



Tonga

STATISTICS ACT 2015

Act 7 of 2015



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STATISTICS ACT 2015

Act 7 of 2015

**AN ACT TO ENLARGE AND DEVELOP AN INTEGRATED AND
COMPREHENSIVE STATISTICAL INFORMATION SYSTEM AND TO
REGULATE ALL MATTERS PERTAINING THERETO**

I assent,
TUPOU VI,
15th October 2015.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the
Legislature of the Kingdom as follows:

PART I - PRELIMINARY

1 Short Title

This Act may be cited as the Statistics Act 2015.

2 Interpretation

In this Act,

“**department**” or “**departments of government**” means any ministry department, branch, bureau, agency or other division of the Government, and includes a statutory body;

“**Minister**” means the Minister responsible for statistics;

“respondent” means a person corporate or not-incorporated body including a non-profit making institution in respect of whom or in respect of whose activities any report or information is sought or provided pursuant to this Act;

“officer” means every permanent or temporary officer or employee employed in the Statistics Department; and includes the Government Statistician and any person engaged on a contract for services to perform any of the duties of an officer;

“official statistics” are statistics produced by any department to inform the Government and people of Tonga about the economic, social, cultural and environmental conditions of the Kingdom and the activities, performance and impact of the Government, and to measure economic and social progress of the people of Tonga;

“statistical purposes” means the production of official statistics, and includes the production, management, protection and use of respondent information obtained from any statistical and administrative source. It includes making available for specified research purposes authorised under this Act by the Government Statistician any collection of unidentified statistical records in the form of micro-data or unit record files; and

“micro-data” means statistical data files of individual respondent records, with information identifying individual respondents removed, that shall be used for statistical purposes.

PART II - THE MINISTER, GOVERNMENT STATISTICIAN, STATISTICS DEPARTMENT AND NATIONAL STATISTICS ADVISORY BOARD

3 Statistics Department

- (1) There shall be a department of the Government of the Kingdom to be known as the Statistics Department which shall be the principal authority for the official statistics of Tonga.
- (2) The Statistics Department shall collect, from people, businesses and other organisations in the Kingdom, information relating to their activities and economic and social situation, in order to compile, analyse, abstract and publish official statistics relating to the condition of commerce, people, their communities and the environment, as well as the activities, performance and impact of the Government.

4 Appointment of the Government Statistician

An appropriately qualified person shall be appointed in accordance with the Public Service Act to be the Government Statistician and he shall be the chief executive officer of the Statistics Department, and be responsible to the Minister.

5 The duties of the Government Statistician

- (1) The Government Statistician shall monitor and demonstrate regard to the demands placed on respondents when determining the form and frequency of the statistical obligations that are imposed, and shall:
 - (a) ensure the continued scientific integrity of the methods used in the production, analysis and publication of statistics;
 - (b) protect from disclosure all identifiable information obtained for statistical purposes, unless explicitly referred to in section 13;
 - (c) make full use for statistical purposes of information available to departments of government; and
 - (d) establish rules for the publication and impartial release without delay of official statistics.
- (2) The Government Statistician shall co-ordinate the practices of departments in the collection, compilation and dissemination of statistics and related information, by publishing standards and guidance with particular regard to:
 - (a) enabling the integration of statistics compiled by departments of government by ensuring the compatibility of classifications, reference frames and statistical units;
 - (b) avoiding duplication in the collection of information for statistical purposes by departments of government; and
 - (c) supporting the development of national registers of business, land parcels, dwellings and significant structures for advancing public administration including official statistics.
- (3) The Government Statistician shall advance the quality and relevance of each field of official statistics by:
 - (a) publishing information about the methods used in the production of statistics, and assessments of their quality;
 - (b) organising and publishing periodic reviews of their relevance, scope and quality;
 - (c) advising the Minister on matters of statistical policy, including giving advice on the statistical programs of the departments of the government of Tonga; and
 - (d) co-ordinating international statistical co-operation, including Pacific regional collaboration on standards, methods and information management.

- (4) The Government Statistician shall report to the Minister at the end of the first year of this Act, and every three years thereafter, on the official statistics to be produced by departments in Tonga over the following three years, with a review of the achievements of the most recent three year period.

