



Tuvalu

**OATHS AND STATUTORY
DECLARATIONS ACT**

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Tuvalu

OATHS AND STATUTORY DECLARATIONS ACT

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Tuvalu

OATHS AND STATUTORY DECLARATIONS ACT

AN ACT TO MAKE PROVISION FOR THE TAKING OF OATHS, FOR THE MAKING OF AFFIDAVITS AND STATUTORY DECLARATIONS AND FOR MATTERS RELATING AND INCIDENTAL THERETO¹

Commencement [20th August 1979]

1 Short title

This Act may be cited as the Oaths and Statutory Declarations Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**Commissioner for Oaths**” means a person appointed as such under section 9(1);

“**disciplinary action**” has the meaning ascribed to that term in section 2 of the Public Service Act²;

“**judicial oath**” means an oath in Form 1 set out in Schedule 1;

“**Justice of the Peace**” means a person appointed as such under the Magistrates’ Courts Act³;

“**oath of allegiance**” means an oath in the form set out as the first oath in Annex 2 to the Constitution⁴;

“**oath relating to Cabinet business**” means an oath in Form 2 set out in Schedule 1;

“**public officer**” has the meaning ascribed to that term in sections 104 and 105 of the Constitution.

3 Judicial oath

- (1) The oath of allegiance and the judicial oath shall be taken and subscribed by each of the judicial officers named in Schedule 2 before such officer's assumption of office.
- (2) The oath required to be taken under subsection (1) shall be administered in the case of the Chief Justice or a Commissioner of the High Court by the Governor-General and in the case of any other person by the Governor-General, the Chief Justice, or some other person authorised by or under this Act to administer oaths.
- (3) The Minister may from time to time by order amend Schedule 2.

4 Oath relating to Cabinet business

- (1) The Secretary to Government, Attorney-General, and any other person required to attend meetings of Cabinet, other than as a Minister, shall at the opening of the first meeting of the Cabinet which he attends take and subscribe before the person presiding in the Cabinet at such meeting the oath relating to Cabinet business.
- (2) Any public officer who having taken the oath relating to Cabinet business subsequently makes any disclosure or revelation contrary thereto shall be liable to disciplinary action.

5 Unnecessary repetition

No person shall be required in respect of the same appointment to the same office to take any oath relating to such office more than once.

6 Consequence of omission to take oath

Nothing herein contained shall render, or be deemed to render or to have rendered invalid any act done or which hereafter may be done by any person in the execution or intended execution of his official duties by reason only of the omission by such person to take any oath which such person should take or have taken:

Provided that, if any person declines, neglects or omits, where any oath required to be taken by him under this Act is duly tendered, to take such oath or make such affirmation, he shall, if he shall have already entered on his office vacate the same, and if he shall not have already entered on his office, be disqualified from entering the same.

7 Taking and validity of oaths

- (1) The normal manner of taking the Christian oath shall be for the deponent to hold the New Testament in his raised right hand and to repeat the words “I swear by Almighty God” followed by the substance of the oath.
- (2) Nothing in this Act shall prevent any person from being sworn according to the ceremonies of his own religion or in such manner as such person may deem binding on his conscience.
- (3) Where an oath has been duly administered and taken under this or any other Act the fact that the person taking such oath had at the time no religious belief shall not for any purpose affect the validity of such oath.

8 Provision for certain persons to affirm

- (1) When any oath is required to be taken under the provisions of this or any other Act, any person upon objecting to being sworn and stating as the ground of such objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief shall be permitted to make a solemn affirmation or declaration instead of taking such oath and shall make and subscribe a solemn affirmation in the form of the oath appointed but substituting the words “solemnly, sincerely and truly declare and affirm” for the words “swear by Almighty God” and omitting the words “So help me God”.
- (2) In this and any other Act, references to the taking of an oath shall include references to the making of an affirmation unless the context otherwise requires.

9 Commissioners for Oaths

- (1) The Chief Justice, may from time to time, by commission under his hand and the seal of the High Court, appoint fit and proper persons to be Commissioners for Oaths.
- (2) A Commissioner for Oaths may, by virtue of his commission, administer any oath or take any affidavit for the purposes of any court or matter in Tuvalu, and take any bail or recognisance in or for the purpose of any civil proceeding in the High Court or a magistrate’s court:

Provided that a Commissioner for Oaths shall not exercise any of the powers conferred by this section in any proceeding in which he represents any of the parties to the proceeding or in which he has an interest.

