

# **Tokelau Health Rules 2003**

## **TOKELAU**

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#### **1 Health professionals**

(1) Subject to paragraph (3), no person shall practise medicine, dentistry, or pharmacy in Tokelau—

(i) without the prior written permission of the Council of Faipule; and

(ii) except in compliance with such terms and conditions as the Council of Faipule thinks fit after consultation with the Director of Health.

(2) The name of every person approved for the purpose of Rule 1, and the practice permitted shall be notified publicly in each village.

(3) No person shall practice traditional medicine except—

(i) at a government health centre;

(ii) on a voluntary basis; and

(iii) under the supervision of the medical officer.

(4) Any person who contravenes this Rule commits an offence and is liable on conviction to a fine not exceeding \$500.

#### **2 Medical responsibility**

(1) No civil or criminal liability shall be incurred by any person who with reasonable care and skill performs a medical, surgical, or dental procedure on any person for the benefit of the patient, if the performance of the procedure was reasonable, having regard to the state of the patient at the time and to all the circumstances of the case.

(2) No person shall be removed from Tokelau for medical treatment without the consent of that person unless the Council of Faipule after consultation with the Director of Health so orders.

#### **3 Buildings**

(1) (i) There shall be a Health Committee for each village.

(ii) The Health Committee shall consist of the Pulemuku, the medical officer, the Faipule, and two members of the Taupulega appointed by the Taupulega.

(2) No person shall erect or make structural modifications to a building without the prior approval of the Health Committee.

(3) The Health Committee may inspect any building and give oral or written directions in relation to the site, construction, materials, water supply, sanitation facilities and other health requirements of the building.

- (4) Any person who fails to comply with all reasonable directions of the Health Committee commits an offence.
- (5) (i) Where a person fails to comply within a reasonable time with a written direction made under this Rule the Taupulega may modify or demolish the building in accordance with the direction.
- (ii) Where the Taupulega acts under subparagraph (i) the village shall have a claim against the owner of the building for the costs incurred in making the modification or the demolition.
- (6) Any person who commits an offence against this Rule is liable on conviction to a fine not exceeding \$500, and to be ordered to modify or demolish the building as the circumstances may require.

#### **4 Refuse disposal**

- (1) Subject to paragraph (2) all combustible refuse shall be burned at such place and in accordance with such directions as the Pulehenuka may give.
- (2) Plant and animal matter may be burned or otherwise disposed of in accordance with such directions as the Pulehenuka may give for the purpose of preventing the spread of vermin, odour, or the spread of disease.
- (3) Non-combustible refuse shall be deposited within a week at the place designated by the Pulehenuka for the purpose.
- (4) Every person shall keep the house in which they live, the outbuildings, and the ground surrounding the house and outbuildings clean and free of refuse.
- (5) No person shall dispose of refuse other than in accordance with these Rules.

#### **5 Sewage disposal**

- (1) Each village shall, in consultation with the Director of Health and in the interests of public health and protection of the environment, designate facilities and methods acceptable for the disposal of human excreta.
- (2) Within 6 months after such designation by the village, the Director of Health and the Pulehenuka shall together inspect all existing facilities and methods and give written notice to the person under whose control the facility is, whether the facility and method complies with the designated standard or not, and in the event of non-compliance the steps that must be taken to bring the facility or method up to the designated requirement.
- (3) From the date of notification of an acceptable facility or method the person responsible shall within 6 months take the steps necessary to upgrade the facility or method.
- (4) Where the person fails to comply with paragraph (3)—
- (i) that person commits an offence;
- (ii) the Taupulega may upgrade the facility or method.
- (5) Where the Taupulega acts under paragraph (4) the village shall have a claim against the owner of the facility for the costs incurred to upgrade the facility or method.
- (6) Any person who commits an offence against this Rule is liable on conviction to a fee not exceeding \$500.

## **6 Mosquito control**

Any person who has under their control any place or thing in which mosquitoes may breed shall take all steps necessary to ensure that mosquitoes cannot breed in that place or thing.

