



THE TOKELAU ADMINISTRATION REGULATIONS 1993

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 9th day of August 1993

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to the Tokelau Act 1948, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Tokelau Administration Regulations 1993.

(2) These regulations shall come into force on the 1st day of October 1993.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Administrator” includes any person exercising the functions and powers of Administrator under regulation 3 (4) of these regulations:

“Minister” means the Minister of Foreign Affairs and Trade:

“Secretary” means the Secretary of Foreign Affairs and Trade.

3. Administrator of Tokelau—(1) The Minister may from time to time appoint such person as he or she thinks fit to be the Administrator of Tokelau.

(2) An appointment made under subclause (1) of this regulation shall be for such term not exceeding 3 years, and subject to such conditions, as the Minister thinks fit.

(3) Any person appointed as Administrator shall be eligible for reappointment from time to time.

(4) On the occurrence from any cause of a vacancy in the office of Administrator (whether by reason of death, resignation, or otherwise), and in the case of the absence from duty of the Administrator (from whatever cause arising), the Secretary, or the person for the time being discharging the duties of the office of Secretary, shall have and may exercise all the functions and powers of the Administrator.

4. Duties of Administrator—(1) The Administrator shall be charged with the administration of the executive Government of Tokelau, and shall have such other functions and powers as are conferred on the Administrator by these regulations or any other enactment in force in Tokelau.

(2) The Administrator shall, in the exercise of the Administrator's functions and powers, be subject to the control of the Minister.

5. Delegation of powers—(1) Subject to this regulation and to regulation 6 of these regulations, the Administrator may, from time to time, delegate to the General Fono, or to such other person or persons as the Administrator thinks fit, all or any of the powers exercisable by the Administrator under any enactment, including any powers delegated to the Administrator under any enactment.

(2) The Administrator shall not delegate—

(i) Any power delegated to the Administrator by the Minister, without the written consent of the Minister:

(ii) Any power delegated to the Administrator under Part I of the Tokelau Amendment Act 1967, without the written consent of the State Services Commissioner.

(3) Any delegation under this regulation may be made—

(i) To a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or specified class of offices:

(ii) Subject to such restrictions and conditions as the Administrator thinks fit:

(iii) Either generally or in relation to any particular case or class of cases.

(4) No person to whom any power is delegated under this regulation may delegate that power to any other person, unless that delegation authorises that person to delegate that power to other persons.

6. Further provisions relating to delegations—(1) Every delegation under regulation 5 of these regulations shall be in writing.

(2) Subject to any general or special directions given or restrictions or conditions imposed by the Administrator, the person to whom any power is delegated under regulation 5 of these regulations may exercise the power so delegated in the same manner and with the same effect as if that power had been conferred on that person directly by that regulation and not by delegation.

(3) Every person purporting to act pursuant to any delegation under regulation 5 of these regulations shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Any delegation under regulation 5 of these regulations shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Administrator.

(5) Any delegation under regulation 5 of these regulations, until that delegation is revoked, shall continue in force according to its tenor, notwithstanding that the Administrator by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Administrator.

7. Delegation to General Fono—Where, pursuant to regulation 5 of these regulations, the Administrator delegates any power to the General Fono, then, in any case where the General Fono is not in session, the Council of Faipule may exercise that power in the same manner and with the same effect as if the power had been delegated to the Council of Faipule under that regulation.

8. Revocation—The Tokelau Administration Regulations 1980* are hereby revoked.

DIANE WILDERSPIN,
Acting for Clerk of the Executive Council.

*S.R. 1980/189

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations consolidate and amend the Tokelau Administration Regulations 1980. The regulations are to come into force on 1 October 1993.

The principal amendment relates to the power of the Administrator of Tokelau to delegate his or her powers. At present, any such delegation may be made only to officers or employees of the Tokelau Public Service or the Ministry of Foreign Affairs and Trade. The new regulations empower the Administrator to delegate powers to any person, including the General Fono. In the case of powers delegated to the General Fono, the Council of Faipule will be able to exercise those powers when the General Fono is not in session.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 12 August 1993.

These regulations are administered in the Ministry of Foreign Affairs and Trade.