



Tonga

# GOVERNMENT ACT

1988 Revised Edition





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*Act. No. 2 of 1903, Ords. Nos. 11 of 1913, 12 of 1913, 14 of 1913, 1 of 1914, 2 of 1915, Acts Nos. 8 of 1916, 9 of 1916, 7 of 1917, 8 of 1923, 9 of 1923, 17 of 1924, 17 of 1927, 9 of 1930, 26 of 1942, 8 of 1945, 12 of 1953, 13 of 1972, 3 of 1979, 14 of 1981, 35 of 1988, 46 of 1988.*

### AN ACT TO DEFINE THE POWERS OF PUBLIC OFFICERS

Commencement [8th July, 1903]

#### **1 Short title.**

This Act may be cited as The Government Act.

#### **2 The Privy Council Executive Authority.**

The King in Council shall be the highest executive authority in the Kingdom and the Prime Minister shall be responsible for carrying out the resolutions of the Privy Council.

#### **3 Quorum.**

No Ordinance shall be passed or any important matter be decided in the Privy Council unless three members or more be present besides the King.

**4 Council in absence of King.**

If the King be unable to hold a Council either by reason of absence in some other part of the Kingdom or owing to ill-health it shall be lawful to hold a Privy Council for the consideration of urgent matters and for the authorization of extraordinary expenditure in emergencies and it shall be lawful for the King to authorize one of the Ministers to represent him at any Council so held.

**5 Vote of Councillor.**

Every member of the Privy Council shall have the right to attend every meeting and discuss and vote upon every question submitted to the Council except where his own interests are concerned.

**6 Records of Council.**

The King shall appoint a Clerk to the Privy Council who shall make a record of the proceedings of the Council and shall be the custodian thereof.

**7 Legislative power of Council.**

The King and the Privy Council may between the meetings of the Legislative Assembly pass Ordinances —

- (a) enacting regulations which may be required in consequence of circumstances arising between meetings of the Legislative Assembly; or
- (b) suspending until the next meeting of the Assembly any law the suspension of which has been requested by the Chief Justice; or
- (c) giving effect to any treaty arrangement made by Tonga with foreign countries; or
- (d) enforcing the prerogative of the King which have been proposed by the King; or
- (e) authorizing the payment of any extraordinary expenditure.  
*(Amended by Act 35 of 1988.)*

**8 Signing and publication of Ordinances.**

Every Ordinance of Privy Council shall be signed by the King and the Minister of the department to which such Ordinance relates or if not relating to any department it may be signed by the Clerk of the Council and any Ordinance so signed shall upon promulgation have the full force and effect of law and it shall be placed before that session of the Legislative Assembly immediately

succeeding the promulgation of the Ordinance to confirm, amend or rescind. (*Amended by Act 35 of 1988.*)

**9 Regulations, Rules and Orders may be rescinded by the Legislative Assembly.**

Every Regulation, Rule or Order, whether passed by His Majesty in Council, Cabinet, Prime Minister or Minister shall have full force and remain effective until rescinded by the Originating Authority or the Legislative Assembly. All such Regulations, Rules and Orders shall be placed before that session of the Legislative Assembly immediately succeeding the promulgation of the Regulation, Rule or Order for confirmation, amendment or rescission. (*Inserted by Act 8 of 1945, Amended by Act 35 of 1988.*)

**10 Preparation of Estimates and Taxation Measures.**

The Privy Council shall in or before the month of June in each year pass and present to the annual meeting of the Legislative Assembly then following for its consideration an appropriation Bill and the Estimates of the Public Revenue and Expenditure for the ensuing financial year. (*Amended by Act 35 of 1988.*)

**11 Vacancy to the throne.**

In the event of a vacancy to the throne the Privy Council as then constituted shall retain all its powers until the coronation of the succeeding sovereign and the Prime Minister holding office at the time the vacancy occurs shall have the power to convene and preside over its meetings until the coronation of the successor to the throne.

**12 The Cabinet.**

The Cabinet shall consist of the Prime Minister, the Governors, and all the Ministers duly appointed in accordance with clause 51 of the Constitution. (*Inserted by Act 26 of 1942.*)

**13 Meetings. Quorum.**

Cabinet meetings shall be convened and presided over by the Prime Minister. No meeting shall take place unless at least three members are present in addition to the Prime Minister.

**14 Resolutions.**

No resolution of the Cabinet shall be valid unless passed by a majority of the members present. The vote shall be taken by show of hands.

**15 Reports at meetings.**

Every Minister shall report to the Cabinet meeting any important or unusual occurrence that may have taken place in his department since the last meeting.

