

1969/132



## THE TOKELAU ISLANDS MARRIAGE REGULATIONS 1969

ARTHUR PORRITT, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington this 14th day of July 1969

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

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

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Tokelau Islands Marriage Regulations 1969.

(2) These regulations shall come into force on the 1st day of August 1969.

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

“Administrator” means the Administrator of the Tokelau Islands:

“Marriage officer” means any person appointed as a marriage officer in the Tokelau Islands under these regulations:

“Registrar” means the Registrar of Marriages appointed under these regulations; and includes the Deputy Registrar so appointed:

A reference to a numbered form is a reference to a form so numbered in the Second Schedule to these regulations.

## PART I—REGISTRAR AND MARRIAGE OFFICERS

**3. Registrar and Deputy Registrar**—There shall from time to time be appointed pursuant to the provisions of Part I of the Tokelau Islands Amendment Act 1967 such fit and proper persons stationed in Apia as may be required to be Registrar of Marriages and Deputy Registrar of Marriages under these regulations.

**4. All marriages in Tokelau Islands to be registered with Registrar**—

(1) All marriages solemnised or recorded in the Tokelau Islands shall be registered with the Registrar.

(2) For the purpose of subclause (1) of this regulation, every marriage officer in the Tokelau Islands shall as soon as may be practicable transmit to the Registrar duplicate sheets of the Marriage Register.

**5. Appointment of marriage officers**—(1) The Administrator may, by warrant under his hand, appoint as a marriage officer in the Tokelau Islands any minister of religion or other person whom he believes to be a fit and proper person to be so appointed.

(2) Any such appointment may be at any time revoked by the Administrator, by warrant under his hand.

## PART II—RESTRICTIONS ON MARRIAGE

**6. Marriage of persons within prohibited degrees of relationship void**—(1) Subject to subclause (2) of this regulation, a marriage which is forbidden by the provisions of the First Schedule to these regulations shall be void.

(2) Any persons who are not within the degrees of consanguinity but are within the degrees of affinity prohibited by the said First Schedule may apply to the Administrator for his consent to their marriage, and the Administrator, in his discretion, may grant his consent to their marriage. If that consent is granted, that prohibition shall cease to apply to the parties.

**7. Minimum age of marriage**—A marriage officer shall not solemnise or record any marriage unless the husband is at least 18 years of age and the wife is at least 15 years of age, but no marriage shall be invalidated by a breach of the provisions of this regulation.

**8. Consent to marriage of minors**—(1) A marriage officer shall not solemnise or record the marriage of any man under the age of 21 years or of any woman under the age of 19 years without the consent in writing in form 1 of one of the parents of the man or woman, if either of those parents is alive and resident in the Tokelau Islands.

(2) The Administrator may in any case, if he thinks fit so to do, grant an exemption from the requirements of this regulation.

(3) No marriage shall be invalidated by any breach of the provisions of this regulation.

#### PART III—SOLEMNISATION OF MARRIAGE

**9. Notice of marriage**—(1) A marriage officer shall not solemnise or record any marriage, unless notice in form 2 of the intention of the parties to enter into the marriage has been given to the marriage officer by one of the parties thereto at least 2 clear days before the day of the marriage.

(2) On receipt of that notice, the marriage officer shall publish it in such manner as he thinks sufficient to give due publicity to the intended marriage.

(3) No marriage shall be invalidated by any breach of the requirements of this regulation.

**10. Marriages to take place before marriage officer**—(1) Every marriage in the Tokelau Islands shall take place in the presence of a marriage officer and of at least two other witnesses, and otherwise shall be wholly void.

(2) At the time of the solemnisation of a marriage, the doors of the building (if any) shall be kept open to allow of the admission of the public.

**11. Mode of solemnisation**—Every marriage shall, subject to the provisions of these regulations, be solemnised in such manner as the marriage officer thinks fit.

#### PART IV—REGISTRATION OF MARRIAGES

**12. Marriage Registers**—Every marriage officer shall keep for the purpose of recording marriages a Marriage Register in form 3, supplied for the purpose by the Registrar.

**13. Record of marriage**—(1) Every marriage officer by whom a marriage is solemnised shall forthwith record on the original and copies of the Marriage Register the several particulars relating to such marriage as are prescribed in these regulations and form 3.

(2) If a marriage officer is called upon to solemnise a marriage and at the time no Marriage Register is available, he shall enter the particulars of the marriage on a blank form instead of in the Marriage Register,

and shall as soon as practicable affix the form in the Marriage Register and that form shall be deemed part of the Marriage Register.

(3) No marriage shall be invalidated by an error or defect in that form or in the particulars so required to be recorded.

**14. Marriage Register to be signed**—Every entry recorded in the Marriage Register, and copies thereof, shall be signed by the parties to the marriage to which it relates, by the marriage officer who solemnises the marriage, and by two witnesses to the marriage, all being present at the same time, and when the record has been so signed the marriage shall be deemed to be fully solemnised and shall take effect.

**15. Transmission of record to Registrar**—The duplicate copy of the Marriage Register shall as provided in regulation 4 hereof be transmitted to the Registrar.

