

SUCCESSION RULES 2004

1 Name

These are the Succession Rules 2004.

2 Interpretation

In these Rules, “property” means all movable property owned by the deceased and all immovable property which is not subject to Tokelau custom.

PART 1 INTESTACY

3 Succession without a will

(1) Where a person dies without a will and that person’s place of habitual residence is a village of Tokelau, that person’s property shall be distributed by the kaiga in accordance with custom.

(2) (i) Where there is a dispute over distribution, the Taupulega shall decide the matter.

(ii) The decision of the Taupulega shall be final.

4 Village as ultimate successor

Where a person whose place of habitual residence is a village of Tokelau dies without leaving kaiga successors, that person’s property shall vest absolutely in the village as ultimate successor.

PART 2 WILLS

5 Requirements of will

A person may dispose of all of that person’s property by will, provided that the will is made in accordance with these Rules.

6 Will to be in writing

A will must be in writing.

7 Testator to sign

Every will shall be signed and dated at the foot or end of the document by —

(i) the testator, or

- (ii) a person other than the testator authorised in accordance with rule 8 to sign on behalf of the testator.

8 Signature of person other than the testator

- (1) A will with witnesses may be signed by a person other than the testator if —
 - (i) it is signed in the presence of the testator, and
 - (ii) it is signed at the direction of the testator, and
 - (iii) such direction is expressly intended.
- (2) Such a signature may be that of the signatory or of the testator.

9 Will with witnesses

- (1) A will signed by the testator or by a person other than the testator in the manner provided by rule 8 shall be valid if witnessed by 2 persons, who sign and date the will in the presence of the testator.
- (2) No witness may be a beneficiary under the will.
- (3) If a witness is a beneficiary under the will, then the part of the will that relates to the witness is without effect.

10 Holograph wills

A will made by the testator is valid if it is written in the testator's own handwriting, and is signed and dated by the testator.

11 Repeal

[Spent]
