



Tonga

STATISTICS ACT

1988 Revised Edition



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Tonga

STATISTICS ACT

Act 31 of 1978

AN ACT TO ENLARGE AND DEVELOP AN INTEGRATED AND COMPREHENSIVE STATISTICAL INFORMATION SYSTEM AND TO REGULATE ALL MATTERS PERTAINING THERETO

Commencement [28th September, 1979]

1 Short Title.

This Act may be cited as the Statistics Act.

2 Interpretation.

In this Act,

“**department**” or “**departments of government**” means any department, branch, bureau, agency or other division of the Government of Tonga and includes a statutory body;

“**Minister**” means the Minister designated from time to time by the Cabinet to act as the Minister for the purposes of this Act;

“**respondent**” means a person corporate or unincorporate including a non profit making institution in respect of whom or in respect of whose activities any report or information is sought or provided pursuant to this Act.

3 Statistics Department.

There shall continue to be a department of the Government to be known as the Statistics Department which shall be the central statistical authority for the Government whose purpose is to develop an integrated and comprehensive statistical information system to serve the needs of economic and social development, planning and management of the Kingdom and whose duties are —

- (a) to collect, compile, analyse and disseminate statistics and related information on the activities and condition of the people and their institutions;
- (b) to ensure co-ordination of the operations of departments of government in the collection, compilation and dissemination of statistics and related information, with particular regard to —
 - (i) the avoidance of duplication in the collection by departments of government of information for statistical purposes;
 - (ii) the attainment of compatibility between, and the integration of, statistics compiled by departments of government; and
 - (iii) the maximum possible utilization, for statistical purposes, of information and means of collection of information, available to departments of government;
- (c) to formulate, and ensure compliance with, standards for the carrying out by departments of government of operations for statistical purposes;
- (d) to provide advice and assistance to departments of government in relation to statistics; and
- (e) generally to promote and develop integrated social and economic statistics for Tonga.

4 Powers and duties of Minister.

- (1) The Minister may issue directions for the implementation of this Act.
- (2) The Minister shall at the commencement of the Legislative Assembly session in each year submit a report on the activities of the Statistics Department in the preceding calendar year.

5 Government Statistician.

- (1) The Cabinet by note in the Gazette may appoint a professional officer called the Government Statistician, to be responsible to the Minister for the purpose of this Act and to hold office during pleasure.

- (2) The Government Statistician shall —
 - (a) advise on matters pertaining to statistical programs of the departments of the government of Tonga and confer with such departments to that end; and
 - (b) under the direction of the Minister, exercise the authority to supervise generally the administration of this Act and control the operations and staff of the Statistics Department.

6 Temporary employees.

- (1) The Minister may employ, from time to time, in the manner authorized by law, such commissioners, enumerators, agents or other persons and for such period as are necessary to collect for the Statistics Department such statistics and information as he deems useful and in the public interest relating to such activities as he may determine, and the duties of such commissioners, enumerators, agents or other persons shall be those duties prescribed by him.

Civil servants.

- (2) The Minister may with the consent of the Prime Minister for such periods as he may determine, use the services of any employee of the civil service of Tonga in the exercise or performance of any duty, power or function of the Statistics Department or officer of the Statistics Department under this or any other Act, and any person whose services are so used shall, for the purposes of this Act, be deemed to be a person employed under this Act.

Contracted services and research.

- (3) Any persons authorized by the Government Statistician or contracted to perform special services for the Government Statistician pursuant to this Act and the employees and agents of such persons shall for the purposes of this Act be deemed to be persons employed under this Act while performing such services.

7 Oath of Office.

- (1) The Government Statistician and every person employed or deemed to be employed pursuant to this Act shall, before entering upon his duties, take and subscribe the following oath or affirmation:

I, do solemnly swear (or affirm) that I will faithfully and honestly fulfil my duties as an employee of the Statistics Department in conformity with the requirements of the Statistics Act and of all rules and instructions thereunder and that I will not without due

authority in that behalf disclose or make known any matter or thing that comes to my knowledge by reason of my employment.

Attestation.

- (2) The oath or affirmation set out in subsection (1) shall be taken before such person, and returned and recorded in such manner, as the Minister may direct.