**16. Marriage certificate**—Every marriage officer by whom any marriage is solemnised shall, without fee, deliver to one of the parties to the marriage a marriage certificate in form 3.

#### PART V—GENERAL PROVISIONS

**17. Custody of Marriage Registers**—(1) The Marriage Registers shall be safely kept by the marriage officers in whose custody they are placed, and shall be deemed to be the property of the Crown.

(2) Upon the death, dismissal, transfer, or resignation of any marriage officer, the custody of those Marriage Registers shall pass to his successor in office.

**18. Marriage Registers open to public, and Registrar to issue certificate of any entry**—(1) The Marriage Registers to be kept under these regulations shall at all reasonable times be open to the public.

(2) The Registrar shall, on the application of any person, and on payment of the appropriate fee prescribed in the Third Schedule to these regulations, issue certificates of any entry made in the said Registers.

(3) Notwithstanding the provisions of this regulation, the Registrar may dispense with the payment of any fee payable under these regulations in cases of genuine hardship.

**19. Issue of certified copies of entries for official purposes**—Notwithstanding anything in regulation 18 hereof, where a certified copy of any entry in a Register kept under these regulations or a certificate as to any such entry is required for any official purpose, the Registrar shall issue the certified copy or special certificate in the prescribed form, free of any charge.

**20. Certified copy of any entry in Registers to be received in Court**—A certified copy of any entry in a Register, made or given and purporting to be signed by the Registrar and sealed and stamped with his seal, or made or purporting to be signed by the Deputy Registrar, shall be received in any Court as prima facie evidence of the marriage to which it relates.

**21. Correction of errors**—(1) Any clerical error or any error of fact or substance or any omission of any material fact in any Register may be corrected in the manner authorised by the Registrar.

(2) For the purpose of this regulation, the Registrar may, if he thinks fit, require to be produced a statutory declaration and such other evidence as to the facts as he considers necessary.

(3) Except as otherwise provided in these regulations, no alteration in any Marriage Register shall be made.

**22. Registrar to keep indexes**—The Registrar shall cause indexes of the duplicate copies of the Marriage Registers transmitted to him by marriage officers in the Tokelau Islands as hereinbefore provided to be made and kept in his office.

**23. Discretion of Registrar**—Where for any sufficient cause shown to the satisfaction of the Registrar any act, matter, or thing required by these regulations cannot be done within the time limited by or in strict compliance with the conditions imposed by these regulations, it shall be sufficient if that act, matter, or thing is done within a reasonable time thereafter, or if the conditions imposed are complied with so far as is reasonably possible.

**24. Fees**—For the purposes of these regulations, the fees specified in the Third Schedule to these regulations shall be payable to the Registrar.

**25. Unlawfully acting as marriage officer**—If any person acts as a marriage officer in the Tokelau Islands without being duly appointed under these regulations so to act or if his appointment has been revoked, he is liable to a fine not exceeding \$40.

**26. Offence by marriage officer**—If any marriage officer commits any breach of the provisions of these regulations, or signs any record of a marriage containing any statement known by him to be false, he is liable to a fine not exceeding \$40.

**27. Signature of false record by party or witness**—Every party or witness to a marriage who signs a record thereof containing any statement known by him or her to be false is liable to a fine not exceeding \$40.

**28. Misrepresentation as to facts to procure marriage**—Every person who, by any wilful misrepresentation made to a marriage officer, procures or attempts to procure the solemnisation by that officer of any marriage is liable to a fine not exceeding \$40.

**29. Certain regulations and Ordinances not to apply to the Tokelau Islands**—(1) The Queen's Regulations and Ordinances of the Gilbert and Ellice Islands Colony and Union Islands specified in the Fourth Schedule to these regulations shall, after the commencement of these regulations, cease to have effect as part of the law of the Tokelau Islands.

(2) The provisions of sections 20, 20A, and 21 of the Acts Interpretation Act 1924 shall apply with respect to the enactments specified in the Fourth Schedule to these regulations as if they were Acts of the Parliament of New Zealand that had been repealed by subclause (1) of this regulation.

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## SCHEDULES

Reg. 6

### FIRST SCHEDULE

#### FORBIDDEN MARRIAGES

1. A man may not marry his—

- (1) Grandmother:
- (2) Grandfather's wife:
- (3) Wife's grandmother:
- (4) Father's sister:
- (5) Mother's sister:
- (6) Mother:
- (7) Stepmother:
- (8) Wife's mother:
- (9) Daughter:
- (10) Wife's daughter:
- (11) Son's wife:
- (12) Sister:
- (13) Son's daughter:
- (14) Daughter's daughter:
- (15) Son's son's wife:
- (16) Daughter's son's wife:
- (17) Wife's son's daughter:
- (18) Wife's daughter's daughter
- (19) Brother's daughter:
- (20) Sister's daughter.

