



Tonga

# INTERPRETATION ACT

1988 Revised Edition





## INTERPRETATION ACT

### Arrangement of Sections

#### Section

1	Short Title.....	5
2	Definition.....	5
3	When Acts come into force.....	8
4	Promulgation of Ordinances.....	8
5	Reference to officer.....	8
6	Certain references to include a Judge of the Supreme Court.....	9
7	Validation of Past Acts.....	9
8	Schedule, tables and preamble.....	9
9	Construction of power.....	9
10	Power to make regulations.....	9
11	Right of the Crown.....	10
12	References to repealed provisions.....	10
13	Repealed provisions in force until those substituted operate.....	10
14	Effect of repeal on repealed Act.....	11
15	Other effects of repeal.....	11
16	Repeal by implication.....	11
17	Exercise of powers and duties.....	11
18	Construction of periods of time.....	11
19	Counting of days.....	12
20	Tonga standard time.....	12
21	Application of English or Tongan versions in criminal trials.....	13
22	Evidence of date of assent.....	13
23	Exercise of power between passing and commencement of Act.....	13
24	Administration of Acts.....	14
25	References in agreements to a Department, Minister, officer or body.....	14
26	Service by post.....	14

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27	Exercise of powers, authority and functions by a delegate. ....	15
28	Strict compliance with prescribed forms not essential. ....	15
29	Penalties at foot of section or subsections. ....	15
30	Offences under two more laws. ....	15
31	Corporations liable to and may sue for penalties. ....	15
32	Total area of the Kingdom ....	16
33	Amending to be construed with amended Act. ....	16
34	Construction of Acts to be subject to Constitution. ....	16

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**SCHEDULE** **17**

SECTIONS (6 & 7) .....	17
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Tonga

## INTERPRETATION ACT

*Acts No. 6 of 1903 (Ss.319 and 320), 9 of 1926, 10 of 1942, 6 of 1945, Ord. No. 2 of 1915, Acts No. 11 of 1952, No. 9 of 1960, No. 6 of 1971, No. 1 of 1972, No. 28 of 1974, No. 11 of 1978, No. 28 of 1978,\* No. 13 of 1985, No. 17 of 1986.*

*\* Not in force as at 31 December 1988.*

### AN ACT FOR SHORTENING THE LANGUAGE USED IN ACTS, PROCLAMATIONS AND REGULATIONS

Commencement [29th July, 1926]

#### 1 Short Title.

This Act may be cited as The Interpretation Act.

#### 2 Definition.

- (1) In this Act and in every other Act and in all official, legal or public documents enacted, made or issued before or after the commencement of this Act, unless the contrary intention appears—

“**Act**” includes an Ordinance passed by the King and Privy Council, proclamation, regulation, rule, notice or other instrument made or issued in pursuance of an Act; (*Substituted by Act 6 of 1971.*)

“**alien**” means any person other than a naturalised or native born Tongan subject;

“**Cabinet**” means the Cabinet of the Kingdom of Tonga;

“**civil servant**” means any person in the permanent or temporary employment of the Government, and includes officers, labourers and all daily or hourly paid person but does not include naval or military personnel; (*Inserted by Act 28 of 1974*)

“**Constitution**” means the constitution of Tonga granted by his Majesty King George Tupou I on the fourth day of November 1875 as amended from time to time; (*Inserted by Act 6 of 1971*)

“**commencement**” used with reference to an Act means the day on which the Act comes into force;

“**district**” means any division of the Kingdom thus defined in any Act or proclamation;

“**financial year**” means the period from and including the first day of July to and including the thirtieth day of June next following; (*Amended by Ord. 2 of 1915, S. 2*)

“**Gazette**” means the Tonga Government Gazette published by order of the Government, including a supplement thereto and an Extraordinary Gazette so published; (*substituted by Act 6 of 1971*)

“**Government**” means the Government of the Kingdom of Tonga;

“**Governor**” means a Governor appointed pursuant to clause 54 of the Constitution; (*Inserted by Act 6 of 1971.*)

“**Government Printer**” includes any person authorised to print Acts and other documents of the Government; (*Inserted by Act 6 of 1971*)

“**His Majesty,**” “**The King**” means His Majesty the King of Tonga or the Sovereign reigning for the time being over the Kingdom of Tonga;

“**Kingdom**” means the Kingdom of Tonga;

“**land**” includes the hereditary estates of nobles and matapules, tax and town allotments, leaseholds and interests in of every description;