## **7 Preparation and sale of food**

- (1) No person shall prepare, cook, or offer for sale or public use any food unless—
- (i) that person is in good health and not suffering from an infectious or communicable disease; and
  - (ii) the food is prepared in hygienic conditions; and
  - (iii) the food is displayed or offered for sale in hygienic conditions appropriately protected from vermin and insects.
- (2) No person shall offer for sale or public use any food that was prepared more than 24 hours before.

(3) Any person who contravenes this Rule commits an offence.

## **8 Nuisance**

(1) In this Rule "nuisance" includes—

- (i) a pool, ditch, gutter, or watercourse, toilet or other sanitary convenience, cesspool, drain or ventpipe in such a state or so situated as to be dangerous to health or offensive;
- (ii) any accumulation or deposit in such a state or so situated as to be dangerous to health or offensive;
- (iii) any premises (including any accumulation or deposit on the premises) in such a state as to harbour or to be likely to harbour vermin;
- (iv) any premises so situated, or of such construction or in such a state, as to be dangerous to health or offensive;
- (v) any gutter, drain, spouting, or downpipe of a building which causes dampness in the building or in any adjoining building by reason of its insufficiency or defective condition;
- (vi) any building or part of a building which is—
  - (i) overcrowded; or
  - (ii) deficient in airspace, floor space, light or ventilation—  
as to be dangerous to the health of the occupants;
  - (vii) any workroom, shop, office, storehouse, or other similar place—
    - (i) which is not kept in a clean state, and free from offensive effluvia from any drain or sanitary convenience;
    - (ii) which is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust or impurities generated there;
    - (iii) which is so overcrowded while work is carried on there, or so badly lighted or ventilated, as to be dangerous to the health of the persons employed there;

- (viii) any buildings or premises used for the keeping of animals or birds so constructed, situated used, or kept, or in such a condition as to be dangerous to health or offensive;
  - (ix) any animal or bird, or any carcass or part of a carcass, so kept or allowed to remain as to be dangerous to health or offensive;
  - (x) any trade which is so carried on as to be dangerous to health or unnecessarily offensive;
  - (xi) any well or other source of water supply or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes in the preparation of food, so placed or constructed in such a condition as to render the water offensive, or liable to contamination, or likely to cause danger to health.
  - (xii) any offal or material liable to be dangerous to health or offensive which is deposited on the foreshore or in sea;
  - (xiii) any health hazard.
- (2) Any person by whose act a nuisance arises or continues commits an offence and is liable on conviction to a fine not exceeding \$50, and, if the person convicted can lawfully abate the nuisance to a further fine not exceeding \$10 for every day or part of a day during which the nuisance remains unabated after conviction.
- (3) This Rule is in addition to and does not affect any other right, remedy, or proceeding available at law.

## **9 Infectious disease**

- (1) Where a person is suffering from a sickness the symptoms of which create a reasonable suspicion that the person is suffering from an infectious disease, the occupier or person for the time being in charge of the land on which or the building in which the sick person is living shall consult a medical officer or notify the Director of Health of the existence of a disease suspected to be an infectious disease.
- (2) Where a person on board a vessel is suffering from any sickness the symptoms of which create a reasonable suspicion that it is an infectious disease, the person in command on the vessel shall notify the Director of Health of the existence of the sickness.
- (3) The Director of Health or a medical practitioner may—
- (i) enter any premises in which there is reason to believe that there is or recently has been a person who suffers from an infectious disease or recently exposed to the infection of an infectious disease; and
  - (ii) medically examine any person on the premises for the purpose of ascertaining whether that person suffers or has recently suffered from any such disease.
- (4) Any person who—
- (i) suffers from any infectious disease and knows that, is intentionally in any public place without having taken proper precautions against the spread of infection;
  - (ii) while in charge of any person suffering from an infectious disease takes that person into or allows that person to be in any public place without having taken proper precautions against the spread of infection—
- commits an offence.

