



Tonga

# **LAWS CONSOLIDATION ACT 2018**

**Act 22 of 2018**





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# LAWS CONSOLIDATION ACT 2018

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## AN ACT TO PROVIDE FOR THE PUBLICATION OF A CONSOLIDATED AND REVISED EDITION OF THE LAWS OF TONGA

I assent,  
TUPOU VI,  
21<sup>st</sup> February 2019.

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

### 1 Short Title

This Act may be cited as the Laws Consolidation Act 2018.

### 2 Interpretation

In this Act, unless the context otherwise requires —

“**the Commissioner**” means the person appointed by section 3 of this Act to be Law Revision Commissioner for the consolidation and revision of the laws of Tonga;

“**effective date**” means the date that the revised editions are brought into force under this Act;

“**law**” or “**written law**” means an Act, Ordinance or subsidiary legislation;

“**page**” in relation to a revised edition in the format of a CD-ROM or other means of electronic storage or a databank accessible by remote computer, includes any separate item of text;

“**Revised Edition**” means the consolidated and revised edition of the laws of Tonga or an update of such an edition to be prepared under the Authority of this Act;

“**revision date**” in relation to a revised edition, is the date up until which that edition is current; and

“**subsidiary legislation**” includes proclamations and notices having legislative effect and any other form of subordinate legislation.

### 3 Appointment of Law Revision Commissioner

The Attorney General is hereby appointed the Law Revision Commissioner for the consolidation and revision of the laws of Tonga.

### 4 Functions of Law Revision Commissioner

- (1) The Commissioner -
  - (a) shall prepare and bring into force a complete revised edition in both the Tongan and English languages;
  - (b) may maintain the edition by preparing and bringing into force updates;
  - (c) may prepare and publish unofficial publications in the form of an internet site, CD-ROM or other means of electronic storage a collection of the laws of Tonga which contains laws, or the effect of laws, made after the revision date.
- (2) The Commissioner may appoint experts to assist in the discharge of the Commissioner’s functions under this section.

### 5 Contents of Revised Edition

- (1) A complete revised edition shall contain —
  - (a) all laws that are in force in Tonga on the revision date and that are not omitted under section 6;
  - (b) such treaties and conventions that Tonga is a party to, as the Commissioner considers it desirable to include;
  - (c) an index of its contents; and
  - (d) such introductory and explanatory material and such tables as the Commissioner considers it desirable to include.
- (2) If a revised edition contains a law adopting or applying a treaty or convention to Tonga, with or without modifications, the Act, treaty or convention may be

reproduced in the revised edition with any such modifications, which shall be clearly indicated by the use of brackets and notes or similar means.

## **6 Laws to be omitted from revised edition**

- (1) The Commissioner shall omit from a revised edition the laws specified in Schedule 1.
- (2) A revised edition shall indicate any law omitted pursuant to this section.

## **7 Revision powers of Commissioner**

- (1) Subject to sub-sections (2) and (3), the Commissioner shall have the powers of revision described in Schedule 2.
- (2) Nothing may be done under this section that would alter the effect of any law.
- (3) Schedule 2 may be amended by Cabinet, upon recommendation of the Commissioner.

## **8 Format and marking of revised edition**

- (1) A revised edition may be contained in such of the following formats as the Commissioner thinks fit —
  - (a) bound books;
  - (b) a collection of booklets;
  - (c) loose-leaf books;
  - (d) CD-ROM or other means of electronic storage; or
  - (e) a databank accessible by remote computer.
- (2) The revision date of a revised edition shall be —
  - (a) marked upon every page of a revised edition in printed format; and
  - (b) displayed upon every page of a revised edition in any other format, in such manner that it is also marked upon a printed copy of that page.
- (3) Different revision dates may be marked or displayed upon different pages of a revised edition.

## **9 Bringing revised edition into force**

- (1) The Commissioner may bring a revised edition into force by —
  - (a) signing 4 copies of a revised edition prepared in accordance with this Act, in one or more of the formats mentioned in section 8, as the authoritative version of the law on the revision date; and
  - (b) publishing a notice in the Gazette —

- (i) bringing that edition, in that format or those formats, into force on a date specified in the notice; and
  - (ii) where the format is a databank accessible by remote computer, specifying the manner in which it may be accessed.
- (2) Where a revised edition is brought into force in the format of a CD-ROM or other means of electronic storage or a databank accessible by remote computer, the Commissioner may, as an alternative to signing the copies electronically, sign a printout from it of the revised edition.