“**Legislative Assembly**” and “**Speaker of the Legislative Assembly**” means respectively the Legislative Assembly of Tonga and the Speaker of the Legislative Assembly of Tonga;

“**master**” used with reference to a ship means any person (other than a pilot or harbour master) having for the time being control of the ship;

“**Minister**” means a Cabinet Minister of the Kingdom of Tonga;

“**month**”, means calendar month;

“**oath,**” “**swear**” and “**affidavit**” includes the affirmation and declaration of any person allowed by law to affirm or declare instead of swearing;

“**officer**” or “**Public officer**” means any person, other than a labourer, in the permanent or temporary employment of the Government; (*Inserted by Act 3 of 1946*)

“**person**” includes any body of persons corporate, or unincorporate;

“**personal luggage**” or “**personal effects**” means luggage personal to the use of the person bringing them with him into the Kingdom, not including furniture, household effects or merchandise. In cases of dispute the decision of the Controller of Customs shall be final; (*Inserted by Act 3 of 1946.*)

“**police officer**,” “**Peace officer**” and “**constable**” includes any member of the Police Force of the Kingdom of Tonga;

“**Prime Minister**” means the Prime Minister of the Kingdom of Tonga; (*Inserted by Act 6 of 1971*)

“**Privy Council**” means the Privy Council of the Kingdom of Tonga;

“**public holiday**” includes any day which under the provisions of any Act is to be observed as a public holiday;

“**registered**” used with reference to a document means registered under the provisions of the law for the time being applicable to the registration of such document;

“**section**” and “**schedule**” mean respectively, a section of and schedule to the Act in which the word occurs;

“**sign**” shall in regard to a person who is unable to write his name include “**mark**”;

“**subsection**” means a subsection of the section in which the word occurs;

“**ship**” and “**vessel**” includes every description of vessel used for the conveyance of human beings or goods by water not exclusively propelled by oars.

- (2) Words importing the masculine gender shall include females.
- (3) Words importing the singular shall include the plural and vice versa.
- (4) Words referring to writing shall include references to printing, lithography or other modes of representing or reproducing words in a visible form.
- (5) The style “Premier”, wherever it appears in the English version of an Act (including this Act) or of an official Government writing, is omitted and the style “Prime Minister” inserted in its stead; and a reference in that Act or official Government writing to Premier shall be read and construed as a reference to Prime Minister. (*Inserted by Act 6 of 1971.*)
- (6) The style “Secretary to Government” where it appears in any Act (including this Act) or in any official Government writing, is omitted and

the style “Chief Secretary and Secretary to Cabinet” inserted in its stead; and a reference in that Act or official Government writing to “Secretary to Government” shall be read and construed as a reference to “Chief Secretary and Secretary to Cabinet. (*inserted by Act 13 of 1985*)

- (7) The style “Crown Solicitor” wherever it appears in any Act (including this Act) or in any official Government writing, is omitted and the style “Solicitor-General” inserted in its stead; and a reference in that Act or official Government writing to “Crown Solicitor” shall be read and construed as a reference to “Solicitor-General”. (*Inserted by Act 13 of 1985.*)
- (8) The style “Chief Medical Officer” wherever it appears in any Act (including this Act) or in any official Government writing, is omitted and the style “Director of Health” inserted in its stead; and a reference in that Act or official Government writing to “Chief Medical Officer” shall be read and construed as a reference to “Director of Health”. (*Inserted by Act 17 of 1986.*)

### **3 When Acts come into force.**

- (1) An Act to which His Majesty's Assent has been given comes into operation on the day on which that Act receives His Majesty's Assent, unless the contrary intention appears.
- (2) Where an Act which has received His Majesty's Assent, or part of that Act, is expressed to come into operation on a particular day, that Act or that part, as the case may be, comes into operation immediately on the expiration of the last preceding day. (*Substituted by Act 6 of 1971*)

### **4 Promulgation of Ordinances.**

Every Ordinance passed by the King in Council shall be promulgated by printing in the Gazette. (*Substituted by Act 11 of 1978*)

### **5 Reference to officer.**

- (1) When reference is made in any Act, regulation or proclamation to any Minister or other public officer by the title of his office such term shall include the officer for the time being performing the duties of such office and such other officer as may from time to time be appointed to undertake any portion of such duties.
- (2) Where an Act confers a power of appointment to an office it shall be construed as including a power to make an acting or temporary appointment to such office whenever the substantive holder of such office

be unable, by reason of illness, absence or other cause to fulfil the duties of his office, or whenever there is no substantive holder of such office.  
(*Inserted by Act 10 of 1942*)

