

IMMIGRATION RULES 1991

1	Name	12	Revocation of permits
2	Interpretation	13	Grant of further permit
3	Tokelauan New Zealand citizens	14	Immigration procedures
4	Other New Zealand citizens	15	Order for removal from Tokelau
5	Non-New Zealand citizens	16	Visiting vessels
6	Persons unlawfully in Tokelau	17	—
7	Types of permit	18	Offences and penalty
8	Application for permit	19	Jurisdictional matters
9	Grant of permit	20	Proceedings
10	Currency of permit		
11	Permits may be subject to conditions	SCHEDULE	Forms

1 Name

These are the Immigration Rules 1991.

2 Interpretation

In these Rules —

“applicant” means a person who applies for a permit;

“certificate of identity” means a current document issued by the Government of any country to any person for the purposes of facilitating that person's entry into or exit from any country, being a document that purports to establish the identity but not the nationality of that person and confers on that person the right to enter the country whose Government issues the document;

“current”, in relation to a permit, means that the permit is in force and has not ceased to be current under rule 10(3);

“passport” means —

- (i) a current document issued by or on behalf of the Government of any country that purports to establish the identity and nationality of the holder and that confers on the holder the right to enter the country whose Government has issued the document; and
- (ii) in the case of a person who does not hold such a document, a certificate of identity;

“permit” means a visitor's permit, a residence permit, a work permit, or a special permit;

“vessel” means any boat or aircraft;

“work” means paid employment or the earning of income in Tokelau other than from a savings account.

3 Rights of Tokelauans

No Tokelauan requires a permit to be in Tokelau or to visit or work or reside permanently in Tokelau.

4 Requirements for New Zealand citizens

A New Zealand citizen who is not a Tokelauan does not require a permit to enter Tokelau, but —

- (i) may not be in Tokelau following the expiry of a period of 10 days after entering Tokelau from another country unless that person holds a current permit;
- (ii) may not work in Tokelau unless that person holds a current work permit or a current special permit that authorises the person to work in Tokelau.

5 Requirements for persons who are not New Zealand citizens

A person who is not a New Zealand citizen —

- (i) may not be in Tokelau unless that person holds a current permit;
- (ii) may not work in Tokelau unless that person holds a current work permit or a current special permit that authorises the person to work in Tokelau.

6 Persons unlawfully in Tokelau

Any person who is in Tokelau in contravention of rule 4 or rule 5 is in Tokelau unlawfully.

7 Types of permit

The following types of permit may be granted in accordance with these Rules —

- (i) visitors’ permits, which allow the permit holder to be in Tokelau for a period not exceeding 30 days;
- (ii) residence permits, which allow the permit holder to reside in Tokelau for a period not exceeding 3 months;
- (iii) work permits, which allow the permit holder to reside and work in Tokelau for a period not exceeding 3 months;
- (iv) special permits, which may be granted for a period not exceeding 3 years, allow the permit holder to reside and work in Tokelau;

- (v) permits for permanent residence, which may be granted to a person who has ordinarily been resident in Tokelau for at least 5 years, allow the holder to reside and work in Tokelau indefinitely.

8 Application for permit

- (1) A person who wishes to obtain a permit may apply to any of the following —
 - (i) an Administration Officer in Tokelau, and such other persons in Tokelau as may be designated by the Council for the Ongoing Government;
 - (ii) the Office of the Administrator of Tokelau in New Zealand;
 - (iii) the Office for Tokelau Affairs in Samoa;
 - (iv) any New Zealand diplomatic or consular post elsewhere.
- (2) An applicant shall —
 - (i) complete form 1 in the Schedule; and
 - (ii) pay an application fee of NZ \$20 for each application lodged; and
 - (iii) provide such relevant information as the Council for the Ongoing Government may require.
- (3) No permit is required by a person who is certified by the Government of Tokelau to be on the official business of the government or a village, to enter, work in, or reside in Tokelau for the duration of the task.