## 10 Publication and distribution of revised edition

- (1) When a revised edition is brought into force under section 9, the Commissioner shall deliver one copy each, in a format in which the edition is brought into force, to —
  - (a) His Majesty the King;
  - (b) the Speaker of the Legislative Assembly and Members of the Legislative Assembly;
  - (c) the Lord Chief Justice of the Supreme Court; and
  - (d) the Cabinet Ministers.
- (2) The Commissioner may -
  - (a) offer for sale copies of a revised edition brought into force in the format of booklets, bound books, loose-leaf books, pages or CD-ROM or other means of electronic storage; and
  - (b) make a revised edition brought into force in the format of a databank accessible to remote computers available upon such terms as the Commissioner may determine.
- (3) The Commissioner may offer for sale or make accessible to remote computers, on such terms as the Commissioner may determine, copies of a revised edition in a format other than the format in which it is brought into force.
- (4) Without prejudice to sub-sections (2) and (3), the Commissioner may enter into any agreement for the sale of copies of a revised edition by any publisher or bookseller and for the inclusion of a revised edition in a databank or publication, whether in Tonga or elsewhere, as may appear to be expedient.

## 11 Status and effect of revised edition

- (1) A revised edition prepared in accordance with this Act, in a format in which it is brought into force under section 9, shall be deemed to be, for all purposes whatsoever, the sole authentic edition of the laws of Tonga.

- (2) Subsection (1) shall not affect the operation of any law which comes into force after the revision date and which repeals, alters or amends any law included in the revised edition.
- (3) A reference in any law to another law or provision amended or otherwise affected by the operation of this Act shall be construed, where necessary and practicable, as a reference to the revised version of the other law contained in the revised edition.
- (4) A reference in any document to a law or provision amended or otherwise affected by the operation of this Act shall be construed, unless the contrary intention appears, as a reference to the revised version of the other law contained in the revised edition.
- (5) The omission, by virtue of section 6 or paragraph 1 of Schedule 2, of a law from a revised edition brought into force under section 9 shall not affect the operation of that law, which shall remain in force until it has been repealed or has expired, become spent or had effect, as the case may be, and may be proved by the production of any copy of it by which it could have been proved before the revised edition is brought into force.
- (6) Subsection (1) shall not apply to a copy of a revised edition brought into force under section 9 where the copy is in a format other than a format in which the edition was brought into force.

## **12 Updating of revised edition**

- (1) A revised edition brought into force under section 9 may be updated as provided in this section so as to add or incorporate any law or the effect of any law which comes into force after the revision date.
- (2) A revised edition in the form of a bound booklet, bound book, CD-ROM or other means of electronic storage, may be updated by its entire replacement.
- (3) A revised edition in loose-leaf format may be updated by the replacement of pages or the insertion or deletion of pages.
- (4) A revised edition in the form of a databank that is accessible by remote computer may be updated by the amendment of part or the whole of that databank and the consequent replacement of the current version of the databank.
- (5) A replacement, insertion, deletion or amendment pursuant to this section shall have no effect unless it is brought into force under section 9.
- (6) A replacement, insertion, deletion or amendment pursuant to this section which is brought into force under section 9 shall have the status and effect described in section 11.

### 13 Unofficial publications

- (1) The Commissioner may publish, in the form of an internet site, CD-ROM or other means of electronic storage a collection of the laws of Tonga which contains laws, or the effect of laws, made after the revision date.
- (2) A publication referred to in subsection (1) shall contain a prominent notation to the effect that the publication is not the official version of the laws of Tonga and such publication shall have no effect upon the definitive status of the revised edition under section 11.

### 14 Correction of minor errors and omissions

- (1) If any clerical or printing error in or omission from a revised edition brought into force under section 9 is found, the Commission —
  - (a) may correct the same in such manner as may be consistent with the powers of revision conferred on it by section 7(1); and
  - (b) shall give notice in the Gazette of any corrections so made.
- (2) No error in or omission from a revised edition brought into force under section 9 shall affect the validity or lawfulness of any act or omission by any person which would otherwise have been valid or lawful.