## **6 Certain references to include a Judge of the Supreme Court.**

Wherever in any Act of the Legislative Assembly, Ordinance, Regulation, Rule, Order, Notice or other official Government writing reference is made to the Chief Justice the words “Chief Justice” shall be deemed to include a Judge of the Supreme Court save and except in those Acts of the Legislative Assembly, Ordinances, Regulations, Rules, Orders, Notices or other official Government writings referred to in the Schedule hereto. (*Inserted by Act 11 of 1952*)

## **7 Validation of Past Acts.**

*No 11 of 1952.*

Any order, act, deed or thing made or done by a Judge of the Supreme Court prior to the coming into force of the Judges of the Supreme Court Act, 1952, which if it had been made or done by the Chief Justice in pursuance of any Act of the Legislative Assembly, Ordinance, Regulation, Rule, Order, Notice or other official Government writing save those referred to in the Schedule hereto shall be as valid and effectual as though the same had been made or done by the Chief Justice. (*Inserted by Act 11 of 1952*)

## **8 Schedule, tables and preamble.**

- (1) Every Schedule or table to any Act or to a part of any Act shall together with any notes thereto be construed and have effect as part of the Act.
- (2) The preamble of any Act may be referred to for assistance in explaining its scope and object.

## **9 Construction of power.**

When in any Act, regulation or proclamation power is given to any person to do or enforce the doing of any act, or all such power shall be understood to be given as are reasonably necessary to enable any person to do or enforce the doing of the act or thing.

## **10 Power to make regulations.**

When in any Act which is now or may hereafter be in force power is given to any authority to make rules or regulations, the following provisions shall, unless

in any case the contrary is expressly provided or by necessary implication appears to be intended, have effect with reference to the making and operation of the rules and regulations—

- (a) the power to make rules and regulations shall include the power to make forms if necessary;
- (b) there may be annexed to the breach of any rule such fine not exceeding \$10 as the rule making authority may think fit, and any such fine may be recovered according to the law for the time being in force regulating the procedure before magistrates;
- (c) any rules or regulation may at any time be altered or rescinded by the same authority and in the same manner by and in which it was made;
- (d) no rule or regulation shall be inconsistent with the provisions of any Act;
- (e) all rules or regulations shall be published in the Gazette;
- (f) the production of a copy of the Gazette containing any rule or regulation purporting to be printed by the Government Printer shall be *prima facie* evidence in all courts and for all other purposes whatsoever of the due making and tenor of the rule or regulation.

## 11 Right of the Crown.

No Act shall be deemed to affect in any manner whatsoever the right of the Crown unless it is therein expressly stated or unless it appears by necessary implication that the Crown is bound thereby.

## 12 References to repealed provisions

Where an Act repeals and re-enacts (with or without modification) any provisions of a former Act, references in any other Act or in any proclamation or regulation to the provisions so repealed shall, unless a contrary intention appears, be construed as references to the provisions so re-enacted.

## 13 Repealed provisions in force until those substituted operate.

Whenever any Act repeals wholly or in part a former Act and substitutes therefore some new provision the repeal shall not take effect until the substituted provision comes into operation.

**14 Effect of repeal on repealed Act.**

Whenever any Act repealing either in whole or in part a former Act is itself repealed the repeal shall not in the absence of any express provision to the contrary revive or be deemed to have revived the repealed Act or any right, office, privilege, or matter not in force or existing when the repealing Act comes into operation.

**15 Other effects of repeal.**

Whenever any Act repeals either in whole or in part a former Act the repeal shall not, in the absence of any express provision to the contrary, affect or be deemed to have affected—

- (a) the past operation of or anything duly done or suffered under the repealed Act;
- (b) any offence committed, or any right, liberty, obligation or penalty acquired or incurred under the repealed Act;
- (c) any action, proceeding, or thing pending or incompleting when the repealing Act comes into operation; but every such action, proceeding or thing may be carried on and completed as if there had been no such repeal.

**16 Repeal by implication.**

Whenever any Act is passed which contains provisions irreconcilable with but does not expressly repeal an existing Act, then the provisions in such existing Act which are irreconcilable with the provisions of the new Act shall be held to be impliedly repealed.

**17 Exercise of powers and duties.**

Whenever by any Act a power is conferred or a duty imposed, then unless the contrary appears to be intended the power may be exercised and the duty shall be performed from time to time as occasion requires.

