



Tonga

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT

1988 Revised Edition



BIRTHS, DEATHS AND MARRIAGE REGISTRATION ACT

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BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT

*Acts Nos. 16 of 1926, 8 of 1927, 7 of 1929, 13 of 1933,
10 of 1935, 9 of 1936, 6 of 1944, 2 of 1957, 12 of 1974,
5 of 1976, 9 of 1979, 10 of 1984.*

AN ACT TO REGULATE THE REGISTRATION OF MARRIAGES, BIRTHS AND DEATHS AND TO PROVIDE FOR THE SOLEMNIZATION OF MARRIAGES

Commencement [29th July, 1926]

1 Short title.

This act may be cited as The Births, Deaths and Marriages Registration Act.

2 Magistrates to act as registrars of births, etc.

The Chief Justice shall be the Registrar General of Births, Deaths and Marriages.

The Registrar of the Supreme Court shall be sub-registrar for Tongatapu.

The magistrates other than the magistrate of Tongatapu shall be sub-registrar for their respective districts:

Provided that where a magistrate does not reside continuously in his district the Chief Justice with the consent of the Cabinet may appoint some other suitable person to be a sub-registrar.

(Amended by Act 9 of 1979.)

3 Persons responsible for informing death.

- (1) The head of the family, the closest adult relative living on the same island of a person who dies and has no head of the family, the occupier of the premises in which the death occurred, shall in that order be responsible for informing the Sub-Registrar of the district of every death. In the absence of such person the Town Officer shall inform the Sub-Registrar of the death.

Except in the case of a hospital, the responsible person shall also inform the Town Officer of the town in which the death occurred and shall bring to his notice any unusual circumstances and in particular if the death was sudden.

Persons who are considered to be head of the family for the purposes of this section are shown in Table I of Schedule 2 hereto. Closeness of relationship for the purposes of this section is shown in Table II of Schedule 2. *(Substituted by Act 9 of 1979)*

Births to be registered within 3 weeks.

- (2) Every person being the parent of a child born in wedlock or the mother of a child born out of wedlock shall within 3 weeks of the birth of such child inform the sub-registrar of the district of such birth and in default of so doing shall be liable on conviction to a fine of \$10. *(Amended by Act 5 of 1976)*

Form VS3.

Town Officer to inform births and deaths.

- (3) Every Town Officer shall report to his district officer on the first day of every calendar month using Form VS3 in Schedule 3 hereto every birth and death that has occurred within the boundaries of his town during the previous month. *(Inserted by Act 9 of 1979)*

Late Report.

District Officer to inform sub-registrar of late report.

- (4)
- (a) If a Town Officer discovers that a birth or death has occurred during any month on which he has already reported which has not been included in his report for that month, he shall as soon as possible report the fact to his district officer using Form VS3 which he shall clearly mark "LATE REPORT."

- (b) A district officer receiving a LATE REPORT shall inform the appropriate sub-registrar at the latest by the 15th day of the following month.

(Inserted by Act 9 of 1979.)

Duties under Cap. 43 not affected.

- (5) Nothing herein shall affect the obligation of district and town officers to carry out the duties set up in the District and Town Officers Act. *(Inserted by Act 9 of 1979.)*

Time for making report.

- (6) Every district officer shall submit to the sub-registrar of the district not later than the 15th day of each month a report of all births and deaths which have occurred during the preceding month. *(Substituted by Act 5 of 1976.)*

Notice to provide information.

- (7) When it shall appear to the sub-registrar of a district that information concerning any birth or death taking place in his district has not been given as provided in sub-sections (1) and (2) of this section, he shall cause a notice to be served on any person whom he considers liable to give such information as so provided requiring such person to attend at the office of such sub-registrar within 3 weeks of the date of service of such notice for the purpose of giving information concerning such birth or death and any person who after being served with such a notice fails without reasonable excuse to conform with the same shall be liable on conviction to a fine not exceeding \$10. *(Substituted by Act 5 of 1976.)*

Discovery of newly born infant or dead body.

- (8) Any person who discovers a dead body or a newly born infant shall without unreasonable delay give information to the sub-registrar of the district in which such dead body or newly born infant shall have been discovered and in default of so doing shall be liable on conviction to a fine not exceeding \$10. *(Amended by Act 5 of 1976.)*

Registration of illegitimate child.

