



*Tonga*

# **DISTRICT AND TOWN OFFICERS ACT**

**Chapter 8.03**

**2020 Revised Edition**





## DISTRICT AND TOWN OFFICERS ACT

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## DISTRICT AND TOWN OFFICERS ACT

### AN ACT TO PROVIDE FOR THE APPOINTMENT OF DISTRICT AND TOWN OFFICERS<sup>1</sup>

Commencement [8th August, 1930]

#### 1 Short title

This Act may be cited as the District and Town Officers Act.

### PART I

#### 2 Division of Kingdom into districts

The Kingdom shall be divided into the districts set out in Schedule I hereto provided that it shall be lawful for the Minister responsible for internal affairs with the consent of Cabinet by notice published in the Gazette to vary the boundaries of any such districts.<sup>2</sup>

#### 3 Town boundaries

(1) The Minister of Lands shall designate, with reference to the map, the boundaries of the towns in the Kingdom, and notice of such boundaries shall be published in the Gazette.

- (2) It shall be lawful for the Minister of Lands at any time to vary, with reference to the map, the boundaries of the towns in the Kingdom, and notice of any such variation shall be published in the Gazette.<sup>3</sup>

#### **4 Election of District Officers**

There shall be elected for each of the districts referred to in section 2 an officer who shall be known as the District Officer and this officer shall perform the duties set out in Schedule II hereto and such other duties as shall from time to time be determined by the Government to be necessary or expedient in the public interest.<sup>4</sup>

#### **5 Election of Town Officers**

There shall be elected for each of such towns as the Minister responsible for internal affairs may consider necessary an officer who shall be known as a Town Officer and this officer shall perform the duties set out in Schedule III hereto and such other duties as may be assigned to him by the Government.<sup>5</sup>

#### **6 Conduct of elections, qualifications, nominations and vacancies<sup>6</sup>**

- (1) District and Town Officers shall in each district be elected every 4<sup>7</sup> years by popular ballot in which all persons qualified to vote shall take part.
- (2) Persons qualified to vote shall be all those persons whose names shall appear from time to time in the electoral rolls published in accordance with the provisions of the Electoral Act.<sup>8</sup>
- (3) The Electoral Commission shall have the overall responsibility for organising and conducting elections under this Act in accordance with such procedure as it determines, and the Electoral Commission may make regulations for the purposes of —
  - (a) the organisation and conduct of district and town officers elections, including by-elections<sup>9</sup>;
  - (b) regulating the procedures to be followed at an election; and <sup>10</sup>
  - (c) any matter required to be carried out by them under the Act or to give effect to the provisions of this Act.<sup>11</sup>
- (4) The date for the election of District and Town Officers shall be the last Thursday of May in every election year and every fourth year thereafter, and the Electoral Commission shall notify the actual date by notice published in the Gazette by the last weekday of March of every election year.

Provided always that this date may be varied by the Commission in circumstances which they consider warrant such a change.<sup>12</sup>

- (5) In order to qualify for election as a District or Town Officer a person shall reside in the District or Town in which he seeks election and he shall be nominated in

writing and each nomination shall be signed by 10 electors in the district or town to which the nomination relates.<sup>13</sup>

- (6) Nomination shall be received by the Returning Officer for each district, who shall be appointed by the Electoral Commission, and notice of the identity and office address of such Returning Officers shall be published in the Gazette simultaneously with the notice required under subsection (4).<sup>14</sup>
- (7) District and Town Officers so elected shall hold office for 4 years but where the Minister responsible for internal affairs considers that a District or Town Officer has been guilty of misconduct or neglect of duty such as to warrant his dismissal from office he shall –
  - (a) prepare a detailed report on the matter;
  - (b) provide a copy of such report to the District or Town Officer concerned and allow him 28 days to respond to the report in writing; and
  - (c) having considered such response, may determine either to withdraw his report or dismiss the District or Town Officer, provided that the said officer may appeal the decision to dismiss to the Supreme Court within 28 days, and the decision of the Minister responsible for internal affairs shall not take effect until after the appeal period has expired, or if an appeal has been made, after the appeal is finalized.<sup>15</sup>
- (8) In the event of a vacancy occurring in either an office of a District Officer or a Town Officer, the Electoral Commission shall hold a by-election to fill that vacancy.

