



THE TOKELAU PLANT REGULATIONS 1989

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 18th day of September 1989

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

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

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Tokelau Plant Regulations 1989.

(2) These regulations shall come into force on the 1st day of November 1989.

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

“Administrator” means the Administrator of Tokelau:

“Contaminated material” means any material that has had direct or indirect contact or association with, or has been in the vicinity of, any plant material, plant pest, or soil, unless that material has been freed from all diseases and plant pests, and is not contaminated by any soil:

“Director of Agriculture” means the person holding the office of Director of Agriculture in the Tokelau Public Service:

“Disease” means any unhealthy condition in any plant material that may be caused directly or indirectly by any form of fungus, bacterium, virus, or micro-organism; and includes any form of fungus, bacterium, virus, or micro-organism that may cause such a condition; and “diseased” has a corresponding meaning:

“Import into Tokelau” includes to take or send from one island of Tokelau to another island of Tokelau; and “importation into Tokelau” has a corresponding meaning:

“Inspector” means any person designated as an Inspector under regulation 5 of these regulations; and includes the Director of Agriculture, a Pulenuku, or a constable:

“Plant material” means any plant (including a tree or shrub); and includes any fruit, seed, spore, and portion or product of any plant unless it has been rendered no longer viable, and has been freed from all diseases and plant pests, and has been made incapable of carrying any disease or plant pest:

“Plant pest” means any organism of plant or animal origin that may directly or indirectly cause damage or injury to any plant material; and includes—

(i) The living stage of any insect, mite, or other invertebrate animal, that may directly or indirectly cause such damage or injury:

(ii) Any disease:

(iii) Any plant having any noxious or undesirable characteristic:

(iv) Any plant parasite:

“Soil” includes earth, water, peat, compost, sand, clay, and any other substance capable of supporting plant life, or transporting any disease or plant pest, whether or not used or intended to be used as a growing medium.

3. Administrator may prohibit importation of plant material and soil—(1) For the purpose of preventing the introduction into Tokelau, or the spread within Tokelau, of any disease or plant pest, or any plant material having noxious or undesirable characteristics or being of a weak, inferior, or undesirable strain, the Administrator may from time to time, by notice published in accordance with regulation 4 of these regulations, prohibit or restrict the importation into Tokelau, either generally or from any specified region, country, or place of origin, of—

(i) All plant material, or of such plant material as may be specified in the notice:

(ii) Any soil:

(iii) Any contaminated material.

(2) Without limiting the generality of subclause (1) of this regulation, any notice under that subclause may prescribe conditions for the importation into Tokelau of any plant material, soil, or contaminated material, including conditions specifying, either generally or in any particular case,

any quarantine arrangements that are to apply in respect of any such importation.

4. Publication of notices—(1) A copy of every notice under regulation 3 of these regulations—

- (i) Shall, as soon as practicable after it is issued, be publicly notified at the Office for Tokelau Affairs at Apia in Western Samoa, and at the Administration Office of each village in Tokelau; and
- (ii) Shall be printed in Tokelauan and in English in the first available issue of *Te Vakai* published after the issuing of the notice.

(2) Every notice under regulation 3 of these regulations shall come into force on the date specified for that purpose in the notice, but no such notice shall come into force until a copy of that notice is publicly notified in accordance with subclause (1) (i) of this regulation.

5. Inspectors—(1) The Official Secretary may from time to time, for the purposes of these regulations, designate any member of the Tokelau Public Service as an Inspector, and may at any time revoke any such designation.

(2) The Official Secretary shall issue to every person designated as an Inspector under subclause (1) of this regulation an identification card identifying the holder as an Inspector.

(3) Every identification card shall be signed by the Official Secretary, and shall contain the full name of, and be signed by, the person to whom it is issued.

(4) Every person who ceases to hold office as an Inspector shall forthwith return to the Official Secretary the identification card issued under this regulation.

6. Rights of entry and search—(1) Subject to subclause (2) of this regulation, for the purposes of these regulations an Inspector may, at any time between sunrise and sunset, enter and search any dwellinghouse, building, aircraft, ship, premises, or place.