**18 Construction of periods of time.**

- (1) Where a limited time from any date or from the happening of any event is appointed or allowed by any Act, proclamation or regulation for the doing of any act or the taking of any proceeding in a court or office, and the last day of the limited time is a day on which the court or office is closed, then, unless the contrary intention appears, the act or proceeding shall be

considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open.

- (2) Where by any Act, proclamation or regulation any act or proceeding is directed or allowed to be done or taken in a court or office on a certain day and the court or office is closed on that day, then, unless the contrary intention appears, the act or proceeding shall be considered as done or taken in due time, if it is done or taken on the next day afterwards on which the court or office is open.
- (3) Where a limited time not exceeding 6 days from any date or from the happening of any event is appointed or allowed by any Act, proclamation or regulation for the doing of any act or the taking of any proceeding in a court or office, then, unless the contrary intention appears, every intervening Sunday and public holiday shall be excluded from the computation of the time.
- (4) Where by any Act, proclamation or regulation a day is named for the doing or taking of any act or proceeding (other than an act or proceeding to be done or taken in a court or office) or for the happening of an event, and that day falls upon a Sunday or public holiday, then, unless the contrary intention appears, the Act, proclamation or regulation shall be read as if the first lawful day next succeeding the Sunday or public holiday has been named.

## **19 Counting of days.**

In every case in which an Act prescribes a particular number of days from a particular day or date for the doing of any act or for any other purpose, then in reckoning such number of days the specified day or date shall be excluded therefrom.

### *Illustrations—*

The law provides that 14 days from the date of judgment are to be allowed for payment of fines. The first of the 14 days is the day following that on which judgment was given.

If an Act provides that 10 days from March 31<sup>st</sup> are to be allowed for doing a certain act, the last day for doing that act will be April 10<sup>th</sup>.

## **20 Tonga standard time.**

Thirteen hours in advance of Greenwich Mean Time shall be deemed and is hereby declared to be standard time throughout the Kingdom. Whenever an expression of time occurs in any official or legal document and whenever the doing or not doing anything at a certain time of day or night or during a certain

part of the day or night has an effect in law such time shall unless it is otherwise specifically stated be held to be standard time throughout the Kingdom as declared by this section. (*Inserted by Act 6 of 1945, and Amended by Act 9 of 1960.*)

## **21 Application of English or Tongan versions in criminal trials.**

If upon the trial of any person for an offence against any law of Tonga it is manifest that the Tongan and English versions of the section which the accused person is charged with violating differ in meaning, then, in deciding the question of the accused person's guilt or innocence the court shall be guided by what appears to be the true meaning and intent of the Tongan version. (*Amended by Act 28 of 1978.*)

## **22 Evidence of date of assent.**

The date appearing on the copy of an Act printed by the Government Printer and purporting to be the date on which His Majesty's Assent was given to that Act is evidence that date was the date on which His Majesty's Assent was given to that Act. (*Inserted by Act 6 of 1971*)

## **23 Exercise of power between passing and commencement of Act.**

Where an Act which is not to come into operation immediately on receiving His Majesty's Assent confers power—

- (a) to make an appointment;
- (b) to make, grant or issue an instrument (including an order in council, proclamation, order, warrant, scheme, rules, regulations or by-laws);
- (c) to give notices;
- (d) to prescribe forms; or
- (e) to do any other thing,

for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after His Majesty's Assent has been given to the Act so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of its commencement; but an appointment made, an instrument made, granted or issued, a notice given, a form prescribed or a thing done under that power shall not, unless the contrary intention appears in the Act or the contrary is necessary for bringing the Act into operation, have any effect until the Act comes into operation. (*Inserted by Act 6 of 1971*)

## 24 Administration of Acts.

Where in any Act it is provided that the Act shall be administered by a specified Minister, or shall be administered, controlled or carried into effect by a special Department of Government—

- (a) the reference to that Minister shall be read as a reference to any Minister to whom the administration of the Act is allotted by His Majesty in Council and shall be deemed to include any Minister or member of Privy Council for the time being acting for and on behalf of the Minister to whom the administration of the Act is so allotted; and
- (b) the reference to that Department shall be read as a reference to any Department of Government to which the administration of the Act is allotted by His Majesty in Council. (*Inserted by Act 6 of 1971.*)

## 25 References in agreements to a Department, Minister, officer or body.

Where an agreement is or has been entered into by or on behalf of the Kingdom and, after the date of the agreement, the functions of a Department of the Government in relation to the administration of matters to which the agreement relates (in this section referred to as “the former Department”) are to have been allotted to another Department (in this section to as “the new Department”)—