- (9) In the case of an illegitimate birth no person shall as father of such child be required to give information under this Act concerning the birth of such child and the registrar shall not enter in the register the name of any person as father of such child unless at the joint request of the mother and of the person acknowledging himself to be the father of such child and such person shall in such case sign the register together with the mother. *(Substituted by Act 13 of 1933.)*

4 Special provisions for islands listed in Schedule 4.

- (1) The following special provisions shall apply to islands listed in Schedule 4 hereto.
- (2)
 - (a) The person responsible for informing a sub-registrar of a birth or death as provided in section 3 shall do so on the visit to the district in which the island lies of the sub-registrar that takes place next after the event.
 - (b) Such person must also report the birth or death to the Town Officer of the town in which the birth or death occurred within 48 hours of the event.
 - (c) Any person who fails to comply with the provisions of this section shall be liable on conviction to a fine of \$10. (*Inserted by Act 9 of 1979.*)

5 Power to make regulations.

The Registrar General may make regulations prescribing the duties to be performed by sub-regulations.

6 Disabilities.

No person who is insane, or who is under the age of 15 years, or who being under the age of 18 years has not obtained the written consent of his or her guardian, shall be granted a marriage licence.

7 Prohibited degrees of consanguinity.

It shall not be lawful for a man to marry—

- his grandmother
- his father's sister
- his mother's sister
- his father's sister's daughter
- his father's brother's daughter
- his mother's sister's daughter
- his mother
- his stepmother
- his wife's mother

his sister
his daughter
his son's wife
his brother's daughter
his sister's daughter
his granddaughter.

(Substituted by Act 8 of 1927; Amended by Act 10 of 1935.)

8 Prohibited degrees of consanguinity.

It shall not be lawful for a woman to marry—

her grandfather
her father's brother
her mother's brother
her father's brother's son
her mother's brother's son
her mother's sister's son
her father
her stepfather
her husband's father
her brother
her son
her daughter's husband
her brother's son
her sister's son
her grandson.

(Substituted by Act 8 of 1927; Amended by Act 10 of 1935, and Act 9 of 1936.)

9 Period of residence.

The parties to an intending marriage shall provide a birth certificate or some other evidence of age to the satisfaction of the sub-registrar and apply to the sub-registrar of the district in which one of the parties has resided for at least 16 months prior to the date of the application for the issue to them of a licence to

marry and shall make an affidavit in the form set out in Schedule 1 hereto that there is no legal impediment to the proposed marriage in the form set out in Schedule 1 hereto. (*Amended by Acts 5 of 1976 and 9 of 1979.*)

10 Duty of sub-registrar.

The sub-registrar, upon application being made as prescribed in section 9 hereof, may ask the applicants the several particulars required for the issue of a licence, and if he is satisfied that the parties are legally capable of contracting a valid marriage, he shall issue to them a licence to marry in the form set out in Schedule 1 hereto. (*Amended by Act 9 of 1979.*)

11 Penalty for making a false oath.

Any one who shall make a false oath to obtain a licence to marry shall on conviction thereof be liable to imprisonment for 3 years and the Supreme Court may if it considers proper to do so declare the marriage null and void.

12 Ministers solemnizing marriages to be registered.

The Chief Justice, upon receiving a requisition in writing in the name of any minister of religion whether a Tongan subject or not under the hand of such minister or head of the denomination to which he belongs, such requisition specifying his religious denomination and designation and his residence, desiring that he may be registered as a minister for solemnizing marriages within the Kingdom, shall register the name of such minister with the foregoing particulars in a register book to be kept for that purpose.

13 Penalty for false registration.

If any one shall cause his name to be registered as an ordinary officiating minister of religion he being at the time not such a minister and knowing himself not to be such he shall be guilty of an offence against this Act and shall be liable to a fine not exceeding \$100 or to be imprisoned for any term not exceeding one year.

14 Two witnesses necessary at marriage.

- (1) Every marriage shall be solemnized before at least 2 witnesses who shall sign each copy of the certificate in the printed book of forms in the possession of the minister officiating. The Minister shall also sign each form.