6 Responsibilities of the Government Statistician

- (1) The Government Statistician shall be responsible for deciding the statistical methodology and professional statistical standards used by the Statistics Department, and the timing, form and content of statistical releases and publications issued by the Statistics Department.
- (2) The Government Statistician shall release statistics at the same time to all users, at a time prescribed in advance by the Government Statistician, and shall establish rules when Ministers or departmental officers might have access under embargo to statistics prior to their public release by departments.
- (3) The Government Statistician may promote public understanding of the official statistics at the time of any release by comment of an impartial manner, and may examine and comment on the interpretation of any published statistics where they consider that necessary and appropriate.

7 Minister responsible for statistics

- (1) The Government Statistician is accountable to the Minister for the proper supervision of the administration of this Act and the control of the operations and staff of the Statistics Department.
- (2) The Minister may issue directions for the implementation of this Act.
- (3) The Minister shall table before the Legislative Assembly each year the report of the Government Statistician on the administration of this Act, the activities of the Statistics Department and any matter concerning official statistics, for the preceding year ending 30 June.
- (4) The Minister may make regulations as are necessary to give full effect to the provisions of this Act and its administration.

8 National Statistics Advisory Council

- (1) The Minister may appoint appropriately qualified persons from government, business and the community to a National Statistics Advisory Council created by the Minister to meet the needs of the time for advice to the Minister on the range and scope of official statistics necessary for economic and social development planning and management of the Kingdom.
- (2) The Government Statistician shall be an ex-officio member of the National Statistics Advisory Council.

- (3) The functions of the National Statistics Advisory Council shall include:
- (a) advising on the improvement, extension, co-ordination and harmonisation of statistical activities;
 - (b) reviewing the priorities and programmes of work of the Statistics Department and the statistical programmes of other departments;
 - (c) overseeing the maintenance of public trust in statistics about the Kingdom, including the processes that ensure public confidence in the confidentiality provisions of this Act;
 - (d) advising the Minister on the findings of the sector wide reviews of official statistics;
 - (e) advising the Government Statistician on priorities regarding future access needs, and the form and quality of available statistics;
 - (f) overseeing the maintenance of independence, integrity, and professional standards of statistical information; and
 - (g) designating as official statistics any statistical measure not produced by a department which meets the standards of official statistics and which provides significant information about a sector of official statistics that would otherwise not be available.

PART III – REPORTING

9 Annual report

The Government Statistician shall each year submit a report to the Minister to table in Legislative Assembly, on the activities of the Statistics Department and any matter concerning official statistics, for the preceding year ending 30 June.

PART IV – PROTECTION OF INFORMATION

10 Oath of office and evidence of appointment

- (1) The Government Statistician and every person employed or engaged pursuant to this Act shall, before entering upon his duties, take and subscribe the following oath:

I,, swear that I shall not at any time make known to others any information that comes to my knowledge as a result of my employment in the Statistics Department of the Kingdom and which is protected from disclosure by the Statistics Act.

- (2) The oath set out in subsection (1) shall be administered by any person duly authorised, and returned and recorded in such manner, as required by law.

- (3) Every employee of the Statistics Department shall have a signed authority from the Government Statistician that shall be sufficient evidence of their authority to fulfil their duties under this Act.

11 Protection from disclosure of respondent information

- (1) Information obtained under this Act shall be used for statistical purposes only, and only in accordance with this Act.
- (2) All information published under this Act shall be arranged to prevent any information relating to a particular respondent being identifiable by any person, other than the respondent who supplied the information.
- (3) Where a disclosure occurred where a person could identify to whom the information relates, and which at the time of publishing could not have been reasonably foreseen, the Government Statistician shall determine the actions needed to mitigate the impact, and prevent a recurrence.
- (4) The Government Statistician, and every officer and person in employment in the Statistics Department shall ensure the proper custody of statistical records and ensure that:
 - (a) only a person employed or deemed to be employed under this Act, and sworn under section 10, shall be permitted to examine any identifiable individual return made for the purposes of this Act, except for the purposes of a prosecution under this Act; and
 - (b) no person who has at any time been sworn under section 10 shall disclose or knowingly cause to be disclosed, by any means, any information obtained under this Act, without the authority of the Government Statistician, in exercise of their power under this Act.
- (5) All returns and documents containing information obtained under this Act which enable identification of individuals or establishments shall be kept at all times in a manner reasonably calculated to prevent any unauthorised person having access thereto.
- (6) All forms shall be destroyed after the information obtained from them has been extracted by the Government Statistician or any person authorised by the Government Statistician.
- (7) The records of each census of population shall be held by the Government Statistician, and shall be made available as public records after 75 years from the date of the census.

