marriage to which it relates, by the marriage officer who solemnises the marriage, and by 2 witnesses to the marriage, all being present at the same time, and when the record has been so signed the marriage shall be deemed to be fully solemnised and shall take effect.

14 Transmission of record to Registrar

All marriages solemnised or recorded in Tokelau shall be registered with the Registrar, and for that purpose, every marriage

officer shall, as soon as practicable after solemnising any marriage, transmit to the Registrar the duplicate copy of the Marriage Register in respect of that marriage.

15 Marriage certificate

Every marriage officer by whom any marriage is solemnised shall, free of any charge, deliver to one of the parties to the marriage a marriage certificate in form 4.

**Part 5
General provisions**

16 Custody of Marriage Registers

- (1) The Marriage Registers shall be safely kept by the marriage officers in whose custody they are placed, and shall be the property of the Crown.
- (2) Upon the death, dismissal, transfer, or resignation of any marriage officer, the custody of those Marriage Registers shall pass to that marriage officer's successor in office.

17 Marriage Registers open to public, and Registrar to issue certificate of any entry

- (1) The Marriage Registers to be kept under these regulations shall at all reasonable times be open to the public.
- (2) The Registrar shall, on the application of any person, and on payment of the appropriate fee prescribed in Schedule 3 to these regulations, issue certificates of any entry made in the Marriage Registers.
- (3) Notwithstanding the provisions of this regulation, the Registrar may dispense with the payment of any fee payable under these regulations in cases of genuine hardship.

18 Issue of certified copies of entries for official purposes

Notwithstanding anything in regulation 17 of these regulations, where a certified copy of any entry in a Register kept under these regulations, or a certificate as to any such entry, is required for any official purpose, the Registrar shall issue the certified copy or special certificate in the prescribed form, free of any charge.

19 Certified copy of any entry in Registers to be received in Court

A certified copy of any entry in a Register, made or given and purporting to be signed by the Registrar and sealed and stamped with the Registrar's seal, or made or purporting to be signed by the Deputy Registrar, shall be received in any Court as prima facie evidence of the marriage to which it relates.

20 Correction of errors

- (1) Any clerical error or any error of fact or substance or any omission of any material fact in any Register may be corrected in the manner authorised by the Registrar.
- (2) For the purpose of this regulation, the Registrar may, if the Registrar thinks fit, require to be produced a declaration and such other evidence as to the facts as the Registrar considers necessary.
- (3) Except as otherwise provided in these regulations, no alteration in any Marriage Register shall be made.

21 Registrar to keep indexes

The Registrar shall cause to be made and kept in the Registrar's office indexes of the duplicate copies of the Marriage Registers transmitted to the Registrar by marriage officers in Tokelau as provided by regulation 14 of these regulations.

22 Discretion of Registrar

Where for any sufficient cause shown to the satisfaction of the Registrar any act, matter, or thing required by these regulations cannot be done within the time limited by or in strict compliance with the conditions imposed by these regulations, it shall be sufficient if that act, matter, or thing is done within a reasonable time thereafter, or if the conditions imposed are complied with so far as is reasonably possible.

23 Fees

For the purposes of these regulations, the fees specified in Schedule 3 to these regulations shall be payable to the Registrar.

- 24 Unlawfully acting as marriage officer**
Every person commits an offence and is liable to a fine not exceeding \$40 who acts as a marriage officer in Tokelau without being duly appointed under these regulations so to act or if that person's appointment as a marriage officer has been revoked.
- 25 Offence by marriage officer**
Every marriage officer commits an offence and is liable to a fine not exceeding \$40 who commits any breach of the provisions of these regulations, or signs any record of a marriage containing any statement known by that marriage officer to be false.
- 26 Signature of false record by party or witness**
Every person commits an offence and is liable to a fine not exceeding \$40 who, being a party or witness to a marriage, signs a record of that marriage containing any statement known by that person to be false.
- 27 Misrepresentation as to facts to procure marriage**
Every person commits an offence and is liable to a fine not exceeding \$40 who, by any wilful misrepresentation made to a marriage officer, procures or attempts to procure the solemnisation by that officer of any marriage.
- 28 Revocations**
The following regulations are hereby revoked, namely:
(a) The Tokelau Marriage Regulations 1969¹;
(b) The Tokelau Marriage Regulations 1969, Amendment No 1².

