



Tonga

LAND COURT RULES

Chapter 20.01.07

2020 Revised Edition



LAND COURT RULES

Arrangement of Orders

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LAND COURT RULES

Made by the Chief Justice under section 168 of the Land Act

Commencement [1 January 2007]

ORDER 1 : CITATION

These rules may be cited as the Land Court Rules 1991 and shall come into effect on 1st January 2007.

ORDER 2 : APPLICATION

Rule 1. Land Court Proceedings

These rules shall apply to all proceedings in the Land Court.

Rule 2. Supreme Court Rules

Except as provided in these rules, the procedure set out in the Supreme Court Rules shall apply.

ORDER 3 : INTERPRETATION

Rule 1. Interpretation Act

The Interpretation Act shall apply to these rules.

Rule 2. Meanings

“Act” means the Land Act.

“**Court**” means the Land Court of Tonga.

“**Judge**” means the Chief Justice and any other judge of the Land Court.

“**Supreme Court Rules**” means the Supreme Court Rules for the time being in force.

ORDER 4 : COMMENCEMENT OF PROCEEDINGS

Rule 1. Action commenced by filing writ

- (1) All proceedings shall be commenced by writ
- (2) Every writ shall be in Form 1.
- (3) A writ may be issued in Nuku'alofa or in the Registry nearest to the land which is the subject of the proceedings.

ORDER 5 : SERVICE OUT OF THE JURISDICTION

Rule 1. Service where party is out of the jurisdiction

- (1) A writ may, with the leave of the Court, be served out of the jurisdiction on any person who is a necessary party to an action.
- (2) Leave shall be obtained, and service effected, in accordance with the Supreme Court Rules.

ORDER 6 : DISPOSAL OF ACTIONS

Rule 1. Conduct of trial

- (1) The trial of an action shall be conducted by a judge sitting with an assessor selected from the panel of assessors.
- (2) Proceedings in chambers may be conducted by a judge without an assessor.
- (3) Order 14 of the Supreme Court Rules (Judgment in default of defence) shall not apply. Where the defendant has failed to file a defence, the Judge and the assessor shall hear formal proof of the plaintiff's claim and, if satisfied thereof, shall give judgment for the plaintiff. The defendant shall be notified of and may attend such hearing but shall not be allowed to be heard.
- (4) Order 39 of the Supreme Court Rules which sets out procedural provisions relating to the remedy of judicial review shall not apply but in all other respects the recognised principles applicable to judicial review shall so far as is practicable apply to any action where the relief claimed arises out of the exercise by an individual of a decision making power under the Act.

ORDER 7 : ENFORCEMENT OF JUDGMENTS AND ORDERS**Rule 1. Enforcement**

- (1) An order for possession of land may be enforced by a writ of possession under section 151(2) of the Act.
- (2) A writ of possession shall be in Form 2.
- (3) Any other order may be enforced in accordance with the Supreme Court Rules.

ORDER 8 : REPEAL AND TRANSITIONAL**Rule 1. Revocation**

- (1) The Land Court Rules 1991 are revoked.
- (2) Notwithstanding the revocation of the Land Court Rules 1991, any act which was properly done in accordance with those rules before they were repealed, and which can be validly done under these rules, is deemed to have been validly done under these rules.

FORM 2 - WRIT OF POSSESSION

(0.7 r. 1(2))

[Heading as in Form 1]

To : The Officer in charge, Police Station, [location]

WHEREAS in this action on the day of 20

the Plaintiff [name the plaintiff]

of [address]

obtained a judgment of order against the Defendant

[name the defendant]

of [address]

that the said Defendant

1. do give to him possession of the land described in schedule 1;

and

2. do pay the plaintiff damages/costs, and the sum set out in schedule 2 remains unpaid*

YOU ARE COMMANDED either personally or by way of delegation of any police officer:

1. to enter the said land and to cause the Plaintiff to have possession of it;
2. if any person is in occupation of the said land then they may be allowed up to 14 days in which to vacate it;
3. to seize property of the Defendant up to the value of the said amount (except any house and fixtures, growing crops, clothing of the defendant and the defendant's family, and tools of trade up to a value of \$200) and to sell the same by public auction (unless otherwise ordered by the Court) and to pay the proceeds of such sale to the Registrar of the Court. If no such property can be found, to certify to that effect to the Registrar of the Court.
4. You are required to report to the Court forthwith following execution of this writ of possession and thereafter await further directions of the Court (if any).

Nuku'alofa

Dated the day of 20

[SEAL] Registrar of the Land Court

(* Delete as appropriate)

SCHEDULE 1

[description of land to be possessed]

SCHEDULE 2

Amount adjudged	:	\$
Interest at % per		
Annum from date of		
Judgment to date:		\$
Costs :		\$
Total debt:		\$
Less paid:		\$
Balance due:		\$
Costs of this writ:		\$
Total to be levied	:	\$

ENDNOTES