



Tonga

# ORDER IN PUBLIC PLACES ACT

1988 Revised Edition





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## ORDER IN PUBLIC PLACES ACT

*Acts Nos. 16 of 1903 (S. 509), 7 of 1921, 5 of 1923, 12 of 1926, 2 of 1929, 3 of 1932, 15 of 1933, 9 of 1934, 4 of 1944, 16 of 1949, 21 of 1950, 10 of 1953, 2 of 1955, 7 of 1958, 9 of 1958, 13 of 1958, 13 of 1959, 4 of 1971, 18 of 1973, 6 of 1975, 10 of 1982, 45 of 1988.*

### AN ACT TO PROVIDE FOR THE REGULATION OF TRAFFIC AND THE MAINTENANCE OF ORDER IN PUBLIC PLACES

Commencement [24th August, 1921]

#### 1 Short title.

This Act may be cited as The Order in Public Places Act.

#### 2 Interpretation.

In this Act the following expressions have the meanings hereby assigned to them (that is to say) —

“**cattle**” means the male, female or young of any of the following kinds of animals—

horse, ass, mule, cow, sheep, goat or swine;

“**public place**” means any public way and any building, place or vessel to which for the time being the public are entitled or permitted to have access either without condition or upon condition of making any payment

and any building or place which is for the time being used for any public or religious meeting or assembly or as an open Court;

“**public way**” means any road, highway, street, market place, bridge, wharf or other way lawfully used by the public;

“**guardian**” means any person who in the opinion of the magistrate trying any case under this Act relating to a person under 16 years of age or in which a person under 16 years of age is defendant has for the time being the charge of or control over such person under the age of 16 years.

*(Amended by Act 18 of 1973.)*

### **3 Various offences**

Any person who shall commit any of the following acts shall be liable on conviction to a fine not exceeding \$100 and in default of payment to imprisonment for any term not exceeding 4 months, that is to say, every person who —

#### **Cattle.**

- (a) permits any cattle to be at large in any public way or tethers or causes to be tethered any cattle in any public way;

#### **Dogs.**

- (b) being the owner of any dog known to him to be dangerous or ferocious suffers the same to be at large in any public place;

#### **Obstruction.**

- (c) by means of any cattle, or by standing or loitering, or in any other manner, obstructs the passage of any public way or neglects or refuses to clear any obstruction so caused when requested to do so by any police officer or private person;
- (d) places or leaves or causes to be placed or left any obstruction whatsoever or any dirt, rubbish, carrion or offal upon the beach;

#### **Fireworks.**

- (e) in any public way plays any game, flies any kite, throws or discharges any stone or other missile or sets fire to any firework;
- (f) places, hangs up or exposes for sale any goods or anything whatsoever so that the same projects into or over any footpath or public way;

#### **Disturbance.**

- (g) by shouting or beating any drum, tin or tank without just cause, blowing any horn, quarrelling or in any other manner, makes any disturbance or loud noise in any public way or within the boundaries of any town:

Provided that this paragraph shall not be deemed to apply to —

- (i) the making of Government proclamations and calling “sail-ho”; or
- (ii) the making of any public announcement by a town official; or
- (iii) the playing or practising between the hours of 6 in the morning and 10 at night of any band of instrumentalists, or the playing by such band on special occasions outside such hours if with the written permission of the Minister of Police or his representative;

**Abusive language.**

- (h) in any public place or within the hearing of the persons then being in any public place makes use of any threatening or abusive or insulting or challenging words or behaviour;

**Profane and indecent language.**

- (i) in any public place uses any profane or indecent language or sings any profane or indecent song or ballad, or behaves in any disrespectful and unbecoming manner;

**Drunkenness.**

- (j) is found drunk in any public place;
- (k) in any public place is drunk and incapable, or is drunk and behaves in a disorderly manner therein;

**Indecent exposure.**

- (l) wilfully and indecently exposes his person in any public place or within view thereof, or is without an upper garment on any public way within the boundaries of a town:

Provided that the King in Council may by proclamation exempt the inhabitants of any district for any period stated in the proclamation from the obligation to wear an upper garment within the boundaries of a town within such district;

- (m) having the custody of any child above the age of 6 years permits it to go naked in any public place or within view thereof;

**Barbed wire fences.**

- (n) erects in any town a barbed wire fence facing any public way within a distance of 3 metres therefrom; (*Amended by Act 10 of 1982*)

**Loaded firearm.**

- (o) enters any town with a loaded firearm or except with the permission of the District Officer or Town Officer, discharges any firearm

within the boundaries of any town or except on some lawful and necessary occasion, discharges any firearm on any public way or within 100 metres thereof;

**Stallion.**

- (p) permits a stallion to cover within the boundaries of any town;

**Betting.**

- (q) plays for a stake or bets at any game in any public place or in any house frequented by the public in which any game is played;

**Irreverent behaviour.**

- (r) behaves irreverently near any building appropriated for religious worship during divine service;

**Begging.**

- (s) causes a nuisance by begging in a public place. (*Inserted by Act 6 of 1975.*)

(*Amended by Acts 18 of 1973 and 45 of 1988.*)

#### **4 Disorderly behaviour**

Every person who shall commit any of the following acts shall be liable on conviction therefor to a fine not exceeding \$250 and in default of payment to imprisonment for any term not exceeding 6 months, that is to say, every person who —

- (a) in any public place or in any Court or police station or in any place of public entertainment is guilty of any riotous, disorderly or indecent behaviour;

**Disturbing divine service.**

- (b) in any place of divine worship whether during divine service or not —  
(i) disturbs or molests another person, or  
(ii) behaves in a riotous or disorderly manner;

**Fighting.**

- (c) in any public place is guilty of fighting.