9 Grant of permit

- (1) Subject to the provisions of this rule, the Council for the Ongoing Government may grant or refuse to grant a permit as the Council for the Ongoing Government thinks fit, and may grant such type of permit as the Council for the Ongoing Government thinks fit regardless of the type for which application is made.
- (2) Except where the Council for the Ongoing Government considers that there is good reason why any provision of this paragraph should not apply, no visitor's permit or residence permit or work permit shall be granted —
 - (i) unless the Council for the Ongoing Government is satisfied that the applicant has or will have sufficient means of support while in Tokelau; or

- (ii) if, during the currency of the permit, the applicant will or is likely to need medical or other similar treatment or facilities that are not usually available in Tokelau; or
 - (iii) if the applicant has an infectious or contagious medical condition contracted outside Tokelau; or
 - (iv) if the Village Council of any island concerned has not approved accommodation arrangements for the applicant; or
 - (v) if it appears to the Council for the Ongoing Government that the applicant intends to carry out an illegal purpose in Tokelau; or
 - (vi) unless the Village Councils of all islands concerned otherwise direct, if the applicant has in any country been convicted of an offence and sentenced to imprisonment for a term of 11 months or more; or
 - (vii) if the applicant has previously been the subject of a removal order issued under rule 15.
- (3) A work permit shall not be granted without the approval of the Village Councils of each of the 3 islands.
- (4) An Administration Officer or a constable shall, unless the Officer or constable considers that there is good reason not to do so, grant a visitor's permit to —
- (i) any person who is passing through Tokelau in transit to another country;
 - (ii) any member of the crew of a vessel that enters Tokelau for a legitimate and temporary purpose;
 - (iii) any person who is shipwrecked or in Tokelau by similar force of circumstance.
- (5) A permit granted under these Rules shall be in form 2 in the Schedule.
- (6) The Council for the Ongoing Government shall, within one month of receipt of the completed application by the Council for Ongoing Government, grant or refuse the application.

10 Currency of permit

- (1) A permit may be granted for any period not exceeding the period specified for the relevant type of permit in rule 7.

- (2) Every permit shall specify —
 - (i) the date on which it comes into force; and
 - (ii) either the date on which it will expire or the period for which it is granted.
- (3) A permit ceases to be current —
 - (i) on the date or at the end of the period specified under paragraph (2)(ii) ; or
 - (ii) on being revoked under rule 12;
 - (iii) on the holder of the permit leaving Tokelau for an overseas destination,whichever occurs first.

11 Permits may be subject to conditions

- (1) A permit may be granted subject to such reasonable conditions, whether as to the permit holder's accommodation arrangements or work or otherwise, as the Council for the Ongoing Government (or where appropriate the person granting a visitor's permit under rule 9(4)) thinks fit to impose.
- (2) The Council for the Ongoing Government (or where appropriate the person granting the visitor's permit) may at any time revoke or vary any condition, or add any further condition.

12 Revocation of permits

- (1) The Council for the Ongoing Government may at any time revoke a permit if the Council for the Ongoing Government considers that there is good reason to do so in the interests of Tokelau.
- (2) Except where the Council for the Ongoing Government considers there are special circumstances that make it inappropriate to do so, the Council for the Ongoing Government shall not revoke a permit without first informing the permit holder of the Council's intention and considering any reasons the holder advances as to why the permit should not be revoked.
- (3) Any revocation under this rule shall be notified to the person whose permit is revoked in writing and shall take effect on receipt by that person of the notification.

- (4) For the purposes of paragraph (1) (and without restricting the circumstances in which the Council for the Ongoing Government may revoke a permit in the interests of Tokelau), good reason for revoking a permit exists if —
- (i) the permit holder is convicted of an offence in Tokelau and sentenced to imprisonment or a fine exceeding 2 penalty units; or
 - (ii) the permit holder is convicted of an offence under rule 18; or
 - (iii) the permit holder fails to honour or comply with a condition of the permit, and is given notice to that effect by the Village Council of the relevant atoll; or
 - (iv) it appears to the Council for the Ongoing Government that the applicant does not have sufficient means of support in Tokelau; or
 - (v) the permit holder needs or is likely to need medical or other similar treatment that is not available in Tokelau; or
 - (vi) the permit holder has an infectious or contagious medical condition contracted outside Tokelau; or
 - (vii) the Village Council of the relevant island notifies the Council for the Ongoing Government that it does not approve the accommodation arrangements of the permit holder.

13 Grant of further permit

- (1) A permit holder who is in Tokelau may at any time before the expiry of the holder's current permit apply to an Administration Office, or any person designated by an Administration Officer for the purpose, for the grant of a new permit, and shall supply such information as the Council for the Ongoing Government or designated person may require for the purpose of considering the application.
- (2) Where a new permit is granted to a person applying under this rule, that permit may be evidenced by either —
- (i) issuing a new permit in form 2 in the Schedule; or
 - (ii) endorsing the person's existing permit with the new relevant date of expiry or period of currency of the permit.

