

INCORPORATION RULES 2003

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1 Interpretation

In these Rules —

"association" (fakatalapotopotoga) means two or more persons who are incorporated under these Rules;

"member" means a person who is identified as belonging to an association, in accordance with its own rules;

"officer" means an official of an association, identified in accordance with its own rules;

"Register" means the register of associations as kept by the Registrar;

"Registrar" means the Director of the Tokelau Public Service who is responsible for keeping public records.

2 Register

(1) The Registrar shall keep a Register in which the details of every association must be recorded.

(2) Any person may on request to the Registrar and on payment of a fee of \$10 inspect the register.

3 Application for incorporation

(1) Any persons may apply to the Registrar to be incorporated under these Rules.

(2) In every application at least one of the applicants must be a Tokelauan ordinarily resident in Tokelau.

(3) The application must —

(i) be made in form 1;

(ii) be accompanied by a copy of the rules of the proposed association;

- (iii) and include any other information relevant to the application that the Registrar may require.
- (4) The rules of a proposed association must deal with the matters covered by the sample rules set out in form 2.
- (5) In addition to the matters specified in form 2, the rules of an association which has a purpose specified in Schedule 2 must include provisions for matters specified in respect of that purpose in Schedule 2.
- (6) The application of paragraph (5) shall be guided by the relevant laws of New Zealand at the time.

4 Incorporation

- (1) Where an application has been made for incorporation under these Rules, and after provision of such further information as the Registrar may require, the Registrar must consult the relevant Taupulega, and then either grant or refuse the application as the Registrar thinks fit.
- (2)
 - (i) Where the decision under paragraph (1) is to grant the application, the association shall be incorporated on payment by the applicant of a fee of \$100.
 - (ii) The fee shall be divided equally between the Tokelau Government and the village.
- (3) Incorporation under these Rules may be made subject to such conditions as the Registrar thinks fit.
- (4) Where an application for incorporation is granted the Registrar must issue to the association a certificate of incorporation in form 3.
- (5) Public notice of —
 - (i) the contents of each certificate of incorporation; and
 - (ii) any other information about the association which the Registrar thinks fit,will be given in each village at the first available opportunity.

5 Effect of incorporation

- (1) From the date of incorporation an association —
 - (i) has perpetual succession;
 - (ii) is capable of suing and of being sued in its corporate name;

Incorporation

- (iii) in the fulfilment of its objects, has and may exercise all the rights, powers and privileges of a natural person of full age and capacity.
- (2) The liability of the association is limited to its assets.
- (3) Members and officers of an association who act lawfully and in good faith in the fulfilment of the objects of the association will not incur personal liability of any nature in respect of the acts of the association.

6 Representation

The officers identified for the purpose in the rules of an association represent it for all legal purposes.

7 Name of association

- (1) An association has the exclusive right to the use of the name under which the association is registered.
- (2) No person shall use as its name the name of an association.
- (3) No person is permitted to use the word "incorporated" or any similar expression in its name unless it is registered under these Rules.
- (4) Any person who contravenes this Rule commits an offence and is liable on conviction to a fine not exceeding 10 penalty units or a term of imprisonment not exceeding 3 months.

8 Finance

- (1) An association must follow the accounting and financial procedures specified by the Registrar at the time of incorporation.
- (2) An association must nominate an annual accounting date and must deliver to the Registrar within three months of that date a statement of —
 - (i) the income and expenditure of the association during the accounting year; and
 - (ii) the assets and liabilities of the association at the end of the accounting year.
- (3) A statement made under paragraph (2) must be accompanied by a certificate signed by two officers of the association to the effect that the statement has been submitted to and approved by the members of the body at a meeting.

- (4) All money received by an association must be held in the Tokelau Savings System.
- (5) Every association must present to the registrar an annual record of accounts, audited by a person approved by the Registrar, no later than 6 months after the end of the financial year.

9 Change of rules

- (1) If an association wishes to change its rules it may apply to the Registrar in form 4 for approval of the change.
- (2) Where application is made under paragraph (1), and after provision of such further information as the Registrar may require, the Registrar will grant or refuse the application as the Registrar thinks fit.
- (3) A change of rules may be subject to such conditions as the Registrar thinks fit.
- (4) Where an application under this Rule is granted the Registrar shall issue to the association a certificate of change of rules in form 5.
- (5) The change approved will be effective from the date of issue of the certificate of change of rules.
- (6) Public notice of the contents of the certificate of change of rules will be given in each village at the first available opportunity.

10 Dissolution

- (1) The Registrar may, by notice in form 6 to an association at its registered address and with effect from the date of the notice, dissolve an association —
 - (i) at the request of the association;
 - (ii) where the certificate of incorporation was obtained by fraud or mistake;
 - (iii) where the association no longer carries on its operations;
 - (iv) where the Registrar is satisfied that the association has in a significant respect failed to comply with its rules or these Rules and it is in the public interest to dissolve the association.
- (2) On dissolution of an association under paragraph (1), the Registrar will cancel the certificate of incorporation of the body.

