



Tonga

SOLEMNIZATION OF MARRIAGE REGULATIONS

Chapter 6.01.01

2020 Revised Edition



SOLEMNIZATION OF MARRIAGE REGULATIONS

Arrangement of Regulations

Regulation

1	Short title.....	5
2	Applications for a licence to marry.....	5
3	Issue of books of marriage certificates	7
4	Responsibilities of ministers of religion	7
5	Disposal of forms by sub-registrar.....	8
6	Replacement book.....	8
7	Alterations to register of marriages and marriage certificate.....	9



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SOLEMNIZATION OF MARRIAGE REGULATIONS¹

Made under section 5 of the Births, Deaths and Marriages Registration Act²

Commencement [31st October, 1980]

1 Short title

These Regulations may be cited as the Solemnization of Marriage Regulations.

2 Applications for a licence to marry

- (1) The affidavit required by the Births, Deaths and Marriages Registration Act as amended (hereinafter called “the Act”) shall have exhibited to it the following documents —
 - (a) the birth certificates of both applicants. If an applicant cannot produce his or her birth certificate then, unless the sub-registrar hearing the application is satisfied beyond any doubt by the appearance of the applicant that he or she is over 18, he or she shall file an affidavit by a person who has personal knowledge of when the applicant was born and that person shall state his means of knowledge;
 - (b) an applicant who is over 15 but under 18 years of age must exhibit the written consent of his parents or guardian. If his parents are divorced or separated the consent shall be that of the parent who has custody of him; where there is no custody order and the parents disagree the sub-registrar shall decide which parent shall be entitled to give or refuse consent;
 - (c) when it is requested that the marriage should be solemnized by a Minister of Religion other than the Minister whose name appears on the book of certificates held in the building where the applicants wish to be

married, the written consent of the Minister whose name appears on the book.

- (2) The sub-registrar to whom the application is made shall —
- (a) tell both applicants that it is a serious offence to make a false statement to obtain a marriage licence;
 - (b) satisfy himself that at least one of the applicants has resided in the sub-registry District for the previous 6 months. Absences totalling less than one month may be disregarded;
 - (c) ask each of them in turn whether he or she has been previously married;
 - (d) ask each in turn whether they are related;
 - (e) if the answer to either question (c) or (d) is affirmative, the sub-registrar shall make such further enquiries as he thinks necessary to satisfy himself that the parties are in fact free to marry each other.

If he is not satisfied he shall refuse to issue a licence and shall inform the applicants that they may, if they wish, appeal to the Registrar General;

- (f) where one of the applicants has been previously married and that marriage has been dissolved outside the jurisdiction of the Supreme Court of Tonga, the sub-registrar shall refer the matter to the Registrar General before issuing a licence;
 - (g) once the sub-registrar is satisfied that the applicants are free to marry each other, he shall administer the Oath to them and ask each of them to say “Everything in this my affidavit is true”. He shall then ask each applicant to sign the affidavit and shall witness their signatures;
 - (h) the affidavit shall be in the form prescribed in the Schedule to the Births, Deaths and Marriages Registration Act;
 - (i) the sub-registrar shall then ask the applicants the name of the minister of religion by whom they intend to be married, shall confirm that the name appears in the register of ministers and shall, subject to regulation 2(1)(c), issue a licence to that minister to solemnize their marriage at a building where a book of licences is held within a period of not more than 28 days, from the date of issue of the licence;
 - (j) the sub-registrar shall retain a copy of the licence in his registry;
 - (k) a sub-registrar shall not issue a licence to a minister of religion to solemnize a marriage in a church that is not in the sub-registry area.
- (3) (a) If a person wishes to marry outside the area of the sub-registry in which he has resided for the 6 months necessary to establish his residential qualification as required by the Act, or in a building other than a building where a book of licences is held he must apply to the Registrar General for a special licence.
- (b) The application must be accompanied by —

- (i) the statutory affidavit;
 - (ii) the exhibits required by these rules;
 - (iii) a statement of the reasons for the application;
 - (iv) an identification of the building and minister of religion where and by whom the marriage is to be solemnized.
- (c) The Registrar General may attach such conditions to the Special Licence as he thinks desirable.