**16 Cabinet records.**

There shall be a Secretary to Cabinet who shall keep the minutes and records of Cabinet. (*Inserted by Act 14 of 1981.*)

**17 The Prime Minister.**

- (1) The Prime Minister shall be appointed by the King and shall hold office during the King's pleasure and shall be charged with the administration of any department or any government property the administration of which is not specifically provided for in this or any other Act.
- (2) He shall be the representative of the Kingdom to Foreign Nations, the Keeper of the Great Seal and custodian of all State documents: Provided that he shall not be the representative of the Kingdom to Foreign Nations where a separate Minister of Foreign Affairs has been duly appointed in accordance with clause 51 of the Act of Constitution of Tonga. (*Amended by Act 3 of 1979.*)
- (3) He shall not decide any grave or important matter without the consent of the Cabinet.
- (4) He shall have the power, with the consent of the Cabinet—
  - (a) to appoint, dismiss or discipline all Government officers (including Magistrates);
  - (b) to delegate to any person or persons appointed for the purposes, the power to appoint, dismiss or discipline all those officers and otherwise to administer the Civil Service, such delegation to be to an extent specified and not to be inconsistent with the provisions of any other Act. (*Substituted by Act 13 of 1972.*)

**18 Deputy Prime Minister.**

- (1) The King may with the consent of the Privy Council appoint from the Ministers of the Privy Council a Deputy Prime Minister who shall hold office during the King's pleasure.
- (2) The Deputy Prime Minister shall have and exercise all powers and shall perform all duties of the Prime Minister whenever the Prime Minister by reason of absence, sickness, or other cause is unable to perform the duties of his office until the Prime Minister resumes such duties.
- (3) The Deputy Prime Minister shall be deemed to hold in the circumstances described in subsection (2) of this section all the portfolios held by the Prime Minister at the date upon which the Prime Minister ceased to perform the duties of his office. (*Substituted by Act 12 of 1953.*)

**19 The Treasury. Custody of moneys.**

The Minister of Finance shall act as Treasurer and shall guard and keep all the moneys of the Government. He shall prepare the Annual Estimates of the Kingdom for presentation to the Legislative Assembly and shall also prepare the Annual Statement of Revenue and Expenditure for every completed financial year.

**20 Treasury officials.**

The Prime Minister, with the consent of the Cabinet, may appoint from time to time as vacancies occur such Sub-Treasurers and clerks in the Treasury who shall carry out their duties under the control and direction of the Minister of Finance and in accordance with any law or regulation.

**21 Payment from Treasury.**

All payments into the Treasury shall be in legal tender. The officer in charge of the Treasury or Sub-Treasury as the case may be shall be responsible for all money received into the Treasury or Sub-Treasury and shall not pay out any money except upon the authority of a voucher signed by the head of a department or officer duly authorized to sign vouchers and expressed as a payment to be made from a particular head or sub-head of the Annual Estimates.

**22 Minister of Lands.**

The Minister of Lands shall be the representative of the Crown in all matters concerning the land of the Kingdom.

**23 Minister of Police.**

The Minister of Police shall be responsible for the preservation of the peace of the land and for enforcing the laws. (*Amended by Act 46 of 1988.*)

**24 Governors.**

The Governors shall represent the Government in their respective districts and shall exercise therein supervision over all subordinate officers and all Government property and shall carry out such other duties as the Prime Minister may direct and report regularly to the Prime Minister upon the condition of their districts.

**25 Civil Service Regulations.**

The Cabinet may make regulations relating to the administration of the Civil Service provided that such regulations shall not be inconsistent with the provisions of any Act. (*Inserted by Act 35 of 1988.*)

**26 Village Regulations.**

It shall be lawful for any District Officer to make regulations for the governing of his village plantations and other necessary matters relating to the welfare of the people of his village provided that such regulations shall not become law until sanctioned by the Cabinet and confirmed by the signature of the Prime Minister and it shall be lawful for the District Officer to enforce those regulations in his town and whoever shall infringe any regulations so confirmed shall on conviction be liable to a fine not exceeding \$1 and may be ordered by the Court within such time as the Court may order to carry out the regulation which he has so infringed. Should he fail to carry out the order of the Court he may be again charged before the Court and on conviction he shall be liable to a fine not exceeding \$10 or in default of payment to imprisonment for a period not exceeding 6 months.

**27 Tofisa Regulations.**

Notwithstanding the provisions of section 26 it shall be lawful for any noble or chief holding an hereditary estate to make regulations for the people who reside on his hereditary estate and he shall give such regulations to the District Officer or District Officers of the towns in his hereditary estate but such regulations shall not become law until sanctioned by the Cabinet and confirmed by the Prime Minister in the manner provided by section 26.