

## REFERENDUM RULES 2006

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### 1 Name

These are the Referendum Rules 2006.

### 2 Purpose

These Rules make provision for the holding of Referendums when required by General Fono decision.

### 3 Interpretation

In these Rules —

“Administration Officer” means the Director of Support Services or the officer designated under rule 4(4);

“distribute” means deliver by hand or send by mail or facsimile to the last known address of the addressee;

“Referendum day” means date set under rule 13;

“Registration day” means such date as may be fixed by the Commission;

“TALO” means the Tokelau Apia Liaison Office in Apia, Samoa;

“voting place” means the building designated under rule 13(2).

### 4 Referendum Commission

(1) For the purpose of organizing a Referendum and declaring its result there shall be a Referendum Commission consisting of the Faipule and two village representatives appointed to the Commission by each village.

(2) The Commission shall —

(i) monitor due compliance with these Rules during the preparation and holding of the Referendum,

- (ii) issue instructions for the conduct of voting,
  - (iii) confirm and announce the results of the Referendum, and
  - (iv) do all they consider necessary or appropriate for the proper conduct of the Referendum.
- (3) The Director of Support Services in consultation with the General Manager (Apia) will provide the necessary administrative support to facilitate the work of the Commission under paragraph (2).
- (4) The Commission shall in consultation with the General Manager (Apia) and the Taupulega Office designate an Administration Officer who shall be responsible for the management of each voting place and instruct officers appointed under Rule 5.
- (5) Any communication to the Commission shall be directed to the Director of Support Services.

## **5 Appointment of officers**

- (1) The Director of Support Services shall appoint or designate such public officers as may be necessary, for the due administration of these Rules.
- (2) A written notice of the appointment, including the officer's name, position or title, office address, and telephone number shall be provided to the villages and TALO concurrently with the appointment.
- (3) Officers appointed or designated under this rule shall, if deployed on Referendum day, be directly responsible to the Administration Officer of the voting place where they are.

## **6 Publicity**

- (1) Information on the subject of the referendum shall be published in pamphlets and distributed to each household in Tokelau, and to all members of the Tokelau Public Service.
- (2) This information must be distributed as early as possible after the General Fono decision.
- (3) The Director of Support Services will ensure that all Referendum information is on the official website for the Tokelau Council for the Ongoing Government at [www.tokelau.org.nz](http://www.tokelau.org.nz).

**7 Register of voters**

- (1) There shall be a national roll consisting of a voters' register for each village.
- (2) The village voters' register shall be compiled and maintained by the Office of the Taupulega.

**8 Voter qualification**

- (1) A person is qualified to be a voter if, on the date of application for registration under these Rules, that person —
  - (i) is at least 18 years of age; and
  - (ii) is of sound mind; and
  - (iii) has satisfied at least one of the criteria in paragraph (2).
- (2) The criteria for paragraph (1) are —
  - (i) A Tokelauan who has been resident in Tokelau for at least 3 consecutive months in the preceding 18 months;
  - (ii) A non-Tokelau who has had permanent residence in Tokelau for not less than the preceding 5 years;
  - (iii) A Tokelauan employed in the Public Service;
  - (iv) A Tokelauan who would satisfy subparagraph (i) but for the fact of study or medical referral outside Tokelau.
- (3) A person on the register may vote in a Referendum if, 3 months before the date of the vote, that person satisfies the criteria in paragraph (2).

**9 Procedure of registration**

- (1) To be registered in a referendum, a qualified person must apply to the Office of the Taupulega of the village of ordinary residence or to TALO in the form in Schedule 1.
- (2) The application shall, if requested by the Registration Officer, be presented with a document of verification such as a valid passport or birth certificate.

**10 Registration list published**

- (1) The lists of voters registered for each village must be posted in public places in each village and at TALO by 1 August in every year.

- (2) A copy of each village voters' register shall be sent to TALO and the Offices of the Taupulega.
- (3) After the hearing of any appeals under rule 11 the lists will be confirmed by the Director of Support Services and publicly notified.

## **11 Registration appeals**

- (1) Any person who has applied to be registered under these Rules whose application has been refused, or whose name has been omitted or removed from the list of registered voters may challenge the refusal, omission, or removal.
- (2) Any challenge under paragraph (1) must be made in writing to the Director of Support Services no later than 10 days after the publication of the list, if that person wishes.
- (3) On receipt of an application for review under paragraph (2) the Director of Support Services shall —
  - (i) consider the matter promptly; and
  - (ii) advise the decision to the applicant and to the appropriate Office of the Taupulega.
- (4) The decision of the Director of Support Services on any challenge under this rule shall be final.
- (5) The Office of the Taupulega shall amend the Register as may be necessary under paragraph 3 and advise TALO and all Offices of Taupulega of the Director of Support Services decision.