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- (3) On dissolution, any property of the association remaining after settlement of all debts will vest as provided in the rules of the association.
- (4) Where there is dispute as to the vesting of property on dissolution, the Registrar will, after consultation with the interested parties, distribute the property as the Registrar thinks fit.
- (5) Public notice of the dissolution of an association will be given in each village at the first available opportunity.

11 Offence

Any person who for the purposes of any application or statement under these Rules presents a document which is false, or which that person ought to have known to be false, commits an offence and is liable on conviction to a fine of 10 penalty units or a term of imprisonment not exceeding 3 months.

SCHEDULE 1

FORM 1

rule 3

APPLICATION FOR INCORPORATION

To the Registrar of Incorporations
Government of Tokelau

We, the persons listed below, apply to be incorporated under the Incorporation Rules.

We enclose a copy of the rules of the body to be incorporated.

Names of persons making the application

.....
.....
.....

Signed *
.....
.....

Dated At

* by the persons making the application.

FORM 2

rule 3

RULES OF ASSOCIATION—BASIC STRUCTURE

1 Name and address

- 1 The name of the association is
- 2 The address of the association is

2 Purposes

The purposes for which the association is established are —

- 1
- 2
- 3
- 4
- 5 To do all other things that are incidental to or conducive to the attainment of the above purposes.

3 Membership

1 Any person may become a member of the association by —

- (i) nomination;
- (ii) election;
- (iii) payment of membership fee;
- (iv)

2 Members may be disqualified from membership in the following circumstances—

- (i) failure to follow the rules of the association;
- (ii)

4 Officers

1 The association will be controlled and administered by —

(officers of the association and their names)

Officers Names

Chairperson

Secretary

Treasurer

2 The officers who will control and administer the association are appointed in the following manner —

- (i) by election by the members at an Annual General Meeting;
- (ii)

3 Any person who controls or administers the association will cease to do so in the following circumstances —

- (i) if the other officers at a meeting called for the purpose vote that he or she should do so;
- (ii) resignation;
- (iii) end of period for which appointed.

5 Meetings

Meetings of the association will be held at the following time and place OR

- 1 Meetings will be held at such times and places as specified by the officers.
- 2 Sufficient notice of the date and time of meeting shall be given to all members of the association prior to the meeting.
- 3 The procedures to be followed at meetings are —
 - (i) quorum;
 - (ii) voting;
 - (iii)

6 Finances

- 1 The Failautuhi of the association must ensure that proper accounts and books are kept in order to provide a true and complete financial record of the affairs of the association.
- 2 The accounts and books of association shall be open to inspection by any member of the association at any reasonable time.
- 3 All accounts and books for the financial year shall be laid before an Annual General Meeting of the association which shall be held within two months of the end of the financial year.
- 4 The financial year is from 1 January to 31 December.

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5 The association shall follow any further financial and accounting procedures which may be specified by the Registrar at the time of incorporation.

6 All money of the association shall be held in the Tokelau Savings System.

7 Dispute Settlement

Any internal dispute which arises in connection with these Rules shall be settled in the following manner —

- (i) by resolution;
- (ii) by decision of the Taupulega;
- (iii)

8. Dissolution of the association

Where the association is dissolved, any property remaining after the payment of all known debts shall be distributed in the following manner —

- (i) by resolution of the members at a meeting called for the purpose;
- (ii)

FORM 3
rule 4
CERTIFICATION OF INCORPORATION

Certificate of incorporation No

I certify that the association under the name of

Has been incorporated under the Incorporation Rules on

Signed
(Registrar of Incorporations, Government of Tokelau)

Dated

FORM 4
rule 9
APPLICATION FOR CHANGE OF RULES

The Incorporation applies for a change of its rules as follows —

(1)

(2)

(3)

Signed

Dated * by the persons making the application

FORM 5
rule 9
CERTIFICATE OF CHANGE OF RULES

I certify that I have registered the following change of rules for
..... (Name of Association)

Signed Dated
(Registrar of Incorporations Government of Tokelau)

FORM 6
rule 10
ORDER OF DISSOLUTION OF ASSOCIATION

I order that (Name of Association)

Is from the day of this order dissolved, on the grounds that —
.....

Any property of the association remaining after settlement of any debts is vested in:
.....

Signed Dated
(Registrar of Incorporations Government of Tokelau)

SCHEDULE 2
rule 3

Purpose	Requirements
Charitable	Powers in respect of trust property Schemes in respect of property Schemes in respect of funds raised by public contribution Accounts and audit
Commercial	Prospectus Shares Debentures Charges Management and administration Accounts and audit Protection of minority interests Alteration of nature or objects of association Dissolution
Cooperative	Rights, liabilities and privileges of members Duties and privileges in respect of property and funds Management and administration Accounts and audit Disputes and arbitration Dissolution
Industrial	Membership Management and administration Property and funds Accounts and audit Dissolution