### 15 Keeping of laws passed or made in Tonga

The Commissioner shall keep a copy of every law made after this Act comes into force —

- (a) on CD-ROM or in any other form of electronic storage; or
- (b) on a databank.

### 16 Offence

- (1) A person who knowingly makes any alteration to a revised edition, with the intent to deceive any person as to the true text of the law, shall be guilty of an offence and shall upon conviction be liable to imprisonment for a period not exceeding seven years and a fine of not more than \$50,000.
- (2) Subsection (1) applies whether the alteration is made in Tonga or elsewhere.

### 17 Repeal

The Laws Consolidation Act 1988 is hereby repealed, but this repeal does not affect the validity of anything done under it or the continuing validity of the Revised Edition published under that Act.

Passed by the Legislative Assembly on this 30<sup>th</sup> day of **October** 2018.

**SCHEDULE 1**

(Section 6)

**OMITTED LAWS**

The following laws shall be omitted from a revised edition —

- (a) private laws and laws conferring pensions or gratuities on individual persons;
- (b) Appropriation Acts;
- (c) laws of a temporary nature, limited application or under revision;
- (d) laws the carrying into effect of whose provisions is doubtful;
- (e) laws according acts of incorporation or converting trusts to public trusts;
- (f) subordinate legislation made under an Act omitted under paragraph (a) to (e);
- (g) subordinate legislation of temporary effect or which does not appear to the Commissioner to be of sufficient importance to be included;
- (h) laws omitted from an earlier revised edition of the Laws of Tonga.

**SCHEDULE 2**

(Section 7)

**POWERS OF REVISION**

- (1) In the preparation of a revised edition, the Commissioner shall have power to omit —
  - (a) any law passed or made in Tonga or any part of such a law which has been expressly and specifically repealed or which has expired or has become spent or has had its effect;
  - (b) any repealing provision contained in a law passed or made in Tonga and also any table or list of repealed laws;
  - (c) the preamble to any law passed or made in Tonga where such omission can, in the opinion of the Commissioner, conveniently be made;
  - (d) any law passed or made in Tonga or any provision of such a law bringing a law or provision of a law into operation where, in the opinion of the Commissioner, such omission can conveniently be made;
  - (e) any amending law passed or made in Tonga or any provision of such a law, where the amendments effected by it have been embodied by the Commissioner in the law to which they relate;
  - (f) any words of enactment.
- (2) In the preparation of a revised edition, the Commissioner shall have power, in respect of any law, to —
  - (a) arrange the laws in such order or manner and in such groups as the Commissioner may determine;
  - (b) add a short title to a law which does not have one, alter the long or short title of any law or alter the title of any law;
  - (c) consolidate or split laws or move a provision from one law to another such law in which the provision more properly belongs;
  - (d) rearrange the provisions of any law or any list in a provision of a law;
  - (e) add a table of contents or destinations to a law;
  - (f) add a heading to a provision of a law that does not have one and alter any heading to a provision or part of a law;
  - (g) omit any Schedule, map, picture, drawing, diagram or other object;
  - (h) change any reference to a person, office, body, place or thing to reflect a change of name, transfer of function or provision for construction of the reference;
  - (i) make such adaptations and amendments as may appear necessary or proper as a consequence of constitutional or other changes in Tonga or any other place or territory or in or to any body or organization outside Tonga;

- (j) change any words to make them gender neutral;
- (k) change any reference to an office established by law to make it gender neutral;
- (l) correct any typographical error or other error of spelling, punctuation, grammar or layout;
- (m) change spelling, punctuation and layout;
- (n) change expressions of date, money, number, time and units of measurement;
- (o) change conjunctives and disjunctives at the end of a provision of a law;
- (p) omit any obsolete or redundant words;
- (q) alter any words to secure uniformity of expression in a law;
- (r) shorten or simplify any phrase or sentence;
- (s) add numbering where there is none and change numbering to correct an error or reflect any other change made under this section;
- (t) substitute for a reference to a law or provision of a law which has been re-enacted or replaced, whether with or without modifications, a reference to the law or provision re-enacting or replacing it;
- (u) change a cross reference to a law or provision of a law to correct an error or reflect any other change made under this section;
- (v) include examples, notes, annotations, references to case law and other similar material designed to better explain and present the law,

and to do all other things which appear to the Commissioner to be necessary to render the revised edition consistent with current law drafting practice and to perfect the revised edition.