



Tonga

# **LAWS CONSOLIDATION ACT 1988**

**1988 Revised Edition**





## LAWS CONSOLIDATION ACT 1988

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# LAWS CONSOLIDATION ACT 1988

Act 42 of 1988

## AN ACT TO PROVIDE FOR THE PUBLICATION OF A CONSOLIDATED AND REVISED EDITION OF THE LAWS OF TONGA

Commencement [31st January 1989]

### 1 Short Title

This Act may be cited as the Laws Consolidation Act 1988.

### 2 Interpretation

In this Act, unless the context otherwise requires —

“**the effective day**” means the day appointed pursuant to section 4(1)(a) of this Act;

“**the Commissioner**” means the person appointed by section 3 of this Act to be Law Revision Commissioner for the consolidation and revision of the laws of Tonga;

“**Revised Edition**” means the consolidated and revised edition of the laws of Tonga to be prepared under the authority of this Act;

“**subsidiary legislation**” includes proclamations and notices having legislative effect and any other form of subordinate legislation;

“**written law**” means Act, Ordinance and subsidiary legislation.

### 3 Appointment of Law Revision Commissioner

- (1) Neil James Adsett is hereby appointed Law Revision Commissioner for the consolidation and revision of the laws of Tonga.
- (2) In case the Commissioner from any cause is unable to discharge his commission the King in Council may appoint some other fit and proper person to be Commissioner in his stead.

### 4 Contents of Revised Edition

- (1) Subject to the provisions of this Act the Revised Edition shall be published in both the Tongan and English languages and shall contain —
  - (a) the Constitution and all Acts and Ordinances in force on such day as shall be appointed by the King in Council;
  - (b) all subsidiary legislation in force on the effective day.
- (2) Of the written law specified in subsection (1) of this section, there shall be omitted from the Revised Edition —
  - (a) any written law which prior to the effective day the King in Council may by order specify;
  - (b) all annual and supplementary Appropriation Acts and other Appropriation Acts;
  - (c) such subsidiary legislation, being of limited application, as the Commissioner thinks fit to omit:

Provided that, where any written Law is omitted under this subsection, a note of the omission shall be included in the Revised Edition.

### 5 Powers of Commissioner

- (1) In the preparation of the Revised Edition the Commissioner shall have the following powers —
  - (a) to omit —
    - (i) all written law or parts of written law which have been repealed expressly or by necessary implication, or which have expired, or which have become spent or have had their effect;
    - (ii) all repealing enactments contained in written laws and all tables or lists of repealed enactments, whether contained in schedules or otherwise;
    - (iii) all preambles or parts of preambles to written laws and all or any recitals in written laws, where such omission can, in the opinion of the Commissioner, conveniently be made;

- (iv) all words of enactment in any written law;
  - (v) all enactments prescribing the date when any written law or part of any written law is to come into force, where such omission can, in the opinion of the Commissioner, conveniently be made;
  - (vi) all amending written laws or parts of written laws where the amendments effected by such written laws or part of written laws have been embodied by the Commissioner in the written laws to which they relate;
- (b) to arrange the Constitution, Acts, Ordinances and subsidiary legislation by chapters in such sequences and groups and generally in such order and manner as the Commissioner thinks proper;
  - (c) to consolidate into one law two or more laws in *pari materia*, making the alterations thereby rendered necessary in the consolidated law, and affixing such date thereto as seems most convenient;
  - (d) to alter the order of sections in any law, and, in all cases where it is necessary to do so, to renumber the sections of any law;
  - (e) to alter the form or arrangement of any section of any law, either by combining it in whole or in part with another section or other sections or by dividing it into two or more subsections;
  - (f) to divide any law, whether consolidated or not, into parts or other divisions;
  - (g) to transfer any provision contained in or made under any enactment from that enactment to any other enactment to which the Commissioner considers it more properly belongs;
  - (h) to supply or alter marginal notes and tables showing the arrangement of sections;
  - (i) to correct cross-references;
  - (j) to shorten or simplify the phraseology of any law;
  - (k) to add a short title or citation to any law which requires it, and, if necessary or expedient, to alter the long title, short title or citation of any law;
  - (l) to correct grammatical and typographical mistakes and errors in translation in the existing copies of written laws, and for that purpose to make verbal additions, omissions and alterations not affecting the meaning of the written laws;
  - (m) to correct the punctuation in any laws;
  - (n) to provide footnotes by way of amplifications;

- (o) to make such formal alterations as to any names, localities, offices and otherwise as are necessary to bring any law into conformity with the circumstances of the Kingdom;
- (p) to make such adaptations of or amendments to any law as appear to be necessary or proper as a consequence of changes in the constitutions of Commonwealth countries or the composition of the Commonwealth;
- (q) to make such formal alterations to any law as are necessary or expedient for the purpose of securing uniformity of expression in the Revised Edition;

and power to do all other things relating to form and method, whether similar to the foregoing or not, which appear to him necessary for the perfecting of the laws of the Kingdom.