- (a) any reference in the agreement to the Minister administering the former Department shall be read as a reference to the minister administering the new Department or to a member of Privy Council acting for the time being for him and on his behalf.
- (b) any reference in the agreement to the former Department shall be read as a reference to the new Department; and
- (c) any reference in the agreement to an officer or body of persons shall be read as a reference to—
  - (i) any other officer or body for the time being exercising the powers or performing the functions of the first-mentioned officer or body; or
  - (ii) such other officer or body as the last mentioned Minister specified. (*Inserted by Act 6 of 1971*)

## 26 Service by post.

Where an Act authorises or requires any document to be served by post, whether the expression “serve”, “give” or “send” or any other expression is used then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting the document as a letter and,

unless the contrary is proved, to have been effected at the time at which the document so posted would be delivered in the ordinary course of post. (*Inserted by 6 Act of 1971.*)

**27 Exercise of powers, authority and functions by a delegate.**

Where under an Act authorised to delegate to another any of the powers, authority and functions conferred him by that Act and any of those powers, authority or functions have been delegated in pursuance of that Act then, unless the contrary intention appears, the power, authority or function delegated may be exercised or performed by the delegate but the delegation is revocable at will and does not prevent the exercise of the power or authority or the performance of the function by the delegator. (*Inserted by Act 6 of 1971.*)

**28 Strict compliance with prescribed forms not essential.**

Except as is otherwise expressly provided, where a form is prescribed pursuant to an Act, strict compliance with the form is not essential but substantial compliance is sufficient. (*Inserted by Act 6 of 1971.*)

**29 Penalties at foot of section or subsections.**

Where in an Act a penalty is specified—

- (a) at the foot of a section of the Act; or
- (b) at the foot of a subsection of the Act but not at the foot of the section,

the penalty indicates that a contravention of the section or of the subsection as the case may be, whether by act or omission, is an offence against the Act and, unless the contrary intention appears, is punishable upon conviction by a penalty not exceeding the penalty specified. (*Inserted by Act 6 of 1971.*)

**30 Offences under two more laws.**

Where an act or omission constitutes an offence under two or more Acts the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either of those Acts but shall not be liable to be punished twice for the same offence. (*Inserted by Act 6 of 1971*)

**31 Corporations liable to and may sue for penalties.**

- (1) Every provision in every Act relating to offences punishable on conviction shall unless the contrary intention appears, be deemed to refer to bodies

corporate as well as to persons, but where the penalty prescribed in respect of any offence is a term of imprisonment only, the court before which the offence is tried may, if it thinks fit, in the case of a body corporate, impose a pecuniary penalty, not exceeding—

- (a) where the term of imprisonment does not exceed 6 months—\$200;
  - (b) where the term of imprisonment exceeds 6 months but does not exceed one year—\$400;
  - (c) where the term of imprisonment exceeds one year but does not exceed two years—\$1000; and
  - (d) where the term of imprisonment exceeds two years—\$2000.
- (2) Where under any Act any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate where the body corporate is the party aggrieved. (*Inserted by Act 6 of 1971.*)

### **32 Total area of the Kingdom.**

Where in an Act the expression “extent and boundaries”, “limits” or any other expression whatsoever is used in relation to the Kingdom to denote the total area of the Kingdom, that expression shall be construed to mean the total area bounded by the fifteenth and twenty-third and half degrees of south latitudes and the one hundred and seventy-third and the one hundred and seventy-seventh degrees of west longitude, and the area bounded by the Proclamation \*made on the 15<sup>th</sup> day of June, 1972 affirming and proclaiming Teleki Tokelau and Teleki Tonga part of the Kingdom. (*Inserted by Act 6 of 1971 and Amended by Act 1 of 1972.*)

\* See G115/72

### **33 Amending to be construed with amended Act.**

Every Act amending another Act shall, unless the contrary intention appears, be read and construed with that other Act and as part of that other Act. (*Inserted by Act 6 of 1971.*)

### **34 Construction of Acts to be subject to Constitution.**

Every Act shall be read and construed subject to the Constitution and so as not to exceed the legislative power of the Kingdom to the intention that where an Act would, but for this section, have been construed as being in excess of that power, that Act shall nevertheless be valid to the extent to which that Act is not in excess of that power. (*Inserted by Act 6 of 1971*)

**SCHEDULE**

**SECTIONS (6 & 7)**

The Constitution.

The Court of Appeal Act.

The Supreme Court Act.

The Government Act.

The Lands Act.

His Majesty's Annual Estimates.