Provided that no by-election shall be held, if the vacancy occurs within six months of the ordinary election date prescribed under subsection (4), however the Minister responsible for internal affairs may, upon consultation with the Electoral Commission, appoint an appropriate District Officer or Town Officer to fill the vacancy until the next elections.<sup>16</sup>

- (9) For the purposes of sub-section (6) the term “Returning Officer” shall include an Assistant Returning Officer and the term “District” means the island districts of Tongatapu, Ha’apai, Vava’u, ‘Eua and the Niua.<sup>17</sup>

## 7 Salaries

The salaries and any allowance of District Officers and Town Officers shall be paid out of moneys provided in that behalf in the Estimates.<sup>18</sup>

## 8 Offences

- (1) Any person who shall commit a breach of any provision of this Act or of any regulations made hereunder shall be liable to a fine not exceeding \$100.<sup>19</sup>
- (2) Prosecutions under this section shall be instituted by the police in the Magistrate’s Court in the district in which the offence occurs.<sup>20</sup>

## PART II

### 9 Interpretation

In this Part, unless the contrary intention appears —

“**Officer**” means a District Officer or a Town Officer within the meaning of this Act and includes a person who has served partially as a District Officer and partially as a Town Officer.<sup>21</sup>

### 10 Gratuity

(1) A person who has served as an Officer for a continuous period of not less than 15 years may, on his ceasing to so serve, be granted out of the general revenue and other funds of the Kingdom a gratuity, either in a capital sum or by instalments, equal to 2 years’ basic salary at the rate of salary earned by that person as an officer during the last preceding 12 months of his service.<sup>22</sup>

(2) A period of service as —

- (a) an appointed;
- (b) an elected; or
- (c) a partially appointed and partially elected, officer

may be taken into account in calculating the period of service for the purposes of subsection (1).<sup>23</sup>

### 11 Gratuity payable to widow, etc.<sup>24</sup>

(1) Where an officer dies in office, it shall be lawful for Cabinet to grant to the widow or legitimate child or children or the lawful heir of such officer a gratuity in a capital sum or by instalments which shall be available for the payment of all debts and funeral and testamentary expenses of the deceased officer.

(2)

- (a) If the deceased officer has served as an officer for a continuous period of not less than 15 years the gratuity shall be an amount equal to 2 years of his annual salary.
- (b) If the deceased officer has served as an officer for a continuous period of not less than 8 years but less than 15 years the gratuity shall be an amount equal to two thirds of his salary for 2 years.
- (c) In all other cases the gratuity shall be an amount equal to one third of his salary for 2 years.

(3) Where an officer retires on medical grounds on the recommendation of a medical doctor it shall be lawful for Cabinet to grant a gratuity to such officer

in a capital sum or by instalments at the rate and amount set out in subsection (2) for a deceased officer.

**12** *Repealed by Act 8 of 2000*

**13** **Exception**

This Act shall not apply to any person who is entitled to benefits under the Pensions Act<sup>25</sup> or to an officer who has been dismissed from service.<sup>26</sup>