2. A woman may not marry her—

- (1) Grandfather:
- (2) Grandmother's husband:
- (3) Husband's grandfather:
- (4) Father's brother:
- (5) Mother's brother:
- (6) Father:
- (7) Stepfather:
- (8) Husband's father:
- (9) Son:
- (10) Husband's son:

FIRST SCHEDULE—continued

- (11) Daughter’s husband:
- (12) Brother:
- (13) Son’s son:
- (14) Daughter’s son:
- (15) Son’s daughter’s husband:
- (16) Daughter’s daughter’s husband:
- (17) Husband’s son’s son:
- (18) Husband’s daughter’s son:
- (19) Brother’s son:
- (20) Sister’s son.

3. The foregoing provisions of this Schedule with respect to any relationship shall apply whether the relationship is by the whole blood or by the half blood and whether the relationship is legitimate or illegitimate.

4. In this Schedule, unless the context otherwise requires, the term “wife” means a former wife, whether she is alive or deceased, and whether her marriage was terminated by death or divorce or otherwise; and the term “husband” has a corresponding meaning.

SECOND SCHEDULE

FORMS

Reg. 8

Form 1

Tokelau Islands

CONSENT TO MARRIAGE OF MAN UNDER 21 OR WOMAN UNDER 19

I, ..... of ..... being the ..... [State “Father or Mother”] of ..... [Full name of party to marriage who is under age] who was born on the ..... hereby consent to his (her) marriage with ..... [Full name of other party to marriage].

.....  
[Signature of parent]

Signed before me the undersigned at ..... this ..... day of ..... 19.....

.....  
Marriage Officer.

SECOND SCHEDULE—*continued*

Reg. 9

Form 2

*Tokelau Islands*

NOTICE OF INTENDED MARRIAGE

To ....., a marriage officer of the Island of ....., Tokelau Islands.

Notice is hereby given that the under-mentioned parties intend to marry at [*Church or other place where marriage is to be solemnised*] on ..... 19.....

	Bridegroom	Bride
Name and surname		
Age		
Occupation		
Status (i.e., bachelor, spinster, widower, widow, or divorced)		
Birthplace		
Usual residence		
Father's name and surname		
Father's occupation		
Mother's name and surname		

I solemnly declare that to the best of my knowledge and belief the foregoing particulars are true in every respect; and that there is not any impediment to the intended marriage (\*and that the consent required under regulation 8 of the Tokelau Islands Marriage Regulations 1969 has been obtained).

.....  
[*Signature of Party Giving Notice*]

\*Delete if not applicable.

Declared before me, the undersigned, this ..... day of ..... 19.....

.....  
Marriage Officer.



SECOND SCHEDULE—continued

Reg. 9

Form 3

Tokelau Islands

MARRIAGE REGISTER

No. ....

Island of Marriage .....

	Bridegroom	Bride
Name and surname		
Age		
Occupation		
Status (i.e., bachelor, spinster, widower, widow, or divorced)		
Birthplace		
Usual residence		
Father's name and surname		
Father's occupation		
Mother's name and surname		

Married, after notice duly given to me as required by regulation 9 of the Tokelau Islands Marriage Regulations 1969, on the Island of ..... this ..... day of ..... 19.....

.....  
[Signature of Marriage Officer]

This marriage was solemnised between us:

Signatures of parties married .....

.....

In the presence of us:

Signatures, places of abode, and calling of witnesses .....

.....

SECOND SCHEDULE—*continued*

Reg. 16

Form 4

*Tokelau Islands*

CERTIFIED COPY OF ENTRY IN MARRIAGE REGISTER

Number		
When married		
Where married		
	Bridegroom	Bride
Name and surname		
Age		
Occupation		
Conjugal status		
Birthplace		
Usual residence		
Father's name and surname		
Father's occupation		
Mother's name and surname		

Certified to be a true copy of the above particulars included in an entry in the Marriage Register in my lawful custody.

Dated at ..... this ..... day of ..... 19.....

.....  
Registrar.

Reg. 24

## THIRD SCHEDULE

## FEES TO BE TAKEN BY REGISTRAR

For every certified copy of any entry, including search .....	50 cents
For every notice of intended marriage .....	Free
For every marriage solemnised .....	Free

Reg. 29

## FOURTH SCHEDULE

## ENACTMENTS NOT TO APPLY TO TOKELAU ISLANDS

1. So much of Queen's Regulation No. 1 of 1896, made on the 16th day of March 1896 by the Assistant High Commissioner for the Western Pacific, as has not ceased to form part of the law of the Tokelau Islands pursuant to the Tokelau Islands Births and Deaths Registration Regulations 1969.

2. The Foreign Marriage Ordinance 1916 of the Gilbert and Ellice Islands Colony.

3. So much of clause 2 of Part I of the Schedule to the Native Laws Ordinance 1917 of the Gilbert and Ellice Islands Ordinance 1917 as relates to the Marriage Register, and Law No. 16 of Part II of that Schedule.

4. The Marriage of British Subjects (Facilities) Ordinance 1917 of the Gilbert and Ellice Islands Colony.

5. The Ordinance No. 1 of 1931 of the Union Islands Regulating Marriages in the Union Islands.

P. J. BROOKS,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

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

These regulations replace the existing laws as to marriages in the Tokelau Islands, and prescribe the procedure for the solemnisation and recording of such marriages.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 17 July 1969.

These Regulations are administered in the Maori and Island Affairs Department.