Minister to deliver marriage certificate to sub-registrar.

- (2) The minister shall within 3 weeks of the performance of ceremony cause to be delivered to the sub-registrar of the district in which the ceremony took place one copy or, in the case of the Vava'u, Ha'apai, Eua and Niuaus Sub-Registrars, 2 copies of the certificate.

Minister liable in case of default.

- (3) Any minister who fails to carry out the provisions hereof shall be liable on conviction to a fine not exceeding \$20. Any minister who defaults more than twice in any one calendar year shall be liable to forfeit his licence to solemnize marriage.

Completed book of forms.

- (4) When all the forms in a book have been used the minister shall return it to the sub-registrar who issued it. The sub-registrar shall forward the book to the Registrar General in Nuku'alofa who shall keep it in a secure place unless the church to which the minister belongs has a licence from the Registrar General to hold such book in which case he shall cause it to be delivered to the head of the church.

(Substituted by Act 9 of 1979.)

15 Sub-registrar to keep a register of marriage.

The sub-registrar shall enter the particulars contained in said certificate in a register to be kept for that purpose and shall forward the certificate to the Registrar of the Supreme Court who shall file the same in the Supreme Court Office.

16 Solemnization by minister.

Every marriage which shall be solemnized by any minister of religion after the receipt by such minister of religion of a licence issued to the parties to be married shall subject to the provisions of section 17 hereof be a legal marriage and no other marriage shall be valid.

17 Validation of marriage prior to 1st October, 1926.

Every marriage solemnized in Tonga before the first day October 1926 by any minister of religion or person ordinarily officiating as such shall be deemed to have been from the time of solemnization a legal and binding marriage notwithstanding any non compliance with any forms or other matters:

Provided that nothing herein contained shall legalize any marriage which shall be declared invalid by the Supreme Court or any marriage where either party thereto had another wife or husband living or any marriage which would have

been or would be void by reason of any relationship or of fraud or of incapacity to marry or any marriage where (the same being at the time of its solemnization invalid) either of the parties thereto shall afterward and before the first day of October 1926 have intermarried with any person.

18 Penalty for solemnizing marriage without licence.

Any minister of religion or any other person who shall solemnize a marriage without first having received a licence in the form in Schedule 1 hereto enabling the parties to be married, shall on conviction thereof be liable to pay a fine not exceeding \$40 or in default of payment to distress. (*Amended by Act 9 of 1979.*)

19 Searching.

Any person may search the register of marriages and may receive a copy of any certificate or other entry therein provided the fee for such search and copy have been prepaid.

20 Fees.

The fees chargeable under this Act are set out in Schedule 1 hereto. (*Amended by Act 9 of 1979.*)

21 False declaration, etc. to procure certificates, etc., of marriage.

If any person—

- (a) For the purpose of procuring a marriage or a marriage licence or certificate knowingly and wilfully makes or signs a false declaration notice or certificate required under any Act, ordinance or regulation for the time being in force relating to marriage; or
- (b) knowingly and wilfully makes or knowingly or wilfully causes to be made for the purpose of being inserted in any marriage licence or register a false statement as to any particular required by law to be known or registered relating to any marriage, or
- (c) forbids the issue of any certificate or marriage licence by falsely representing himself to be a person whose consent to the marriage is required by law knowing the representation to be false,

he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding 2 years or to a fine exceeding \$100 or to both such fine and imprisonment. (*Act 7 of 1929.*)

22 False information relating to births and deaths.

If any person –

- (a) wilfully makes any false answer to any question put to him by any registrar or sub-registrar of births or deaths or any clerk in charge of any such registers of births or deaths relating to the particulars required to be registered concerning any birth or death or wilfully gives to any such registrar, sub-registrar or clerk any false information concerning any birth or death, or the cause of any death, or
- (b) wilfully makes any false certificate or declaration under or for the purpose of any Act, ordinance or regulation relating to the registration of births or deaths or knowing any such certificate to be false uses the same as true or sends same as true to any person, or
- (c) wilfully makes, gives or uses any false declaration as to a child born alive as having been stillborn or as to the body of a deceased person or a stillborn child in any coffin or burial wrapping or falsely pretends that any child born alive was still-born, or
- (d) makes any false statement with intent to have the same inserted in any register of births or deaths,

he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding 2 years or to a fine exceeding \$100 or to both such fine and imprisonment. (*Act 7 of 1929.*)