(5) Any person who lends, sells, transmits, or exposes any thing which that person knows has been exposed to infection from any infectious disease, unless it has first been effectively disinfected or proper precautions have been taken against spreading the infection, commits an offence.

(6) Where the Director of Health thinks that it is necessary to cleanse or disinfect any premises or any article in order to prevent the spread or limit or eradicate the infection of any infectious disease or otherwise to prevent danger to health or to render premises fit for occupation, the Director may by notice in writing require the owner or occupier to cleanse or disinfect the premises or article within a time specified in the notice.

(7) If the owner or occupier fails to carry out any work within the time specified in the notice or in other case where the Director of Health thinks fit to do so, the Director of Health, or any person authorised by the Director of Health, with any assistants, may do the necessary work, and the cost of such work shall be recoverable from the owner or occupier as a debt due to the village.

## **10 Quarantine**

(1) The Director of Health or the health officer in charge in a village may by notice in writing to the person in command of the vessel quarantine any vessel or person in Tokelau for such period and subject to such conditions as are reasonably necessary to prevent the spread of disease in Tokelau.

(2) Any person who fails to comply with any quarantine requirements imposed under paragraph (1) commits an offence and is liable on conviction to a fine not exceeding \$500.

## **11 Mental illness**

(1) A person who by reason of a physical or mental condition is or is likely to be a danger to himself or herself, or the community, or to need protection from the community may be confined and restrained as the case may require under police supervision on the written order of the medical officer in charge on the island.

(2) No person confined or restrained under paragraph (1) shall be held—

(i) for more than 24 hours without the written authority of the Commissioner;

(ii) for more than 48 hours without the written authority of both the medical officer in charge on the island and the Commissioner given after consultation with the Director of Health.

(3) Any person who interferes with, or annoys or takes advantage of anyone known to be mentally defective or suffering from a mental illness commits an offence.

## **12 Cemeteries and burials**

(1) Any person who buries a body except in a cemetery designated by the Taupulega commits an offence.

(2) Any person who buries a body, exhumes a body, or maintains a cemetery other than in accordance with any direction given in the interests of public health, by the Director of Health, commits an offence.

### **13 Post-mortem examinations**

- (1) Where it is necessary in the interests of public health or the detection of crime to conduct a post-mortem examination of a body the medical officer in charge on the island shall conduct a post-mortem examination.
- (2) Where it is desirable in the interests of public health, or the detection of crime to conduct a post-mortem examination, the medical office in charge on the island may, if the Faipule agrees, conduct the examination.
- (3) The medical officer in charge on an island shall make a written report on every post-mortem examination made and immediately notify the Council of Faipule of the results of the examination.
- (4) A dead body shall, unless the family of the deceased otherwise agree, be available for burial not later than 20 hours from the time of death.

### **14 Health inspections**

- (1) Any medical officer may after giving notice to the occupants inspect any dwelling, sanitary facility, water supply, or member of a household for the purpose of maintenance of the appropriate minimum community health standards.
- (2) A medical officer may in the interest of public health prescribe in writing health treatment for an individual or group of persons.
- (3) Any person who fails to comply with the prescription of a medical officer under paragraph (2) commits an offence.

### **15 Power to enter and inspect premises**

- (1) For the purposes of these Rules, the Director of Health or any person authorised by these Rules, together with any assistants, may at any hour during daytime—
  - (i) enter and inspect any dwelling, building, land, vessel or other premises;
  - (ii) perform any work authorised by these Rules.
- (2) The Director of Health or any person authorised by these Rules who acts in accordance with paragraph (1) shall at the earliest opportunity inform the person in charge of the premises of the reason for the act and the authority under which the Director of Health or person authorised acts.

### **16 Immunity from suit**

No civil or criminal liability shall attach to the Government of Tokelau or to a servant or agent of it in respect of anything done or omitted in good faith in the administration of these Rules.

## **17 Offences**

Any person who contravenes or fails to comply with any of these Rules or commits an offence under these Rules for which a penalty is not otherwise prescribed shall be liable on conviction to a fine not exceeding \$150