10 Authority to administer oaths

- (1) Every person holding any of the offices listed in Schedule 3 may administer any lawful oath or take any affidavit, affirmation or declaration required by this or any other Act (unless such oath is expressly required to be administered by any other person) and in relation to any matter or proceeding before him in the exercise of any judicial function conferred upon him by any law.
- (2) The Registrar of the High Court and any clerk of a Magistrate's Court or Island Court, acting under the directions of the judicial officer for the time being presiding over any such court, may administer any lawful oath or take any affidavit, affirmation or declaration which may be required to be taken in relation to any matter or proceeding before the court to which he is appointed as such Registrar or clerk, as the case may be.
- (3) The foregoing provisions of this section shall be without prejudice to the requirement that any oath required to be taken in any judicial proceedings shall be taken in the course of those proceedings and in the presence of the judicial officer presiding over such proceedings.

11 Authority for making affidavits and statutory declarations

Where under any Act or other law for the time being in force in Tuvalu a person is required to make an affidavit or statutory declaration, whether by reference to the Statutory Declarations Act 1835 or otherwise, such affidavit or statutory declaration shall from and after the commencement of the Act be made under the provisions of this Act.

12 Affidavits and statutory declarations made in Tuvalu

An affidavit or statutory declaration made in Tuvalu in pursuance of the requirements of any Act or other law of Tuvalu shall be in the form respectively set out in Schedule 4 and shall be made before a person authorised by or under this Act to administer oaths.

13 Affidavits and statutory declarations made outside Tuvalu

An affidavit or statutory declaration made in a country other than Tuvalu for use in Tuvalu shall be in the form respectively set out in Schedule 4 and shall be made before a notary public, Commissioner for Oaths or any person authorised by the law of the country to administer an oath there for the purpose of judicial proceedings.

14 Admissibility of documents

Any document purporting to have affixed, impressed or subscribed thereon or thereto the seal or signature of any person authorised by or under this Act to take an affidavit or declaration shall be admissible in evidence without proof either that the seal or signature is the seal or signature of that person or of the status of such person.

SCHEDULE 1

(Section 2)

FORM 1 - JUDICIAL OATH

The Judicial Oath shall be in the following form, that is to say —

“Ido swear by Almighty God that I will well and truly serve Our Sovereign Lady Queen Elizabeth II Her Heirs and Successors, as a judicial officer, and will do right to all manner of people after the laws and usages of Tuvalu, without fear or favour, affection or ill-will. So help me God.”.

FORM 2 - OATH RELATING TO CABINET BUSINESS

“I swear by Almighty God that I will not on any account, at any time whatever, disclose the counsel, advice, opinion or vote of any particular member of the Cabinet, and that I will not, except with the authority of the Governor-General and to such extent as may be required for the good management of the affairs of Tuvalu, directly or indirectly reveal the business or proceedings of the Cabinet or any matter coming to my knowledge in the course of my attendance at Cabinet meetings. So help me God.”.

SCHEDULE 2

(Section 3 (1))

JUDICIAL OFFICERS

Chief Justice

Judge of Appeal

Commissioner of the High Court

Magistrate and Island Magistrate

Member of Lands Appeal Panel

Justice of the Peace.

SCHEDULE 3

(Section 10 (1))

PERSONS EMPOWERED TO ADMINISTER OATHS

Governor-General

Chief Justice

Attorney-General

Commissioner of the High Court

Senior Magistrate

Magistrate

Justice of the Peace

Tuvalu High Commissioner or Consul (in the country to which appointed)

Commissioner for Oaths

Island Magistrate (on the island for which appointed).

SCHEDULE 4

(Sections 12 and 13)

FORM OF AFFIDAVIT

I

of

make oath and say as follows

.....

SIGNED

Sworn before me

.....

thisday of20

at

SIGNED

Office held.....Seal [if any]

FORM OF STATUTORY DECLARATION

I
of
do solemnly and sincerely declare that

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Statutory Declarations Act.

SIGNED

Declared at
thisday of20
before me

SIGNED

Office held.....Seal [if any)

ENDNOTES

¹ 1990 Revised Edition, Cap. 6 – Acts 12 of 1979, 9 of 1987

² Cap. 4.24

³ Cap. 7.36

⁴ Cap. 1.02