Schedule 1
Forbidden marriages

Reg 5

- 1** A man may not marry his

¹ SR 1969/132

² SR 1975/194

- (1) Grandmother:
- (2) Grandfather's wife:
- (3) Wife's grandmother:
- (4) Father's sister:
- (5) Mother's sister:
- (6) Mother:
- (7) Stepmother:
- (8) Wife's mother:
- (9) Daughter:
- (10) Wife's daughter:
- (11) Son's wife:
- (12) Sister:
- (13) Son's daughter:
- (14) Daughter's daughter:
- (15) Son's son's wife:
- (16) Daughter's son's wife:
- (17) Wife's son's daughter:
- (18) Wife's daughter's daughter:
- (19) Brother's daughter:
- (20) Sister's daughter:
- (21) Father's brother's daughter:
- (22) Father's sister's daughter:
- (23) Mother's brother's daughter:
- (24) Mother's sister's daughter.

2. A woman may not marry her—

- (1) Grandfather:
- (2) Grandmother's husband:
- (3) Husband's grandfather:
- (4) Father's brother:
- (5) Mother's brother:
- (6) Father:
- (7) Stepfather:
- (8) Husband's father:

- (9) Son:
- (10) Husband's son:
- (11) Daughter's husband:
- (12) Brother:
- (13) Son's son:
- (14) Daughter's son:
- (15) Son's daughter's husband:
- (16) Daughter's daughter's husband:
- (17) Husband's son's son:
- (18) Husband's daughter's son:
- (19) Brother's son:
- (20) Sister's son:
- (21) Father's brother's son:
- (22) Father's sister's son:
- (23) Mother's brother's son:
- (24) Mother's sister's son.

3.

The provisions of clauses 1 and 2 of this Schedule with respect to any relationship shall apply whether the relationship is by the whole blood or by the half blood.

4.

In this Schedule, unless the context otherwise requires, the term **wife** means a former wife, whether she is alive or deceased, and whether her marriage was terminated by death or divorce or otherwise; and the term **husband** has a corresponding meaning.

Schedule 2**Forms**

Form 1

Reg 7

Tokelau

Consent to marriage of man under 21 or woman under 19

Form 1—*continued*

I, of being the [*State "Father or Mother"*] of [*Full name of party to marriage who is under age*] who was born on the hereby consent to his (her) marriage with [*Full name of other party to marriage.*]

.....
[Signature of parent]

Signed at this day of..... 19..., before me —

.....
Marriage Officer.

Form 2

Reg 8

Tokelau

Notice of intended marriage

Form 2—*continued*

To, a marriage officer of the island of, Tokelau.

Notice is hereby given that the parties specified in this notice intend to marry at [*Church or other place where marriage is to be solemnised*] on
..... 19..... .

	Bridegroom	Bride
Name and surname		
Age		
Profession or occupation		
Marital status (never married, or previously married)		
If previously married how and when previous marriage dissolved		
Birthplace		
Usual residence (in full)		
Name and surname of father		
Profession or occupation of father		
Maiden surname of father		
Name and surname of mother		
Profession or occupation of mother		
Maiden surname of mother		

I solemnly and sincerely declare:

- (1) That the particulars set forth in this notice are true; and
- (2) That I believe that the marriage is not prohibited by regulation 5 of the Tokelau Marriage Regulations 1986; and
- (3)* That the said being under the age of [21 or 19] years and not having been previously married, the consent required under regulation 7 of the Tokelau Marriage Regulations 1986 to the intended marriage has been given; and
- (4) That there is no other lawful impediment to the intended marriage.

.....
[Signature of party giving notice]

*Delete if not applicable.

