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1 Name

These are the Marriage Rules 1986.

2 Interpretation

(1) In these Rules —

“Administration Officer” means any employee of the Tokelau Public Service who holds office as the Administration Officer for a village in 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 Rules;

“Registrar” means the Registrar of Marriages appointed under these Rules; and includes the Deputy Registrar so appointed.

(2) In these Rules, a reference to a numbered form is a reference to the form so numbered in the Second Schedule.

PART 1 REGISTRAR AND MARRIAGE OFFICERS

3 Registrar and Deputy Registrar

There shall be appointed under the Public Service Rules 2004 such fit and proper persons as may be required to be Registrar of Marriages and Deputy Registrar of Marriages under these Rules.

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 Council for the Ongoing Government may, by warrant signed by the Council for the Ongoing Government, 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 Council for the Ongoing Government may, by warrant signed by the Council for the Ongoing Government, after consultation with the Taupulega which, in the Council's opinion, is the relevant Taupulega to consult, appoint any fit and proper person to be a marriage officer.
- (4) Any appointment under paragraph (2) or paragraph (3) may at any time be revoked by the Council for the Ongoing Government, by warrant signed by the Council for the Ongoing Government.
- (5) [Spent]

PART 2 RESTRICTIONS ON MARRIAGE

5 Marriage of persons within prohibited degrees of relationship void

- (1) Subject to paragraph (8), a marriage which is forbidden by the provisions of the First Schedule to these Rules shall be void.
- (2) Any persons who are not within the degrees of consanguinity but are within the degrees of affinity prohibited by the First Schedule to these Rules may apply to the Council for the Ongoing Government for the Council's consent to their marriage.

Marriage

- (3) Any persons who are within the degrees of relationship prohibited by any of paragraphs (21) to (24) of clause 1 of the First Schedule, or paragraphs (21) to (24) of clause 2 of the First Schedule, may apply to the Council for the Ongoing Government for the Council's consent to their marriage.
- (4) Where the Council for the Ongoing Government receives any application made under paragraph (2) or paragraph (3), the Council for the Ongoing Government shall refer that application to the Taupulega which, in the Council'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 paragraph (4), consider that application and report to the Council for the Ongoing Government 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 paragraph (5), the Council for the Ongoing Government shall, if the Taupulega so recommends, consent to that marriage, but shall otherwise refuse such consent.
- (8) Where the Council for the Ongoing Government consents to a marriage pursuant to this rule, the prohibition contained in the First Schedule to these Rules, 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 paragraph (1) shall be void.
- (3) Nothing in this rule affects any marriage solemnised before December 1986, and any such marriage shall be valid in any case where, if this rule 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 in Schedule 2, of one of the parents of the man or woman, if either of those parents is alive and resident in Tokelau.
- (2) The Council for the Ongoing Government may in any case, if the Council for the Ongoing Government thinks fit so to do, grant an exemption from the requirements of this rule.
- (3) No marriage shall be invalidated by any breach of the provisions of this rule.

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 Schedule 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 rule.

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 Rules, 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 of Schedule 2, 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 Rules and form 3 of Schedule 2.
- (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 of Schedule 2.

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 Rules 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 Rules, issue certificates of any entry made in the Marriage Registers.
- (3) Notwithstanding the provisions of this rule, the Registrar may dispense with the payment of any fee payable under these Rules in cases of genuine hardship.

18 Issue of certified copies of entries for official purposes

Notwithstanding anything in rule 17, where a certified copy of any entry in a Register kept under these Rules, 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 rule, 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 Rules, 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 rule 14.

22 Discretion of Registrar

Where for any sufficient cause shown to the satisfaction of the Registrar any act, matter, or thing required by these Rules cannot be done within the time limited by or in strict compliance with the conditions imposed by these Rules, 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 Rules, the fees specified in the Schedule 3 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 0.5 penalty units who acts as a marriage officer in Tokelau without being duly appointed under these Rules 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 0.5 penalty units who commits any breach of the provisions of these Rules, 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 0.5 penalty units 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 0.5 penalty units 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

[Spent]

Marriage

SCHEDULE 1

rule 5

FORBIDDEN MARRIAGES

1 A man may not marry his:

- (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

FORM 1

rule 7

CONSENT TO MARRIAGE OF MAN UNDER 21 OR WOMAN UNDER 19

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 before me
Marriage Officer

FORM 2
NOTICE OF INTENDED MARRIAGE

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 solemnized] on

	Bridegroom	Bride
Name and surname		
Age		
Profession or occupation		
Marital status (never married, or previously married).		
If previously married how and when was 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 the Marriage Rules 1986; and
- (3)* That the saidbeing under the age of [21 or 19] years and not having been previously married, the consent required under rule 7 of the Tokelau Marriage Rules 1986 to the intended marriage has been given; and **Delete if not applicable*
- (4) That there is no other lawful impediment to the intended marriage.

[Signature of party giving notice]

Declare at, this day of, before me

Marriage Officer

FORM 3
rule 11
MARRIAGE REGISTER

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		

Marriage

This marriage was solemnised between us:

[Signature of bridegroom]

[Signature of bride].....

In the presence of us: [Signatures of witnesses and full addresses]

.....

Married by me, after notice duly given to me as required by rule 8 of the Tokelau Marriage Rules 1986, on the island of this day of

[Signature of Marriage Officer]

FORM 4
rule 15
CERTIFIED COPY OF ENTRY IN MARRIAGE REGISTER

Number	When married	Where married
	Bridegroom	Bride
Name and surname		
Age		
Profession or occupation		
Marital status		
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 Marriage Register in my lawful custody.

Date at this day of

Registrar

SCHEDULE 3

rule 23

FEES TO BE TAKEN BY REGISTRAR

For every certified copy of an entry—

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

For every notice of intended marriage: No charge

For every marriage solemnised: No charge

MARRIAGE RULES 1986 AMENDMENT NO 1

1 Name

These are the Marriage Rules 1986, Amendment No 1, and shall be read together with and deemed part of the Marriage Rules 1986 (the principal rules).

2 — 3 [Spent]

4 Validation of marriages solemnised by persons not authorised to solemnise marriages in Tokelau

No marriage purporting to have been solemnised in Tokelau before 1 December 1988 and to have been registered in accordance with the principal rules or the Marriage Rules 1969 or any enactment providing for the registration of marriages solemnised in Tokelau that was previously in force in Tokelau shall be, or be deemed ever to have been, invalid by reason only that the person who purported to solemnise the marriage was not, at the time when that person purported to solemnise the marriage, authorised by or under the law of Tokelau to solemnise marriages.
