

VILLAGE INCORPORATION REGULATIONS 1986

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1 Name

These are the Village Incorporation Regulations 1986.

2 Interpretation

In these Rules —

“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 rule 10 or rule 11;

“Failautuhi”, in relation to any village, means the person appointed by that village under rule 12;

“Puleuku”, in relation to any village, means the person elected as Puleuku for that village; and includes any person performing the functions and duties of the office of Puleuku pursuant to rule 10 or rule 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 rule 3;

“Village rule” or “rule” means a rule made by a village pursuant to rule 18.

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 Rules, 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 paragraph (1), a village may, subject to these Rules, 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.

6 Property of village

(1) The property of a village includes all property vested in the nuku immediately before the commencement of these Rules, 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 Rules.

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 Rules, and to any rules made under these Rules, the Taupulega may organise its meetings and regulate its procedure as it thinks fit.

8 Election of Faipule and Pulenuku

(1) Subject to paragraph (3), an election for the offices of Faipule and Pulenuku 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) [Spent]
- (4) [Spent]

9 Term of office of Faipule and Pulenuke

- (1) A person elected as a Faipule or a Pulenuke shall, unless that person sooner vacates or is removed from office under paragraph (3), hold office until that person's successor comes into office.
- (2) A person elected as a Faipule or a Pulenuke shall be eligible for re-election.
- (3) A person holding office as a Faipule or a Pulenuke 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 Pulenuke

If any person holding office as a Faipule or a Pulenuke 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 Pulenuke

Whenever the holder of the office of Faipule or Pulenuke 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 Rules, or any other enactment, or by any General Fono rule, or by any village rule, or by custom.
- (4) [Spent]

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 paragraph (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 on 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 balance sheet 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 balance sheet 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 paragraph (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 balance sheet, the auditor shall make a report, in writing, on the state of those accounts and balance sheet to the Faipule of that village.
- (6) On the presentation of the auditor's report pursuant to paragraph (5), a copy of that report, and of the income and expenditure account and balance sheet 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) [Spent]

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 Pulenuuku, or the Failautuhi;
 - (ii) in the case of the village of Fakaofu, by both the Pulenuuku 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 200 penalty units.
- (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 paragraph (4) and to rule 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 paragraph (1) to make rules includes —
 - (i) the power to impose tolls, rates, dues, fees, fines, taxes, and other charges; and

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- (ii) the power to prescribe criminal offences in respect of the contravention of or non-compliance with any rules made under paragraph (1), and to prescribe fines, not exceeding 3 penalty units, 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 rule 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.

19 Procedure for making rules

- (1) Rules made pursuant to rule 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 paragraph (3) or paragraph (4) shall in no way affect the validity of any Rule made under rule 18.

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 rule 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 rule 19(1);
and
 - (ii) that the rule was deposited in the Administration Office of the village in compliance with the requirements of rule 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.
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