## THE SCHEDULES

## SCHEDULE I

*(Section 2)*

## THE DISTRICTS

*Tongatapu*

- (1) *Hihifo District.* The island of 'Atata, the towns of Hihifo, Ha'atafu, Neiafu, Kanokupolu, 'Ahau, Kolovai, Ha'avakatolo, Fo'ui, Masilamea, Te'ekiu, Kala'au and Fahefa and all bush lands belonging thereto.
- (2) *Nukunuku District.* Nukunuku, Matahau, Vaotu'u, Houma, Lakepa, Fatai, Ha'akame and 'Utulau and all bush lands belonging thereto.
- (3) *Kolomotu'a District.* Kolomotu'a, Havelu, Tofoa and Koloua, Hofoa and Puke and all bush lands belonging thereto.
- (4) *Kolofo'ou District.* Kolofo'ou, Ma'ofanga and Siesia and all bush lands belonging thereto.
- (5) *Vaini District.* Vaini, Malapo, Longoteme, Folaha, Nukuhetulu, Veitongo, Ha'ateiho, Pea and Tokomololo and all bush lands belonging thereto.
- (6) *Tatakamotonga District.* Tatakamotonga, 'Alaki, Holonga, Havelu Liku, Fatumu, Lavengatonga, Ha'asini, Hamula, Nakolo and Fua'amotu and all bush lands belonging thereto.
- (7) *Lapaha District.* Lapaha, Hoi, Talasiu, Nukuleka, Talafo'ou, Navutoka, Manuka, Kolonga, Afa, Niutoua, the island of 'Eueiki and all bush lands belonging thereto.
- (8) *'Eua District.* The islands of 'Eua and Kalau.

*Ha'apai*

- (1) *Mu'omu'a District.* The islands of Nomuka, Mango, Fonoifua, Kelelesia and Tonumea.
- (2) *Lulunga District.* The islands of Ha'afeva, Tungua, Matuku, 'O'ua, Kotu and Fotuha'a, Kao and Tofua.
- (3) *'Uiha District.* The islands of 'Uiha and Lofanga.
- (4) *Lifuka District.* The island of Lifuka.
- (5) *Foa District.* The island of Foa.
- (6) *Ha'ano District.* The islands of Ha'ano and Mo'unga'one.<sup>27</sup>

*Vava'u*

- (1) *Island District.* The islands of Lape, Kapa, Taunga, ‘Euakafa, ‘Eueiki, Hunga, Ovaka, Nuapapu and Fua’amotu.<sup>28</sup>
- (2) *Western District.* Tu’anuku, Longomapu, Tefisi, Vaimalo, Taoa and all bush lands belonging thereto.
- (3) *Leimatu’a District.* Leimatu’a, Feletoa, Mataika and Holonga and all bush lands belonging thereto.
- (4) *Ha’alaufuli District.* Holeva, Ha’alaufuli, Tu’anekivale, Ta’anea, Koloa, Ha’akio, Houma, Mangia and all bush lands belonging thereto.<sup>29</sup>
- (5) *Neiafu District.* Neiafu, Fungamisi and Falaleu, Toulā, Makave, ‘Utui, Okoa, Olo’ua and the island of Ofu and all bush lands belonging thereto.
- (6) *Pangaimotu District.* Pangaimotu, ‘Utulei, ‘Utungake, Nga’unoho and all bush lands belonging thereto.

*Niua*

- (1) *Niuaotuputu District.* The islands of Niuaotuputu and Tafahi.
- (2) *Niuafo’ou District.* The island of Niuafo’ou.

**SCHEDULE II***(Section 4)***DUTY OF THE DISTRICT OFFICERS****1 Public health**

He shall inspect once in every quarter all the towns in his district and immediately after such inspection he shall report on the sanitary condition thereof. For the purpose of this inspection he shall have a right of entry on any land.

**2 Agricultural**

- (1) He shall inspect once every 6 months all the tax allotments in his district and report immediately after his inspection as to whether the provisions of sections 15, 16 and 74 of the Land Act have been complied with.<sup>30</sup>
- (2) He shall have the powers of an inspector under the Plant Quarantine Act and shall perform such duties under this Act as may be determined by Cabinet.<sup>31</sup>

**3 Financial**

- (1) He shall inspect licences as provided in section 17 of the Business Licences Act and shall render the return required by section 18 of that Act.<sup>32</sup>
- (2) He shall keep a list of all Tongans of or over the age of 21 years resident in his district.<sup>33</sup>

**4 General**

In addition to the duties hereinbefore mentioned he shall perform such other duties as are prescribed by the laws and report to the police breaches of the laws for the enforcement of which the Minister of Police is responsible.

**5 Reports**

Reports required by the laws or these regulations shall be made to the Minister responsible for internal affairs by the district officers appointed to districts in Tongatapu and the Niuaus and in the case of officers appointed to districts in Ha'apai and Vava'u to the Governors thereof. A copy of reports rendered to the Governors of Ha'apai and Vava'u shall be forwarded to the Minister responsible for internal affairs.