COLLECTION OF STATISTICS

8 Rules and instructions.

- (1) The Minister on the advice of the Government Statistician may, by regulation prescribe such rules, instructions, schedules, and forms as he deems requisite for conducting the work and business of the Statistics Department collecting, compiling and publishing of statistics and other information and the taking of any census:

Provided that in the taking of a national population census, such regulations must be approved by Cabinet.

Estimates.

- (2) The Government Statistician may request a respondent to supply estimates which shall be made responsibly and in good faith where the facts are not available.

Acquiring Statistical data.

- (3) In lieu of or in addition to using agents or employees for the collection of statistics under this Act, the Government Statistician may —
- (a) prescribe that a form be sent to a person from whom information authorized to be obtained under this Act is sought. Delivery by post at any house, office or place of business or post box of any schedule or form, shall constitute a sufficient requirement, notwithstanding that the occupant or box renter is not personally named in the schedule or personally served therewith;
 - (b) where there are no official records of persons from whom information is required, notification by public notice in the Gazette and other appropriate places stating a requirement from a class of persons or respondents together with the availability of schedules or forms at stated public offices, shall constitute a sufficient requirement for such persons to make a return;

and such persons shall answer the inquiries on the form and return it to the Statistics Department, properly certified as accurate, returned by post if so required, not later than the time prescribed on the form. In the absence of the occupant of the house or business premises the requirement falls on

another member of the family or on the agent of the owner of the business.

9 Returns under Income Tax Act.

- (1) For the purposes of this Act and subject to subsection (1) of section 14 —
 - (a) the Government Statistician or any officer of the Statistics Department authorized by him to do so may inspect and have access to any returns, certificates, statements, documents, or other records obtained for the purpose of the Income Tax Act; and
 - (b) the Commissioner of Inland Revenue shall cause such returns, certificates, statements, documents or other records to be made available to the Government Statistician or person authorized by him to inspect such records in such manner and at such time and place as may be prescribed upon the recommendation of the Minister for Finance.

Return of exports and imports.

- (2) For the purposes of this Act and subject to subsection (1) of section 14, the Collector of Customs shall cause to be sent to the Government Statistician returns of imports and exports into and from Tonga in a form suitable for statistical analysis.

10 Joint collection of statistics.

- (1) The Minister may enter into an agreement with any Department or other corporation for the exchange of information collected jointly with such department or corporation from a respondent and for subsequent tabulation or publication based on such information.
- (2) An agreement under subsection (1) shall provide that: the respondent shall be informed that the information is being collected jointly on behalf of the Statistics Department and the department or corporation, as the case may be, by a notice to that effect.

What exchange may include.

- (3) An exchange of information pursuant to this section may, subject to subsection (2), include replies to original inquiries and supplementary information provided by a respondent to the Statistics Department and the department or corporation jointly collecting the information.

11 Access to records.

A person having information or the custody or charge of any documents or records that are maintained in any department, corporation, business or organization, from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction thereof, shall provide or grant access thereto for these purposes to a person authorized by the Government Statistician to obtain such information or such aid in the completion or correction of such information. Any agent in Tonga of a foreign principal must provide the information required or produce evidence that he has been unable to obtain the information.

12 Evidence of appointment.

Any letter purporting to be signed by the Prime Minister, the Minister, the Government Statistician or any person who may be authorized by the Minister for such purpose, and giving notice of any appointment or removal of, or setting forth any instructions to any person employed in the execution of any duty under this Act is evidence of such appointment, removal or instructions, and that such letter was signed and addressed as it purports to be.

13 Presumption.

Any document or paper, written or printed, purporting to be a form authorized for use in the taking of a census or the collection of statistics or other information, or purporting to set forth any instructions relating thereto, that is produced by any person employed in the execution of any duty under this Act as being such form or as setting forth instructions, shall be presumed to have been supplied by the proper authority to the person so producing it, and is evidence of all instructions therein set forth.

SECRECY**14 Prohibition against divulging information.**

- (1) Subject to this Section and except for the purposes of a prosecution under this Act —
 - (a) no persons, other than a person employed or deemed to be employed under this Act, and sworn under section 7, shall be permitted to examine any identifiable individual return made for the purposes of this Act; and
 - (b) no person who has been sworn under section 7 shall disclose or knowingly cause to be disclosed, by any means, any information

- obtained under this Act, without the authority of the Minister or the Government Statistician in exercise of their powers under this Act;
- (c) all returns and documents containing information obtained under this Act which enable identification of individuals or establishments shall be kept at all times in a manner reasonably calculated to prevent any unauthorized person having access thereto.