(2) Every Inspector shall, when entering any dwellinghouse, building, aircraft, ship, premises, or place, and at any other time when required to do so by the owner or occupier of that dwellinghouse, building, premises, or place, or by that person's representative, agent, or employee, or by the owner or person for the time being in charge of that aircraft or ship as the case may require,—

- (i) Inform such persons of the Inspector's name and official designation, the authority under which the Inspector is acting, and the power or powers that the Inspector is exercising; and
- (ii) At the request of any such person, produce the identification card issued to the Inspector under regulation 5 of these regulations, or evidence that the person is the Director of Agriculture or a constable or a Puluenuku, as the case may require.

7. Powers of Inspectors—Every Inspector may, for the purposes of these regulations, detain, open, inspect, examine, sample, submit for diagnostic examination, direct reshipment, direct removal to a quarantine area, remove for treatment, treat, quarantine, or disinfect any plant material, disease, plant pest, soil, contaminated material, package, packing material, article of luggage, or other thing, in such manner as the Inspector thinks fit.

8. Destruction of plant material, etc.—An Inspector may, in accordance with any directions issued by the Director of Agriculture, destroy or otherwise dispose of—

- (i) Any plant material, plant pest, soil, or contaminated material, where the Inspector believes, on reasonable grounds, that the plant material, plant pest, soil, or contaminated material has been imported into Tokelau in contravention of these regulations:
- (ii) Any diseased plant material or diseased soil:
- (iii) Any plant pest:
- (iv) Any material that has had direct or indirect contact or association with, or has been in the vicinity of, any diseased plant material, diseased soil, or plant pest, unless that material has been freed from all diseases and plant pests, and is not contaminated by any soil.

9. Compensation—Where any plant material (not being plant material that has been imported into Tokelau in contravention of these regulations) is destroyed or disposed of by an Inspector pursuant to regulation 8 of these regulations, the Administrator shall—

- (i) Pay to the owner of the plant material so destroyed or disposed of such compensation for the loss of that plant material as the Administrator considers reasonable; and
- (ii) Refund to that owner any charges paid to the Tokelau Administration in respect of the transport or quarantine of that plant material where such charges were incurred within the period of 10 days immediately preceding the date on which the plant material was destroyed or disposed of.

10. Protection of Inspectors, etc.—No proceedings, civil or criminal, shall lie against any Inspector, or against the Administrator or any employee or agent of the Tokelau Administration, or against the Government of New Zealand or any of its employees or agents, in respect of anything done or omitted in the exercise or performance in good faith of any function, duty, or power under these regulations.

11. Offences—Every person commits an offence and is liable on conviction to a fine of not more than \$150 who—

- (i) In contravention of any notice made under regulation 3 of these regulations, imports into Tokelau any plant material, soil, or contaminated material; or
- (ii) Imports into Tokelau any plant material, soil, or contaminated material otherwise than in accordance with any condition under which that plant material, soil, or contaminated material may, under any notice made under regulation 3 of these regulations, be imported into Tokelau; or
- (iii) Imports into Tokelau any plant pest; or
- (iv) Lands in Tokelau any plant material, soil, or contaminated material other than at a place and in a manner that is authorised by an Inspector; or
- (v) Obstructs an Inspector in the performance of that Inspector's duties under these regulations.

12. Revocation—The Tokelau Plant Protection Ordinance 1936* (No. 1 of 1936) is hereby revoked.

**Western Samoan Gazette*, 18 November 1936, p. 535

C. J. HILL,
for 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, which come into force on 1 November 1989, relate principally to the importation of plants into Tokelau.

The main effect of the regulations is to empower the Administrator of Tokelau to prohibit, either absolutely or subject to conditions, the importation into Tokelau of plant material and soil, and any material that has been in contact with plants, plant pests, or soil. The importation into Tokelau of any plant pest is absolutely prohibited.

Various powers are conferred on Inspectors to enforce the regulations, including powers of search and seizure, and the power to destroy diseased plants.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 22 September 1989.

These regulations are administered in the Ministry of External Relations and Trade.