14 Immigration procedures

- (1) Every person who enters Tokelau shall, on request by an Administration Officer or constable, produce for inspection —
 - (i) the person's passport; and
 - (ii) where applicable, the person's permit issued under these Rules.
- (2) The Administration Officer on each island shall keep a record of all persons (other than Tokelauans who are New Zealand citizens) who enter and leave that island.

15 Order for removal from Tokelau

- (1) The Council for the Ongoing Government or an Administration Officer may issue a removal order in form 3 in the Schedule ordering the removal from Tokelau of any person who is unlawfully in Tokelau.
- (2) A removal order authorises any constable or the Administration Officer or any person authorised by the Administration Officer to use such reasonable force as may be necessary (including detention for a period not exceeding 24 hours) to ensure that the person to whom the order applies is placed on board any vessel for the purpose of effecting the person's removal from Tokelau.
- (3) Removal under this rule shall be by the first available vessel on which it is practicable for the person to leave, and shall be subject to such conditions as the Council for the Ongoing Government or Administration Officer may direct.
- (4) All costs incurred in removing a person from Tokelau under this rule —
 - (i) may be paid from the Tokelau Administration Account;
 - (ii) shall be recoverable as a debt due to the Crown from the person removed (or, in the case of a minor, from the person's parent or guardian), and any sum so recovered shall be paid into the Tokelau Administration Account.
- (5) A constable or Administration Officer or person authorised by an Administration Officer is not guilty of an offence and is not liable to any civil proceedings in respect of any reasonable force used by that constable, Administration Officer, or person in good faith for the purpose of ensuring that a person in respect of whom a removal order has been

issued under this rule is removed from Tokelau in accordance with this rule.

16 Visiting vessels

- (1) The master of a vessel that arrives in Tokelau shall, on request by an Administration Officer or a constable, furnish full details of the persons on board the vessel.
- (2) The master of any vessel that transports to Tokelau a person who may not lawfully be in Tokelau shall, at the master's cost, transport that person from Tokelau at the earliest practical opportunity.
- (3) The master of any vessel that is to leave Tokelau for an overseas destination shall —
 - (i) subject to the payment of an appropriate fee, and subject always to the safety of the vessel and persons on board the vessel, allow on board for passage from Tokelau any person who is subject to a removal order under rule 15; and
 - (ii) take all such reasonable steps (including the use of reasonable force) as may be necessary to detain any such person on board the vessel until it has left the territorial limits of Tokelau.
- (4) The master of a vessel, and any person acting for the master, is not guilty of an offence and is not liable to civil proceedings in respect of any reasonable force used by the master or person in good faith for the purpose of detaining a person in accordance with paragraph (3).

17 [repealed 1997/5]

18 Offences and penalty

Every person commits an offence, and is liable on conviction to a fine not exceeding 3 penalty units and to imprisonment for a term not exceeding 3 months, who —

- (i) in applying for any permit, makes any statement or supplies information knowing that it is false or misleading in any material respect; or
- (ii) fails to produce the person's passport or, where appropriate, permit, when required to do so under rule 14(1); or
- (iii) contravenes or fails to comply with paragraph (1) or paragraph (2) or paragraph (3) of rule 16; or

- (iv) resists or intentionally obstructs any constable or other person acting in accordance with the terms of a removal order issued under rule 15.

19 Jurisdictional matters

Any question whether or not —

- (i) to grant a permit to any person and (if so) for what period; or
- (ii) to impose, vary, or cancel any condition of a permit; or
- (iii) to revoke any permit,

is a matter for the discretion of the Council for the Ongoing Government, or for the Council's delegate or other person having the relevant power under these Rules, and no appeal shall lie to any Court against the decision of the Council for the Ongoing Government or other person on any such question.

20 Proceedings

In any proceedings brought under these Rules, or in any proceedings relating to the exercise of or failure to exercise any power referred to in these Rules, a certificate signed by the Council for the Ongoing Government or an Administration Officer or a constable and containing a statement in relation to any person to the effect that —

- (i) the person is not a Tokelauan; or
- (ii) the person is not a New Zealand citizen; or
- (iii) the person holds or at any material time held, or does not hold or did not at any material time hold, a permit; or
- (iv) any permit granted to the person was of a specified type or was granted for a specified period or until a specified date, or is or was subject to specified conditions,

shall, in the absence of proof to the contrary, be deemed to be sufficient evidence of the truth of the statement.