Exception to prohibition.

- (2) The Minister may, by order, authorize the particulars of any information collected jointly with a department or corporation pursuant to an agreement under section 10 to be communicated to the department or corporation that was party to the collecting of the information.
- (3) The Government Statistician may authorize the following information to be disclosed —
- (a) information collected by persons, organizations or departments for their own purposes and communicated to the Statistics Department before or after this section comes into force, but such information when communicated to the Statistics Department shall be subject to the same secrecy requirements to which it was subject when collected and may only be disclosed by the Statistics Department in the manner and to the extent agreed upon by the collector thereof and the Government Statistician;
 - (b) information relating to a person or organization in respect of which disclosure is consented to in writing by the person or organization concerned;
 - (c) information relating to a business in respect of which disclosure is consented to in writing by the owner;
 - (d) information available to the public under any statutory or other law;
 - (e) information relating to any hospital, mental institution, library, educational institution or welfare institution except particulars arranged in such a manner that it is possible to relate such particulars to any individual patient, inmate or other person in the care of any such institution;
 - (f) information in the form of an index or list of the names and addresses of individual establishments, firms or businesses, the statistical classification of products they produced, manufactured, processed, transported, stored, purchased or sold, or the services provided and the numbers of employees or persons engaged or constituting their work force;
 - (g) information relating to any carrier or public utility;

- (h) information in the form of a statistical group which may unavoidably be indirectly identifiable due to the small number of establishments involved.
- (4) In this section- —
- “**public utility**” means any person or association of persons that owns, operates or manages an undertaking —
- (i) for the supply, transmission or distribution of gas, electricity or water;
 - (ii) for the collection and disposal of garbage or sewage or for the control of pollution;
 - (iii) for the transmission, omission, reception or conveyance of information by any telecommunication system or;
 - (iv) for the provision of postal services.

15 Information is privileged.

- (1) Except in respect of a prosecution under this Act, any return made to the Statistics Department pursuant to this Act and any copy of the return in the possession of the respondent is privileged and shall not be used as evidence in any proceedings whatever, and no person having made the declaration under section 7 shall by an order of any Court, tribunal or other body be required in any proceedings whatever to give oral testimony or to produce any return or document of record with respect to any information obtained in the course of administration of this Act.

Taxation.

- (2) No return made under this Act may be used for or in connection with the assessment or levy of any tax imposed by the Government of Tonga and may not be used in evidence of such assessment.

Application of section.

- (3) This section applies in respect of any information that the Statistics Department is prohibited by this Act from disclosing or that may only be disclosed pursuant to an authorization under subsection (2) or (3) of section 14.

OFFENCES AND PUNISHMENT

16 Failure to fulfil or false declaration.

Every person who, after taking the oath, set out in subsection (1) of section 7 —

- (a) fails to fulfil his duty, or wilfully makes any false declaration, statement or return in the performance of his duties;
- (b) in the pretended performance of his duties, obtains or seeks to obtain information that he is not duly authorized to obtain, or
- (c) contravenes subsection (1) of section 14,

is guilty of an offence and is liable on conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months or to both.

17 Failure to provide reformation.

Every person who, without lawful excuse —

- (a) refuses or neglects to answer, or wilfully answers falsely, any question requisite for obtaining any information sought in respect of the object of this Act or pertinent thereto that has been asked of him by any person employed or deemed to be employed under this Act, or
- (b) refuses or neglects to furnish any information or to fill in to the best of his knowledge and belief any schedule or form that he has been required to fill in, and to return the same when and as required of him pursuant to this Act, or knowingly gives false or misleading information or practices any other deception thereunder,

is, for every such refusal or neglect, or false answer or deception, guilty of an offence and is liable on conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding 3 months or to both.

18 Refusal to grant access to records.

Every person —

- (a) who, having the custody or charge of any documents or records that are maintained in any department or in any corporation, business or organization from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction thereof, refuses or neglects to grant access thereto to any person authorized for the purpose by the Government Statistician, or
- (b) who otherwise in any way wilfully obstructs, including refusing entry to offices or seeks to obstruct any person employed in the execution of any duty under this Act, is guilty of an offence and is liable on conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding 3 months.

19 Limitation.

Proceedings shall be by way of summary conviction in respect of an offence under this Act and may be instituted at any time within one year after the time when the subject matter of the proceedings arose.