12 Limited disclosure of certain details permitted

- (1) Notwithstanding section 11, the Government Statistician may disclose the following information to the public, or to any person who requests it:

- (a) the respondent who supplied the information has consented to the publication in that manner;
 - (b) information that is already available to the public without the breach of any law;
 - (c) information supplied by any department if that department has an obligation to make that information public on request, or confirms to the Government Statistician that it would make that information available to the public if requested; or
 - (d) details of external trade, movement of ships and aircraft, and cargo handled at ports and airports.
- (2) The Government Statistician may disclose information about the location, size and classification of businesses, land parcels and dwellings to any department responsible for maintaining registers that support public administration including official statistics and the nature of each such disclosure shall be notified in the annual report of the Government Statistician.
 - (3) Where the Government Statistician receives a request under subsection (1)(c), the Government Statistician may, at his discretion, elect to make the information public as well instead of providing it to the person who made the request.
 - (4) Where an emergency has been declared the Government Statistician may make available to the appropriate authorities information that is otherwise not able to be lawfully disclosed about the characteristics and location of persons, their habitation and place of business, provided that the use is intended to be to the benefit of persons affected by the emergency.

13 Respondent information is privileged

- (1) Except in respect of a prosecution initiated under this Act, any information obtained from a respondent by the Statistics Department is privileged and shall not be used as evidence in the proceedings of any Court, tribunal or other body.
- (2) No respondent information collected under this Act may be used for or in connection with the assessment or levy of any tax imposed by the Government and may not be used in evidence of such assessment.

PART V – COLLECTION OF STATISTICS

14 Census of Population

- (1) The Government Statistician shall be responsible for the administration and completion of any census of population taken in the Kingdom, and the rules for taking a census of population shall be published in the Gazette.

- (2) The census of population shall take place every five years.

15 Surveys and censuses

- (1) The Government Statistician shall determine the method and form of collection, analysis, publication and release for any survey or census conducted by the Statistics Department including the taking of a census of population, and prescribe such rules and forms as deemed necessary to conduct the work effectively.
- (2) The Statistics Department shall:
- (a) obtain information from respondents in the most efficient manner, having regard to all the demands placed on the respondents to surveys and censuses conducted in the Kingdom;
 - (b) supply a schedule to every affected person, dwelling or place of business by any means that the statistician reasonably considers to be appropriate (which may include notice of where an electronic schedule can be obtained); and
 - (c) request a respondent to supply estimates which shall be made responsibly and in good faith where the facts are not available.
- (3) Every person, organisation or business from whom information is sought shall answer the inquiries of the Statistics Department to the best of their knowledge.
- (4) A request for information for the purposes of this Act may be made by delivering the request to that person in any way that is usual in the Kingdom for transmitting official requests to the public.
- (5) In the absence of the occupant of the house or business owner the requirement falls on another member of the family or on the agent of the owner of the business.
- (6) Any agent in the Kingdom of a foreign principal shall provide the information required or produce evidence that they have been unable to obtain the information.
- (7) Official statistics may be collected by means of sampling, where the use of that method is considered appropriate in place of a full enumeration.
- (8) The Government Statistician may determine that a survey or survey question shall be carried out on a voluntary basis, and shall inform any person of the undertaking before they are requested to answer questions through an interview, form, questionnaire or other record, and all such information shall be subject to the restrictions on use and prohibition on disclosure of information specified in this Act.