Declared at, this day of 19..., before me —

.....
Marriage Officer

Form 3

Reg 11

Tokelau

Marriage register

Form 3—*continued*

Island of Marriage	No	
	Bridegroom	Bride
Name and surname		
Age		
Profession or occupation		
Marital status (never married, or previously married)		
If previously married how and when previous marriage dissolved		
Birthplace		
Usual residence (in full)		
Name and surname of father		
Profession or occupation of father		
Maiden surname of father		
Name and surname of mother		
Profession or occupation of mother		
Maiden surname of mother		

This marriage was solemnised between us- {
.....
[Signature of bridegroom.]
.....
[Signature of bride.]

In the presence of us — {
.....
[Signature of witness and full address of witness.]
.....
[Signature of witness and full address of witness.]

Married by me, after notice duly given to me as required by regulation 8 of the Tokelau Marriage Regulations 1986, on the island of..... this.....day of 19.....

.....
[Signature of Marriage Officer.]

Form 4

Reg 15

Tokelau

Certified copy of entry in marriage register

Form 4—*continued*

Number		
When married		
Where married		
	Bridegroom	Bride
Name and surname		
Age		
Profession or occupation		
Marital status (never married, or previously married)		
If previously married how and when previous marriage dissolved		
Birthplace		
Usual residence (in full)		
Name and surname of father		
Profession or occupation of father		
Maiden surname of father		
Name and surname of mother		
Profession or occupation of mother		
Maiden surname of mother		

Certified to be a true copy of the above particulars included in an entry in the
the Marriage Register in my lawful custody.

Dated at..... this..... day of..... 19.....

.....
Registrar.

Schedule 3

Fees to be taken by Registrar

Reg 23

For every certified Copy of an entry-

- (i) Supplied to any person who is in Tokelau or Western Samoa, including search \$5
- (ii) Supplied to any person who is outside Tokelau or Western Samoa, including search \$10

For every certified Copy of an entry-

For every notice of intended marriage Free

For every marriage solemnised Free

P G MILLEN,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 December 1986, consolidate and amend the Tokelau Marriage Regulations 1969. The regulations prescribe the procedure for the solemnisation and recording of marriages in Tokelau.

The main changes are as follows:

- (a) The categories of persons who can apply for consent to a marriage which would otherwise be within the prohibited degrees of relationship are extended to include persons who are within a second generation relationship, i.e., are first cousins (regulation 5(3)). Such marriages were not prohibited in Tokelau until 1975. Further, any application to the Administrator for consent to a marriage within the prohibited degrees is now to be referred to the relevant Taupulega (village council), which is to report on whether the marriage should be permitted. The Administrator shall grant a consent if the Taupulega recommends that it be given, but not otherwise:
- (b) The law relating to the minimum age of marriage in Tokelau is altered in 2 respects. First, the minimum age at which women may marry is raised from 15 to 16 years. Second, marriages solemnised in breach of the requirements as to the minimum ages of the respective parties are in future to be void. Regulation 7 of the existing regulations provides that a breach of those requirements does not invalidate a marriage. Subclause (3) of the new regulation 6 provides that nothing in that regulation is to affect the validity of any marriage solemnised before 1 December 1986:

-
- (c) Regulation 10(1) of the existing regulations (regulation 9(1) of the new regulations) has been redrafted to make it clear that a marriage in Tokelau may be solemnised only by a marriage officer:
 - (d) The fee for the supply of a certified copy of an entry in a Marriage Register is increased. In addition, the fee is to differ according to whether the person to whom the copy is supplied is in or outside Tokelau or Western Samoa.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 6 November 1986.

Contents

- 1 General
 - 2 About this eprint
 - 3 List of amendments incorporated in this eprint (most recent first)
-

Notes

1 *General*

This is an eprint of the Tokelau Marriage Regulations 1986. It incorporates all the amendments to the Tokelau Marriage Regulations 1986 as at 20 September 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

Tokelau Amendment Act 2007 (2007 No 84): section 9(2)