## **12 Voting information**

- (1) The decision to hold a national referendum shall be made by the General Fono.
- (2) In respect of every national referendum the General Fono shall decide the question to be asked at the referendum and the percentage of the valid votes cast that is required for the referendum result.
- (3) Each Office of Taupulega and TALO shall inform registered voters about a Referendum at the earliest possible date and no later than 10 days before Referendum day, in a way usual in the villages and in TALO.
- (4) The information shall include —
  - (i) the date, time and place of holding the Referendum;

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- (ii) explanation of the procedures of the Referendum; and
  - (iii) the question voters will be asked to vote on.
- (5) The Director of Support Services is responsible for distribution of the Referendum information to registered voters.

### **13 Voting places and times**

- (1) The voting places for the Referendum shall be as publicly notified by the Commission.
- (2) The Administration Officer shall, in consultation with the Taupulega and the Director of Support Services, designate a building to be the voting place for the purposes of the Referendum.
- (3) The Referendum shall be held in Tokelau and at TALO on the same day or at such date publicly notified by the Commission.
- (4) The voting places will be open for such times on Referendum day as are publicly notified by the Commission.
- (5) No one may vote after the closing time of the voting places, except voters who are waiting to vote at the time of closing.
- (6) The Administration Officer responsible for the voting place shall ensure that the voting area is closed from the public and that proper facilities are made available for voters to vote without any outside influence.
- (7) The Administration Officer is responsible for the conduct of the voting in the voting place.
- (8) The Administration Officer responsible for the voting place shall ensure that the voting box is secure until the counting of the voting papers commences.

### **14 Preparation of the voting places**

- (1) The Administration Officer shall one hour prior to the opening of the voting —
  - (i) arrange the tables, chairs and voting booths in such a manner as to ensure the secrecy of the voting and the free and rapid movement of voters;
  - (ii) remove any propaganda material that may be found within the voting place;

- (iii) check all materials received against the list provided in advance by the Commission;
  - (iv) post instructions for voting at suitable and visible places within the voting place;
  - (v) put in place other materials as required by the Commission;
  - (vi) show observers the empty voting boxes and then close them;
  - (vii) seal the voting box;
  - (viii) place signs that make it clear to the voter where the completed voting papers should be put.
- (2) After performing the duties in paragraph (1), the Administration Officer shall at the time the voting place opens for voting, declare in English and Tokelauan that voting is open.
- (3) The Administration Officer shall not leave the voting place unless his powers under these Rules have been passed to another officer in his team until his return.

## **15 Voting**

- (1) (i) A registered voter who wishes to vote must be present at a polling station on Referendum day, unless the voter is in a village but physically unable to attend at the voting place on Referendum day.
- (ii) A physically incapacitated person under sub-paragraph (i) may vote in the manner approved by the Commission.
- (2) After the voter enters the voting place the voter shall state his or her name to Administration Officer and, if required, present an official identity document such as —
- (i) passport;
  - (ii) or Tokelau identity card.
- (3) Details will be checked against the list of registered voters before a voting paper is provided to a registered voter at a voting place.
- (4) The voting paper will be printed in English and Tokelauan and have a serial number on the counterfoil but not on the paper.
- (5) The voting paper must —
- (i) include guidance on how to vote;
  - (ii) include the question to be voted on; and
  - (iii) be approved by the Commission

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- (6) A registered voter must vote in person and each person shall have only one vote.
- (7) If a voter spoils his/her voting paper, he/she may be issued another voting paper.
- (8) The right to vote shall be exercised by marking the chosen statement in the place provided on the voting form, and then personally placing the voting paper in the voting box.
- (9) The vote is secret.

### **16 Vote closed**

- (1) At the close of the voting the Administration Officer shall announce in Tokelauan and in English that voting is closed.
- (2) The Administration Officer shall then record in writing the number of voters who voted at that voting place, and the total number of unused and spoiled voting papers and their serial numbers.

### **17 Counting procedure**

- (1) The counting of votes shall be public and conducted at such place as the Commission designates.
- (2) The voting box shall be opened by an authorised officer in the presence of observers and members of the Commission.
- (3) The authorised official shall retrieve the votes and minutes of voting from the Administration Officer of the voting place and verify that the number of votes tallies with the data in the minutes.
- (4) If there are excess votes, the officer, without looking at the votes, shall publicly draw out at random votes equal to the excess and without looking at the contents, place them in an envelope which shall be marked "excess votes".
- (5) The envelope marked "excess votes" shall be sealed and signed by the authorised official and placed in the box for void votes.
- (6) All votes in the box for void votes shall be destroyed as determined by the Commission under Rule 19.
- (7) The votes shall be counted by the officials authorised by the Commission.
- (8) The authorised officials shall continue to count the voting papers, without interruption until all the votes are counted.

- (9) The authorised officials and observers shall remain at the counting place until all the votes are counted and all reports are properly made.
- (10)
  - (i) After the votes have been counted, the official authorized by the Commission shall, in the presence of the observers provide written copies of the vote results.
  - (ii) The record of the results shall be signed by the Administration Officer.
- (11) After the recording of the vote results, the votes shall be returned to the voting box, which shall be locked, sealed and delivered to the Pulemuku for safekeeping until such time as the destruction of the voting papers is ordered by the Commission.

