



Tonga

SERVICE OF FOREIGN PROCESS RULES

1988 Revised Edition



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Arrangement of Rules

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SERVICE OF FOREIGN PROCESS RULES

Made by the Judge of the Supreme Court

G.S. 51/73, Act 46 of 1988

Commencement [31 May, 1973]

1 Short title.

These rules may be cited as the Service of Foreign Process Rules.

2 Interpretation.

In these rules —

“**process**” includes a citation;

“**taxing master**” means a taxing officer of the Supreme Court as defined in the Supreme Court Taxation of Costs Rules.

3 Application.

These rules apply in relation to the service of any process required in connection with civil or commercial proceedings pending before a court or other tribunal of a foreign country, being a country with which there subsists a Convention on Legal Proceedings in Civil and Commercial Matters providing for service in the Kingdom of Tonga of process of the tribunals of that country where a letter of request from a consular or other authority of that country requesting service on a person in the Kingdom of Tonga of any such process sent with the letter is received by the Registrar of the Supreme Court.

4 Translations required.

In order that service of the process may be effected in accordance with this rule the letter of request and the process to be served must be accompanied by copies of translations of such documents into Tongan.

5 Service.

Subject to any enactment which provides for the manner in which documents may be served on bodies corporate and to any special provisions of the relevant Convention on Legal Proceedings in Civil and Commercial Matters, service of the process shall be effected by leaving the original process or a copy of it, as indicated in the letter of request, and a copy of the translation with the person to be served.

Service shall be effected by the process server appointed under rule 10.

6 Affidavit of Service.

After service of the process has been effected or (if such be the case) attempts to effect service of it have failed, the process server shall leave with the Registrar of the Supreme Court an affidavit made by the person who served, or attempted to serve, the process stating when, where and how he did or attempted to do so, and a statement of the costs incurred in effecting, or attempting to effect, service.

7 Registrar's certificate.

The Registrar of the Supreme Court shall give a certificate certifying —

- (1) that the process or a copy thereof, as the case may be, was served on the person, at the time, and in the manner, specified in the Certificate or, if such be the case, that service of the process could not be effected for the reason so specified; and
- (2) that the cost of effecting, or attempting to effect, service, as certified by a taxing master, is the amount so specified.

8 Advice of service.

The certificate given under rule 7 shall be sealed with the seal of the Supreme Court for use out of jurisdiction and shall be sent to the Chief Secretary and Secretary to Cabinet for onward transmission to the consular or other authority by whom the request for service was made.

9 Taxation of costs.

A statement of the costs incurred in effecting, or attempting to effect, service under these rules shall be submitted to a taxing master who shall certify the amount properly payable in respect of such costs.

10 Process server.

The Attorney-General may appoint a process server for the purposes of these rules. (*Amended by Act 46 of 1988.*)