(*Amended by Acts 7 of 1958, 18 of 1973 and 45 of 1988.*)

#### **5 Power to arrest.**

Whoever is found committing any of the offences specified in section 3 (h), (i), (j), (k) and (l) or any of the offences specified in section 4 of this Act may be



arrested without a warrant by any constable or by any person whom a constable may call to his assistance. (*Substituted by Act 13 of 1959.*)

## 6 Sabbath observance.

- (1) Except as provided in the following subsections of this section, a person who, on the Sabbath Day, either personally or through others engaged or procured by him —
  - (a) practices his trade or profession or conducts any undertaking of a commercial nature;
  - (b) purchases or sells goods or services;
  - (c) is engaged in any construction, gardening or agricultural works;
  - (d) creates or causes any unnecessary noise; or
  - (e) is engaged in any game, sport, dancing or fishing, whether organised or not,

commits an offence and is liable to a fine not exceeding \$100 or to imprisonment for any period not exceeding 6 months, or to both. (*Inserted by Act 4 of 1971.*)

- (2) A person shall not be convicted for an offence under subsection (1) if the act constituting the offence was done solely for the purpose of meeting an emergency, but the burden shall lie on that person to prove to the satisfaction of the court that there in fact existed such a state of emergency as to justify that act. (*Inserted by Act 4 of 1971.*)
- (3) No proceedings shall be taken under the provisions of subsection (1) in respect of any thing done in the course of an essential service or in accordance with the terms of a permit granted by the Minister of Police with the approval of Cabinet. (*Inserted by Act 4 of 1971.*)
- (4) In this section “an essential service” is a service rendered for the public good by —
  - (a) the Ministry of Health;
  - (b) the Ministry of Police in the maintenance and preservation of law and order;
  - (c) the Tonga Electric Power Board;
  - (d) the Tonga Water Board;
  - (e) the Tonga Broadcasting Commission;
  - (f) the Tonga Telecommunications Commission.

(*Inserted by Act 4 of 1971 and Amended by Act 45 of 1988.*)

- (5) In this section the term “Sabbath Day” shall mean the period from 12 midnight on any Saturday until 12 midnight on the following Sunday.  
(*Added by Act 2 of 1955.*)

## **7 Offences by young persons.**

Any person —

### **Smoking, etc.**

- (a) under the age of 16 years found drinking or chewing kava or smoking or otherwise consuming tobacco in any form whatsoever at any time;
- (b) under the age of 16 years found at any time in any public billiard saloon;
- (c) under the age of 14 years found after the hour of 8.30 at night in any place of public amusement or in any public place whatsoever unaccompanied by his parent or guardian,

shall be liable on conviction to the penalty prescribed by section 9 hereof.  
(*Substituted by Act 21 of 1950.*)

## **8 Proprietor of public amusement not to permit unaccompanied young persons to be present at night.**

Every proprietor or manager of any cinematograph exhibition public billiard saloon or other place of public amusement who by himself or through his agent or agents permits —

- (a) any person under the age of 16 years to be present in any billiard saloon at any time; or
- (b) any person under the age of 14 years of age unaccompanied by his parent or guardian to be present after the hour of 8 at night at any cinematograph exhibition or in any place of public amusement for the control of which he is responsible,

shall be liable on conviction to a fine not exceeding \$50 and in default of payment to imprisonment for any period not exceeding 3 months:

Provided that it shall be a sufficient defence to any charge under this section if it be shown to the satisfaction of the Court that the person charged had reasonable cause to believe that the person concerned was 14 or 16 years of age or more, as the case may be. (*Substituted by Act 2 of 1950 and Amended by Act 45 of 1988.*)

**9 Magistrate may order young person to be whipped or impose fine or imprisonment on guardian.**

Where on the trial of any charge under section 7 hereof the magistrate is satisfied of the guilt of the defendant he may in his discretion —

- (a) impose a nominal fine; or
- (b) order the defendant (if male under the age of 16 years) to be whipped in accordance with the law for the time being in force regulating the punishment by whipping of children convicted in the Magistrates' Courts;
- (c) order the parent or guardian of the defendant to pay a fine not exceeding \$20 and in default of payment to be imprisoned for any period not exceeding one month:

Provided that no such penalty shall be imposed unless such parent or guardian has first had an opportunity of being heard and of adducing evidence in his defence. (*Amended by Act 5 of 1923, S. 6 and by Act 45 of 1988.*)

**10 Burden of proof of age of young person.**

In any prosecution brought under sections 7 or 8 hereof the burden of proof that the defendant is exempt from liability by reason of the fact that any particular person to whom the case relates was at the time of the alleged commission of the offence 14 or 16 years of age (as the case may be) shall rest on the defendant.

**11 Prosecutions.**

All proceedings for offences against this Act shall be by summons in the Magistrate's Court in the name, or at the instance, of the police or of any person aggrieved and all fines recovered in respect of such proceedings shall be paid into the Treasury.