

**Reprint
as at 5 July 1991**



**Tokelau Immigration Regulations
1991**

(SR 1991/117)

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 1st day of July 1991

Present:

Her Excellency the Governor-General in Council

Pursuant to the Tokelau Act 1948, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Foreign Affairs and Trade.

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Regulations

- 1 Title and commencement**
- (1) These regulations may be cited as the Tokelau Immigration Regulations 1991.
- (2) These regulations shall come into force on 1 August 1991.
- 2 Interpretation**
- In these regulations, unless the context otherwise requires,—
- 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 regulation 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 visitors 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 who are New Zealand citizens protected

No New Zealand citizen who is a Tokelauan requires a permit to be in Tokelau or to visit or reside or work 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 regulation 4 or regulation 5 is in Tokelau unlawfully.

7 Types of permit

The following types of permit may be granted in accordance with these regulations:

- (i) visitors permits, which allow the permit holder to be in Tokelau for a period not exceeding 10 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 1 year and, unless otherwise specified by the Administrator, allow the permit holder to reside and work in Tokelau during the currency of the permit.

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 Administrator:
 - (ii) the Administrator in New Zealand:
 - (iii) the Office for Tokelau Affairs in Western Samoa:
 - (iv) any New Zealand diplomatic or consular post elsewhere.
- (2) An applicant shall—

- (i) complete form 1 of the Schedule; and
- (ii) pay an application fee of NZ\$20 for each application lodged; and
- (iii) provide such relevant information as the Administrator may require.

9 Grant of permit

- (1) Subject to the provisions of this regulation, the Administrator may grant or refuse to grant a permit as the Administrator thinks fit, and may grant such type of permit as the Administrator thinks fit regardless of the type for which application is made.
- (2) Except where the Administrator considers that there is good reason why any provision of this subclause should not apply, no visitors permit or residence permit or work permit shall be granted—
 - (i) unless the Administrator 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 Administrator 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 regulation 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 visitors 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 regulations shall be in form 2 of the Schedule.

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 regulation 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 subclause (2)(ii); or
 - (ii) on being revoked under regulation 12; or
 - (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 Administrator (or where appropriate the person granting a visitors permit under regulation 9(4)) thinks fit to impose.
- (2) The Administrator (or where appropriate the person granting the visitors permit) may at any time revoke or vary any condition, or add any further condition.

12 Revocation of permits

- (1) The Administrator may at any time revoke a permit if the Administrator considers that there is good reason to do so in the interests of Tokelau.
- (2) Except where the Administrator considers there are special circumstances that make it inappropriate to do so, the Administrator shall not revoke a permit without first informing the permit holder of the Administrator's intention and considering any reasons the holder advances as to why the permit should not be revoked.
- (3) Any revocation under this regulation 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 subclause (1) (and without restricting the circumstances in which the Administrator 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 \$100; or
 - (ii) the permit holder is convicted of an offence under regulation 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 Administrator 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 Administrator 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 Administra-

tion Officer, 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 Administrator 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 regulation, that permit may be evidenced by either—
 - (i) issuing a new permit in form 2 of 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 regulations.
- (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 Administrator or an Administration Officer may issue a removal order in form 3 of 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 regulation 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 Administrator or Administration Officer may direct.

- (4) All costs incurred in removing a person from Tokelau under this regulation—
 - (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 regulation is removed from Tokelau in accordance with this regulation.

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 regulation 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 subclause (3).

17 Delegations

- (1) Subject to subclause (2), the Administrator may delegate any of the powers conferred on the Administrator by these regulations in accordance with regulation 5 of the Tokelau Administration Regulations 1980 (SR 1980/189).
- (2) The Administrator shall not delegate to any person other than the Official Secretary or an Administration Officer the power to revoke a permit or to issue a removal order.

18 Offences and penalty

Every person commits an offence, and is liable on conviction to a fine not exceeding \$150 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 regulation 14(1); or
- (iii) contravenes or fails to comply with subclause (1) or subclause (2) or subclause (3) of regulation 16; or
- (iv) resists or intentionally obstructs any constable or other person acting in accordance with the terms of a removal order issued under regulation 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 Administrator, or for the Administrator's delegate or other person having the relevant power under these regulations, and no appeal shall lie to any court against the decision of the Administrator or other person on any such question.

20 Proceedings

In any proceedings brought under these regulations, or in any proceedings relating to the exercise of or failure to exercise any power referred to in these regulations, a certificate signed by the Administrator or the Official Secretary 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, etc

- (1) The Tokelau Islands Departure Regulations 1952 (SR 1952/21) are hereby revoked.
- (2) The following Ordinances of the Gilbert and Ellice Island Colony shall cease to have effect as part of the law of Tokelau:
 - (i) sections 11 to 17 and section 21 of, and Schedules A, B, and C of, the Gilbert and Ellice (Consolidation) Ordinance 1917;
 - (ii) the Aliens Immigration Restrictions Ordinance 1924.