- (2) The provisions of section 15(c) of the Interpretation Act shall apply to all omissions made by virtue of subsection (1) of this section as if the laws or parts of laws omitted had been repealed.

## **6 Alterations in substance or meaning**

Nothing in section 5 of this Act shall empower the Commissioner to make any alteration or amendment in the substance of any enactment or otherwise affecting its meaning.

## **7 Bringing into force**

- (1) When the Revised Edition has been printed, it shall be presented by the Commissioner to the King for approval and such approval, if given, shall be notified by proclamation published in the Gazette.
- (2) Three copies of the Revised Edition shall by order of the King in that behalf be impressed on the title page of each volume thereof with the public Seal of the Kingdom and shall thereafter be delivered to and retained for purposes of record by the Clerk to the Legislative Assembly, the registrar of the Supreme Court and the Solicitor-General respectively.

## **8 Validity**

From and after the date of the proclamation referred to in section 7(1) of this Act, the Revised Edition, together with any written law omitted therefrom under section 4(2) of this Act, shall be without any question whatsoever in all Courts of Justice and for all other purposes whatsoever the law of the Kingdom in respect of the Constitution and all Acts, Ordinances and subsidiary legislation up to the effective day.

## 9 Complimentary

- (1) The Revised Edition may also contain a reprint of such treaties, conventions, statutes of the Parliament of the United Kingdom and other instruments and enactments as the Commissioner considers it useful to include.
- (2) When any instrument or enactment is reprinted in pursuance of subsection (1) of this section, the provisions of the instrument or enactment may be reproduced with such amendments as may have been made thereto by any other instrument or enactment, and where any instrument or enactment has been applied in the Kingdom with modifications, the provisions of that instrument or enactment may be reproduced with those modifications:  
Provided that every departure from the original text of the instrument or enactment shall be clearly shown by notes or references or other similar means.

## 10 Revision of the Revised Edition

- (1) At such times as the Attorney-General considers convenient, he shall, subject to subsection (3) and to the powers of omission under section 4 —
  - (a) cause to be prepared and published a new revised edition of any written law that has been amended since the effective date;
  - (b) cause to be prepared and published any new Act or other written law enacted or made since the effective date, other than Acts or other written laws the sole or substantial effect of which was to amend other Acts or other written laws;
  - (c) cause to be prepared and published a new table of contents, index, list of chapters, other lists which appear convenient and instructions for the removal and replacement of material.
- (2) All material prepared and published under subsection (1) shall state the law as at such date as the Attorney-General specifies under subsection (4) and on each page thereof the year of that Revision shall be shown.
- (3) The Attorney-General shall not be required to prepare and publish a new revised edition of any written law that has been amended or varied if he considers that the amendments or variations are not sufficiently extensive to justify the preparation and publication thereof, but all such amendments shall be contained in replacement pages to be included in the Revised Edition.
- (4) The Attorney-General shall transmit to the Registrar of the Supreme Court a copy of all material published under this section and with effect from such date as the Attorney-General may specify by notice in the Gazette and subject to the other provisions of this Act such material containing

any written law shall be without any question whatsoever the law of the Kingdom in respect of that written law.

- (5) For the purposes of this section, the Attorney-General shall have and perform, *mutatis mutandis*, the powers and duties conferred or imposed by this Act upon the Commissioner.

## **11 Construction of Revised Edition and of references to enactments affected**

- (1) Where in any enactment or in any document of whatever kind reference is made to any written law affected by or under the operation of this Act, the reference shall, unless the context otherwise requires, be deemed to be a reference to the corresponding written law in the Revised Edition and all cross-references in any such written law or document shall, where they are affected by or under the operation of this Act, be read and construed with such modifications as circumstances may require.
- (2) In the event of any doubt arising with respect to the meaning of any passage in the Revised Edition, or of any difference existing between the English text and the Tongan text of any such passage, the English text shall be held to give the true meaning of such passage.

## **12 Place of this Act in Revised Edition**

This Act shall be printed at the commencement of the Revised Edition.