16 Joint collection of statistics

- (1) The Government Statistician with the consent of the Minister may enter into an agreement with any department or corporation to jointly collect information where the information demanded by the department or corporation closely duplicates an enquiry by the Statistics Department.
- (2) The respondent shall be informed that the information is being collected jointly on behalf of the Statistics Department and the department or corporation, and that any exchange of information pursuant to this section may include replies to original inquiries and supplementary information provided by a respondent to the Statistics Department and the department or corporation jointly collecting the information.

17 Use of administrative records of departments for statistical purposes

- (1) Upon request of the Government Statistician, every department shall furnish administrative records as may be required for statistical purposes only. The conditions regarding storage, access, destruction and return of records shall be set by the department when providing such access.
- (2) When a department proposes to introduce, revise or extend any system for the collection, storage and retrieval of information or to make a statistical survey it shall consult with the Government Statistician and accept any recommendations that they may reasonably make in relation to the proposal
- (3) Where micro-data of unidentified individual information that is intended to be made available for authorised research purposes by the Statistics Department includes information from the administrative records of departments, the department responsible for these records may establish conditions for their use as micro-data in addition to those rules set by the Government Statistician.
- (4) Subject to section 11, the Government Statistician or any officer of the Statistics Department authorised by the Government Statistician to do so may inspect and have access to any returns, certificates, statements, documents, or other records obtained for the purpose of the Income Tax Act.
- (5) Subject to section 11, the Minister responsible for revenue shall cause such returns, certificates, statements, documents or other records to be made available to the Government Statistician or person authorised by him to inspect such records, in such manner and at such time and place as may be prescribed upon the recommendation of the Minister responsible for revenue.
- (6) Subject to section 11, the Minister responsible for customs shall cause to be sent to the Government Statistician returns of imports and exports into and from the Kingdom in a form suitable for statistical purposes.

PART VI – TEMPORARY EMPLOYEES

18 Temporary employees

- (1) The Government Statistician may employ, from time to time, in the manner prescribed by law, such commissioners, enumerators, agents or other persons as are necessary to collect for the Statistics Department such statistics and information for such periods as they deem necessary.
- (2) Where the Government Statistician uses the services of any employee of the public service in the exercise or performance of any duty, power or function of the Government Statistician under this Act, and any person whose services are so used shall, for the purposes of this Act, be deemed to be a person employed under this Act.
- (3) Any person employed under subsection (1) to perform special services for the Government Statistician pursuant to this Act, shall for the purposes of this Act be deemed to be persons employed under this Act while performing such services.

PART VII – ACCESS TO RECORDS

19 Access to records

- (1) A person having information or the custody or charge of any documents or records that are maintained in any department, corporation, business or organisation, from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction thereof, shall provide or grant access thereto for these purposes to a person authorised by the Government Statistician to obtain such information or such aid in the completion or correction of such information.
- (2) Any agent in the Kingdom of a foreign principal shall provide the information required or produce evidence that he has been unable to obtain the information.

PART VIII – OFFENCES AND PENALTIES

20 Offences and Penalty

- (1) Every person who, after taking the oath, set out in section 10(1) who fails to fulfil this duty, or wilfully makes any false declaration, statement or return in the performance of his duties commits an offence and is liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.

- (2) Any employee of the Statistics Department or any person who impersonates an employee of the Statistics Department, and who obtains or seeks to obtain information that they are not duly authorised to obtain, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or both.
- (3) Every person who, without lawful excuse:
 - (a) refuses or neglects to answer, or wilfully answers falsely, any question intended to obtain information sought in respect of the object of this Act or pertinent thereto that has been asked of him by any person employed or deemed to be employed under this Act;
 - (b) refuses or neglects to furnish any information or to fill in to the best of his knowledge and belief any schedule or form that they have been required to fill in, and to return the same when and as required of him pursuant to this Act; or
 - (c) knowingly gives false or misleading information is, for every such refusal or neglect, or false answer or deception,
commits an offence and is liable on conviction to a fine not exceeding \$1,000.

PART IX – REPEAL OF STATISTICS ACT

21 Repeal

- (1) The Statistics Act [Cap 53] is hereby repealed.
- (2) The repeal under subsection (1) shall not affect any form or document and its protection from disclosure at any time, except under the provisions of this new Act.

Passed by the Legislative Assembly this 15th day of September 2015.