21 Revocations

[Spent]

22 Transitional

[Spent]

SCHEDULE

FORM 1

rule 8

APPLICATION FOR A PERMIT TO VISIT, RESIDE, OR WORK IN TOKELAU

Full name of applicant Age
Address Sex
Occupation Citizenship Martial status
Passport Place and date of issue

Tick the appropriate boxes and answer where applicable

I have never been refused a Tokelau permit or been subject to a Tokelau removal order. []
I have been refused a Tokelau permit or have been subject to a Tokelau removal order. []
If you have been refused a permit, or been subject to a removal order, give details

I have not arranged accommodation in Tokelau. []
I have arranged accommodation in Tokelau []
If you have arranged accommodation on what island and with whom have you the arrangement?
.....
If not, do you request it, and for which island?
I need the following medical or other treatment facilities on Tokelau

Make the following declarations by ticking the appropriate boxes

- 1. I have not been convicted of an offence and sentenced to more than 11 months imprisonment in any country. True [] False []
2. I do not have an infectious or contagious medical condition. True [] False []
3. I will have sufficient means of support in Tokelau. True [] False []
4. I have appropriate onward passage. True [] False []

If you ticked "False" for any of the above give details of the matter.

Conditions of your permit [Tick the appropriate boxes]

- 5. I undertake to respect the customs of Tokelau. []
6. I agree that if I am unlawfully in Tokelau, I will leave Tokelau by the first available vessel at my own cost. []

Additional conditions may be imposed.

If you fail to honour or comply with a condition of your permit, your permit may be revoked if you are given notice to that effect by the relevant village.

Fill in the details for the appropriate permit(s)

VISITORS PERMIT

Place(s) of visit of Tokelau
Purpose(s) of visit
Proposed time of visit: From to
State the time and reason for any previous visits to Tokelau
.....

The following persons are accompanying me to Tokelau [Each makes a separate application]
.....

State your proposed means of transport to and from Tokelau. If it does not regularly travel to Tokelau, describe its type and condition (including where possible details of size, age, or other matters affecting the vessel's seaworthiness and self-sufficiency in fuel, water, and provisions).
.....

RESIDENCE PERMIT

Place of proposed residence
Proposed length of residence
Reason for seeking residence

Immigration

WORK PERMIT

Proposed employer Proposed work place(s)
Proposed type(s) of work
Proposed length of employment

SPECIAL PERMIT

Fill in the details required above for residence and work permits.
State the reason the special permit is sought

.....

I declare that the information given in this application form is true and correct. I realise that supplying that is false or misleading in a material respect is an offence.

Applicant's signature Date

OFFICIAL USE ONLY: Official copy of receipt: Date received
Amount of money received Passport sighted Yes No
Official signature Position

OFFICIAL USE ONLY: Applicant's copy of receipt Date received
Amount of money received Passport sighted Yes No
Official signature Position

FORM 2
rule 8
PERMIT TO VISIT, RESIDE, OR WORK IN TOKELAU [OFFICIAL USE ONLY]

Full name Age
Address Sex
Citizenship Passport Number
Place and date of issue of passport
Names of any accompanying persons:
Accommodation in Tokelau arranged with
The above-named person has been granted:
 a visitor's permit a residence permit a work permit a special permit

VISITORS PERMIT

Purpose of visit Proposed means of transport
The permit is valid from to OR This permit is valid for a period of 30 days commencing on
Official signature

RESIDENCE PERMIT

The permit is valid from to OR This permit is valid for a period of 30 days commencing on
Official signature

WORK PERMIT

The permit is valid from to OR This permit is valid for a period of 30 days commencing on
Official signature

SPECIAL PERMIT

The permit is valid from to OR This permit is valid for a period of 30 days commencing on
The reason for the special permit is

Official signature

Special conditions of any permit granted

Official signature Date

Inspected by: Signature Position Date

FORM 3
rule 15
REMOVAL ORDER

This order is issued in respect of ,
a citizen of , who is in Tokelau unlawfully.
[Name of country, if known]

This order authorises any constable, or an Administration Officer or person authorised by an Administration Officer, to use such reasonable force as may be necessary to ensure that the person named above is placed on board any vessel on which it is practicable for the person to leave Tokelau. If necessary the person may be detained for up to 24 hours to ensure that he or she boards the vessel.

Official signature

Designation

Date