23 Limitation of action.

No prosecution shall be instituted against any person for offence against section 21 or section 22 of this Act unless the same shall be commenced within 2 years from the time of the commission of such offence. (*Act 7 of 1929.*)

SCHEDULE 1**FORM OF AFFIDAVIT***(Section 9)*

We, of and of swear that there is no impediment to our marriage.

Signature

Signature

This Affidavit was made in my presence at on the day of the month of 19

Registrar.

FORM OF LICENCE*(Section 10)*

District of

No.19...

To the Revered

This is to certify that, according to the Law of the Kingdom, of and of are free to marry.

Registrar.

CERTIFICATE OF SOLEMNIZATION*(Section 14)**(Amended by Act 9 of 1979.)*

District of

I,, a Minister of the Church, hereby certify that I have married this day of and of

Remarks	Male	Female
Age		
Widow or Spinster		
Widower or Bachelor		
Country of Birth		
Business or Calling		
Place of Residence		
Father's name		
Father's business or Calling		
Mother's maiden name		

Solemnized on the day of 19...

Signature of Minister

Signature of Husband

Signature of Wife

Signatures of the two Witnesses }

FEES

(Section 20)

(Amended by Act 10 of 1984.)

\$

Affidavit 2.50

Licence 3.00

Search 3.00

Certified copy of entry in register 2.00

SCHEDULE 2

(Section 3(1))

HEAD OF FAMILY AND CLOSENESS OF RELATIONSHIP

The following tables show the order in which persons shall be considered the head of the family or closest relative for the purposes of section 3(1):

Table I – Head of Family

- Father
- Mother
- Grandfather
- Grandmother

Table II – Closeness of Relationship

Son	Father's sister
Daughter	Mother's brother
Brother	Mother's sister
Sister	Brother's son
Grandson	Sister's son
Granddaughter	Brother's daughter
Father's brother	Sister's daughter

SCHEDULE 3

(Section 3(3))

Form VS3

BIRTH AND DEATH INFORMATION SLIP

FAKAMATALA FA'ELE MO E PEKIA

Village District Date

Kolo

Vahe Fonua

'Aho

Head of Household 'Ulumotua 'o e Famili		Birth Fa'ele			Death Pekia		Certificate Issued*
Name Hingoa	Address Tu'asila	Name and Age of Mother Hingoa mo e Ta'u 'O e Fa'e	Date of Birth 'Aho 'o e Fa'aele	Live or Still Mo'ui pe Mate	Name of Deceased Hingoa 'o e Pekia	Date of Death 'Aho 'o e Pekia	Yes/No *Oatu ha Tohi Fakamo'omi 'Io/'Ikai

*To be completed by the sub-Registrar.

*Ke Fakahoko 'e he Failesisita Tokoni.

REPORTED BY

FAKAHA 'E

Action Taken by Registrar

Ngāue 'e Fai 'e he Failesista

Name and Designation	
Hingoa mo e lakanga	
Signature	
Fakamo 'oni Hingoa	

SCHEDULE 4

(Section 4)

The following is a list of the islands to which the provisions of Section 4 of this Act apply. The islands are grouped by districts.

LULUNGA DISTRICT

- (1) FOTUHA‘A
- (2) KOTU
- (3) HA‘AFEVA
- (4) MATUKU
- (5) TUNGUA
- (6) ‘O ‘UA
- (7) TOFUA

HA‘ANO DISTRICT

- (1) MO‘UNGA‘ONE

NOMUKA DISTRICT

- (1) NOMUKA
- (2) MANGO
- (3) FONOIFUA

NIUAFO‘OU DISTRICT

- (1) ‘ESIA
- (2) KOLOFO‘OU
- (3) SAPA‘ATA
- (4) FATA‘ULUA
- (5) MATA‘AHO
- (6) MU‘A
- (7) TONGAMAMA‘O
- (8) PETANI