**18 Communication of votes to the Commission**

- (1) The Chairman of the Taupulega or the Director of Support Services in TALO shall advise the Commissioner of the vote results as follows —
  - (i) how many voters have voted;
  - (ii) how many voting papers were rejected;
  - (iii) how many voting papers were valid;
  - (iv) in terms of the valid papers, how many voted in the affirmative and how many voted in the negative.
- (2) If there is a shortage of votes when the votes are tallied under rule 17(3), the number of votes involved must be reported to the Commission.
- (3) On receipt of the results under rule 18, the Commission must consider whether the shortage of votes may be ignored or whether it is of such nature as to warrant declaring the referendum invalid.
- (4) The Commission must for the purposes of paragraph (3) consider —
  - (i) the effect that number of short votes could have on the result;
  - (ii) any evidence of tampering with the seals of the boxes;
  - (iii) the opportunity that voters had to take their vote with them when they left the voting place.

**19 Void votes**

- (1) The right to vote may not be exercised in any way other than on a voting paper.



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- (2) The voting paper is void if —
  - (i) it is torn in two or more parts; or
  - (ii) it is marked in any other way than stipulated by rule 15(8) or
  - (iii) it is not marked at all.
- (3) The Commission alone shall decide whether the voting was conducted properly and whether the voting paper is valid.
- (4) A complaint about the conduct of the voting may be lodged with the Director of Support Services at any time before the advice to the Commission under rule 18.
- (5) Any complaint under paragraph (4) shall be considered by the Commission before declaring the result under rule 22.

### **20 Special votes**

- (1) Any registered voter who will not be in Tokelau or Samoa on Referendum day may apply to the Director of Support Services to vote in advance of Referendum day.
- (2) Such application for leave to vote in advance shall be made at any time during normal office hours, no later than the 20 days immediately preceding Referendum day.
- (3) If the Director of Support Services is satisfied that the application is made in good faith, the applicant shall be given —
  - (i) a voting paper, and
  - (ii) an envelope marked “Vote in Advance of Poll” addressed to the Director of Support Services.
- (4) The special voter on completion of the vote, shall place the voting paper in the marked envelope, and before the first day of voting deliver the marked envelope to the Director of Support Services who shall —
  - (i) make a record of the vote and provide a receipt evidencing the delivery of the envelope, and
  - (ii) include the vote in the counting at the close of voting.

### **21 The right to appoint observers**

- (1) Tokelau and foreign non-governmental organisations, as well as international organisations specialised or engaged in the area of protection of human rights, representatives of foreign countries and of

the media may be accredited as observers to a Referendum by the Commission.

- (2) The accreditation of the observers to a Referendum is made on the basis of individual data for each observer.
- (3) Accreditation shall be granted, taking into account the purpose of the observer and the personal credentials of the applicant and such other matters as the Commission thinks relevant.
- (4) There shall be no more than 3 observers accredited for a voting place.
- (5) Requests to be observers must be submitted to the Commission in writing no later than 1 month before the Referendum date.
- (6) While performing their duties, observers have the right to observe without hindrance all aspects of the preparation and conduct of elections and to look at or examine the documentation or materials of the electoral process.
- (7) The observers must —
  - (i) respect the requirements of these Rules and the instructions of the Commission;
  - (ii) act in an impartial manner;
  - (iii) not bear distinctive signs that might influence voters;
  - (iv) not violate the right of the voter to a secret vote nor hamper the process of voting and the administration of the Referendum.

## **22 Result of Referendum**

- (1) The Commission shall give public notice of the result of the Referendum—
  - (i) as soon as they are satisfied that the referendum has been properly conducted , and
  - (ii) no later than 24 hours after the close of counting of the votes.
- (2) The result of the Referendum as declared by the Commission under this Rule is final and shall not be disputed or declared invalid by reason of any irregularity, failure or mistake of any nature whatsoever.

## **23 Offences**

- (1) Any person who provides any false or misleading information for the purposes of registration under these Rules commits an offence.

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- (2) Any person who engages in any referendum campaigning in the period from 24 hours before the commencement of voting until after the declaration of the result in the referendum commits an offence.
- (3) Any person who contravenes or fails to comply with these Rules commits an offence.
- (4) Any person who commits an offence against these Rules is liable on conviction to a fine of not more than 3 penalty units.

**24 First Register**

The list of persons registered for the 2006 referendum as set out in Schedule 2 shall be the first register for the purpose of these rules and shall be deemed to have been compiled under rule 7.

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**SCHEDULE 1**

**VOTER REGISTRATION FORM**

**OFFICE OF THE TAUPULEGA OF (ATAFU, NUKUNONU, FAKAOFO)**  
rule 9(1)  
**REFERENDUM**

Full Name of Registered Person	Date of Birth	Date and Place of Registration	Method of Identification Document No. / Personal	Voter Number	Comment
Malia.	13.12.1942	10.9.05 TALO	Document Passport No: 12222  OR  Identification in Person: ZP	A1	Application allowed on appeal  TPS / Medical referral / Application for special vote pending
...	...	...	...	...	...

**SCHEDULE 2**

rule 24

**REGISTER OF PERSONS ENTITLED TO VOTE AT A REFERENDUM**

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