**SCHEDULE III***(Section 5)***DUTY OF TOWN OFFICERS****1 Discipline**

The Town Officer is responsible to the District Officer of his district for the satisfactory performance of his duties.

**2 Public health**

He shall report monthly to the District Officer on the sanitary condition of the town.

**3 Agricultural**

He shall inspect every 2 months the tax allotments of the taxpayers of the town, and report on the condition thereof and any infringements of the provisions of sections 15 and 16 of the Land Act to the District Officer.<sup>34</sup>

**4 Sudden deaths**

He shall report to the District Officer any sudden death which occurs in his town immediately after such death.

**5 Fonos**

He shall announce the fonos held under the provisions of the Fonos Act<sup>35</sup> and shall maintain order at such fonos.<sup>36</sup>

**6 General**

He shall assist the District Officer in carrying out his duties in any matter pertaining to the town.

**ENDNOTES**

<sup>1</sup> 1988 Revised Edition Cap. 43 - Acts 9 of 1930, 7 of 1949, 7 of 1957, 9 of 1957, 4 of 1958, 9 of 1958, 6 of 1965, 16 of 1966, 3 of 1972, 6 of 1974, 25 of 1977, 16 of 1978, 10 of 1983, 31 of 1988;

**Amending Acts after 1988**

<b>Amending Acts</b>	<b>Commencement</b>
Act 7 of 1995	12 October 1995
Act 8 of 2000	4 August 2000
Act 5 of 2012	30 July 2012
Act 20 of 2012	27 November 2012
Act 14 of 2019	22 March 2019

<sup>2</sup> Amended by Act 5 of 2012

<sup>3</sup> Inserted by Act 6 of 1974

<sup>4</sup> Substituted by Act 9 of 1957

<sup>5</sup> Substituted by Act 9 of 1957 and amended by Act 5 of 2012

<sup>6</sup> Substituted by Act 9 of 1957, Amended by Acts 4 of 1958, 6 of 1965 and 5 of 2012

<sup>7</sup> Amended by Act 14 of 2019

<sup>8</sup> Cap. 04.08

Amended by Act 7 of 1995

<sup>9</sup> Inserted by Act 14 of 2019

<sup>10</sup> Amended by Act 14 of 2019

<sup>11</sup> Substituted by Act 20 of 2012, Amended by Act 14 of 2019

<sup>12</sup> Repealed and replaced by Act 14 of 2019

<sup>13</sup> Amended by Act 14 of 2019

<sup>14</sup> Repealed and replaced by Act 14 of 2019

<sup>15</sup> Repealed and replaced by Act 14 of 2019

<sup>16</sup> Repealed and replaced by Act 14 of 2019

<sup>17</sup> Inserted by Act 14 of 2019

<sup>18</sup> Amended by Act 25 of 1977

<sup>19</sup> Amended by Act 16 of 1978

<sup>20</sup> Added by Act 9 of 1957

<sup>21</sup> Amended by Act 16 of 1966

<sup>22</sup> Amended by Act 10 of 1983

<sup>23</sup> Act 16 of 1966

<sup>24</sup> Substituted by Act 8 of 2000; substituted section 11 deemed to have come into effect on 10 November, 1999; Amended by Act 42 of 2010

<sup>25</sup> Cap. 04.28

<sup>26</sup> Act 16 of 1966

<sup>27</sup> Amended by Act 3 of 1972

<sup>28</sup> Amended by Act 7 of 1957

<sup>29</sup> Amended by Act 7 of 1957

<sup>30</sup> Amended by Act 7 of 1949 and Act 9 of 1958

<sup>31</sup> Amended by Act 9 of 1958

<sup>32</sup> Amended by Acts 9 of 1958, and 23 of 2002 (*by implication*)

<sup>33</sup> Substituted by Act 31 of 1988

<sup>34</sup> Amended by Act 7 of 1949

<sup>35</sup> Cap. 22.12

<sup>36</sup> Amended by Act 9 of 1958