22 Transitional

- (1) The Administrator shall, on each island of Tokelau, not later than 6 weeks after the date on which these regulations come into force, give public notice of the making of these regulations and of the requirements of this regulation.
- (2) Any person who—
 - (i) is in Tokelau at the time of the giving of the public notice under this regulation in the relevant island; and
 - (ii) is required by these regulations to hold a current permit,—

shall, unless sooner leaving Tokelau for an overseas destination, or unless the person is already the holder of a current permit, apply for a permit under these regulations not later than 14 days after the day on which the public notice was given.

- (3) A person who is in an island of Tokelau at the time the public notice is given in the relevant island under this regulation shall not be treated as being in Tokelau unlawfully by reason of failure to hold a current permit until—
- (i) in the case of a person who fails to apply for a permit under subclause (2), the expiry of a period of 15 days after the giving of the public notice:
 - (ii) in the case of a person who has applied for a permit under that subclause, the expiry of a period of 6 weeks after the giving of the public notice, or until a permit has been refused that person, whichever occurs first.
-

Schedule

Forms

Form 1

r 8

Application for a permit to visit, reside, or work in Tokelau

Full name of applicant:

Age:

Address:

Sex:

Occupation:

Citizenship:

Marital status:

Passport No:

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:

Form 1—*continued***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.

Note: 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 to Tokelau:

Purpose(s) of visit:

Proposed time of visit: from [*date*] to [*date*]

State the time and reason for any previous visits to Tokelau.

The following persons are accompanying me to Tokelau (**Note:** a separate application should be made for each person):

Form 1—*continued*

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:

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 information 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:

Form 1—*continued*

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
Permit to visit, reside, or work in Tokelau
(Official use only)

Full name:

Age:

Address:

Sex:

Citizenship:

Passport No:

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 visitors permit

a residence permit

a work permit

a special permit

Visitors permit

Purpose of visit:

Proposed means of transport:

The permit is valid from [date] to [date]

or

The permit is valid for a period of 10 days commencing on [date]

Official signature:

Residence permit

The permit is valid from [date] to [date]

or

This permit is valid for a period of 3 months commencing on [date]

Form 2—*continued*

Official signature:

Work permit

The permit is valid from [*date*] to [*date*]*or*This permit is valid for a period of 3 months commencing on [*date*]

This permit has been approved by all 3 villages in Tokelau.

Official signature:

Special permit

The permit is valid from [*date*] to [*date*]*or*This permit is valid for a period of 1 year commencing on [*date*]

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

r 15

Removal order

*Issued under regulation 15 of the Tokelau Immigration
Regulations 1991*

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

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:

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 August 1991, set out the rules under which persons may visit, reside, and work in Tokelau. None of these rules apply to New Zealand citizens who are Tokelauans.

The main features of the regulations are as follows:

- (i) New Zealand citizens who are not Tokelauans do not require a permit to enter Tokelau, but may not stay in Tokelau for more than 10 days or work in Tokelau unless they hold the appropriate permit (*regulation 4*).

Persons who are not New Zealand citizens require an appropriate permit to visit, reside, or work in Tokelau at any time (*regulation 5*).

- (ii) *regulation 7* sets out the 4 different kinds of permits.
 - Visitors permits allow the permit holder to be in Tokelau for up to 10 days.
 - Residence permits allow the permit holder to reside in Tokelau for up to 3 months.
 - Work permits allow the permit holder to work in Tokelau for up to 3 months.
 - Special permits allow the permit holder to reside and work in Tokelau for up to 1 year, unless otherwise specified.
- (iii) under *regulation 9(1)*, the decision whether or not to grant a permit is in the discretion of the Administrator, but *subclause (2)* sets out a list of matters that the Administrator should be satisfied of before granting a visitors, residence, or work permit.
 - In addition, the Administrator may not grant a work permit without the approval of all 3 villages (*subclause (3)*).
 - An Administration Officer or constable will generally be required to grant visitors permits to persons passing through Tokelau in transit to another country, crew members of vessels legitimately visiting Tokelau, and persons who are shipwrecked or are in Tokelau by similar force of circumstance (*subclause (4)*).
- (iv) *regulation 12* allows the Administrator to revoke a permit if the Administrator considers that there is good reason to do so in the interests of Tokelau. *Subclause (4)* sets out a list of matters that constitute good reason for revoking a permit, without in any way restricting other circumstances in which good reason may be found to revoke a permit.
- (v) *regulation 15* provides for the issue of removal orders for persons unlawfully in Tokelau.
- (vi) *regulation 17* provides that the Administrator may delegate any of the powers conferred by the regulations, except that the power to revoke a permit or issue a removal order cannot be delegated to anyone other than the Official Secretary or an Administration Officer.

- (vii) *regulation 21* makes special provision for persons who are in Tokelau at the time the regulations come into force, allowing a 6-week period for the Administrator to give public notice of the requirements that affected persons are to meet, and a further 2-week period for affected persons to apply for a permit.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 4 July 1991.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 *General***

This is a reprint of the Tokelau Immigration Regulations 1991. The reprint incorporates all the amendments to the regulations as at 5 July 1991, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*