3 Issue of books of marriage certificates

- (1) Books containing marriage certificates will be issued to be kept in suitable buildings by the sub-registry in the district in which the building is situated.
- (2) If a sub-registrar refuses to issue a book to any building, the church that occupies the building may appeal to the Registrar General.
- (3) The minister of religion in charge of the building shall be responsible for the safe custody of the book. His name shall appear on the cover thereof.
- (4) Sub-registrars shall visit every building where a book is kept at least once a year and ensure that it is still a suitable place in which to solemnize marriages and that the book of certificates is safe and in good condition.

4 Responsibilities of ministers of religion

- (1) In Tongatapu —
each minister of religion, after the performance by him of a ceremony of marriage, shall ensure —
 - (a) that the marriage certificate is accurately completed in triplicate in the book of certificates provided;
 - (b) that the first copy remains in the book;
 - (c) that the second copy is received from him by the Registrar of the Supreme Court within 3 weeks; and
 - (d) that the third copy is handed by him to the bride.
- (2) In all other sub-registries —
each minister of religion, after the performance by him of a ceremony of marriage, shall ensure —
 - (a) that the marriage certificate is accurately completed in quadruplicate in the book of certificates provided;
 - (b) that the first copy remains in the book;
 - (c) that the second and third copies are received from him within 3 weeks by the sub-registrar who issued the licence; and

- (d) that the fourth copy is handed by him to the bride.
- (3) In Tongatapu and all other sub-registries —
each minister of religion shall ensure that he is issued with a receipt for every marriage certificate received from him in pursuance of this regulation.

5 Disposal of forms by sub-registrar

- (1) On the last day of every calendar month all sub-registrars other than the Registrar of the Supreme Court shall send to the Registrar General one copy of all certificates received from ministers of religion together with the associated licenses.
- (2) All sub-registrars shall file one copy of every marriage certificate returned to them by a minister.
- (3) Once every 3 months all sub-registrars shall check their licence counterfoils to determine whether any licence issued does not appear to have been used. If he finds any instance of this, he shall enquire of the minister to whom the licence was issued whether the marriage has in fact taken place.

6 Replacement book

- (1) When all forms in a book have been used the minister of religion in charge of the building to which the book was issued shall return it to the sub-registrar by which it was issued and obtain a receipt.
- (2) A replacement book to be kept by the same minister in the same building shall be issued on demand.
- (3) When a person in charge of a building to which a book of marriage certificates has been issued ceases to be in charge of that building, the Church that owns the building shall notify the sub-registrar of the district in which the building stands. It shall at the same time notify the sub-registrar of the name of the person, if any, who has taken charge of the building.
- (4) If no person is appointed to be in charge of a building to which a book of marriage certificates has been issued then the Church that owns the building must return the book to the sub-registry from which it was issued.
- (5) When a sub-registrar receives a book from a Church or minister under sub-regulations (1), (2), (3) or (4) of this regulation he shall cause a check to be made to ensure that he has received a certificate corresponding to every completed certificate in the book. If there is a discrepancy, he shall investigate the matter and report to the Registrar General.

7 Alterations to register of marriages and marriage certificate³

- (a) Alterations to a register of marriages and/or to a marriage certificate are only to be made on the written authority of the Registrar General.
- (b) Applications shall be made in conformity with the procedure as in regulations 8(2) and 8(3) of the Registrar General's Births and Deaths Regulations. Alterations shall be made in conformity with regulations 8(4) and 8(6)(b) of the said Regulations.

ENDNOTES

¹ 1988 Revised Edition – GS 65/1980, GS 4/1985

Amending Gazettes after 1988

Amending Gazettes	Commencement
K.F 4/1997	10th July 1997

³ Inserted by GS 4/1997