

ADOPTION RULES 1966

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1 Name

These are the Adoption Rules 1966.

2 Interpretation

In these Rules –

“child” means a person who is a Tokelauan and is under the age of 21 years;

“Tokelauan” means a person belonging to the Polynesian race of Tokelau, and includes a person descended from a Tokelauan.

3 Adoption by Tokelauan custom invalid

No adoption by Tokelauan custom, whether made before or after the making of these Rules, shall be of any force or effect, whether in respect of intestate succession or otherwise.

4 Council for the Ongoing Government may issue certificate of adoption

(1) Subject to these Rules, the Council for the Ongoing Government may, on the application of any person, being a Tokelauan ordinarily resident in Tokelau, issue a certificate of adoption of a child in favour of the applicant.

(2) Any such application may be made jointly by a husband and wife, both being Tokelauans, and in such a case the certificate of adoption may be issued in favour of both or either of the applicants.

5 Conditions of adoption

The Council for the Ongoing Government shall, before issuing a certificate of adoption, be satisfied –

(i) that the person proposing to adopt the child is a Tokelauan of good repute and a fit and proper person to have the care and custody of the child and of sufficient ability to maintain the child; and

- (ii) that the welfare and interest of the child will be promoted by the adoption; and
- (iii) that the child, if over the age of 12 years, consents to the adoption; and
- (iv) that the natural parents or the surviving parent (if any) of the child, whether that child is legitimate or illegitimate, consent to the adoption:
Provided that the Council for the Ongoing Government may dispense with the consent of any such person who is permanently absent from Tokelau, or is incapable of giving consent, or in the opinion of the Council for the Ongoing Government, is for any reason unfit to have the custody or control of the child, or, being a parent, has deserted the child; and
- (v) where the child is female and the sole applicant is male, that the applicant is the father of the child or there are circumstances which justify the issuing of the certificate.

6 Who may be adopted

No person other than a Tokelauan shall be capable of being adopted under these Rules.

7 Adoptions by more than one person

No child adopted under these Rules shall, in the lifetime of an adopting parent and while the certificate of adoption remains in force, be adopted by any other person save the husband or wife of that parent.

8 No premium in respect of adoptions

It shall not be lawful for any person adopting a child under these Rules to receive any premium or other consideration in respect of such adoption except with the consent of the Council for the Ongoing Government.

9 Effect of certificate of adoption

- (1) A certificate of adoption shall confer the family name of the adopting parent on the adopted child with such first or Christian name as the Council for the Ongoing Government may fix, and the adopted child shall, for all purposes civil and criminal and as regards all legal and equitable liabilities, rights, benefits, and privileges and consequences of

the natural relation of parent and child, be deemed in law to be the child born in lawful wedlock of the adopting parent.

- (2) Upon the issue of a certificate of adoption, every adopting parent shall for all purposes, civil, criminal, or otherwise, be deemed in law to be the parent of the adopted child and be subject to all liabilities affecting the child as if the child had been born to the adopting parent in lawful wedlock; and the certificate of adoption shall thereby terminate all the rights and legal responsibilities and incidents existing between the child and his natural parents, except the right of the child to take property as heir or next of kin of his natural parents directly or by the right of representation.

10 Variation or cancellation of certificate of adoption

The Council for the Ongoing Government may vary or cancel a certificate of adoption, subject to such conditions as it thinks fit.

11 Effect of cancellation of certificate

- (1) Where a certificate of adoption is cancelled then, subject to such conditions (if any) as are imposed by the Council for the Ongoing Government, the child and his natural parents shall be deemed for all purposes to be restored to the same position inter se as existed immediately before the certificate of adoption was issued.
- (2) The cancellation of the certificate of adoption shall not affect anything lawfully done during the period that the certificate was in force.

12 Register of adoptions

The Council for the Ongoing Government shall keep a register of adoptions, in which shall be entered a record of all applications made under these Rules, a minute of all decisions given and all certificates issued in consequence of any such application, and a record of all variations and cancellations of such certificates.

SCHEDULE

FORM 1

r 4

APPLICATION FOR AN ADOPTION CERTIFICATE

I (1) of (2)
born at on the day of AND
I (3) of (4)
born at on the day of
apply to the Administrator to adopt (5)
a (6) male/female child, born at on the day of
I/We desire that on the issue of the adoption certificate the names of the child shall be (7)
I/We have read and understand the conditions of adoption set out in form 3, and I/we meet those requirements.
I/We have read and understand the explanation of the effect of a certificate of adoption set out in form 3.
Dated at on the day of
(8)

- | | |
|---|--|
| (1) Here insert full name of applicant. | (6) Delete inapplicable description. |
| (2) Here insert address of applicant. | (7) Here insert desired full name for child. |
| (3) Here insert full name of spouse in the case of a joint application by a husband and wife. | (8) Here insert signature of applicant or, in the case of a joint application the signature both applicants. |
| (4) Here insert address of spouse. | |
| (5) Here insert full name of child. | |

FORM 2

r 5(iv)

CONSENT TO ADOPTION

I (1) of (2) AND
I (3) of (4)
being the (5) parents/mother/father/legal guardian/legal guardians of (6)
a (7) male/female child, born at on the day of
consent to a certificate of adoption being issued for the adoption of the child by
(8) of (9) and
(10) of (11)
I/We have read and understand the explanation of the effect of a certificate of adoption set out in form 3.
SIGNED by
on the day of
in the presence of*
SIGNED by
on the day of
in the presence of*
*Witness must be an officer of the Tokelau Public Service.

- | | |
|--|--|
| (1) Here insert full name of person who consents to the adoption. | (7) Delete inapplicable description. |
| (2) Here insert address of person who consents to the adoption. | (8) Here insert name of person who wishes to adopt the child. |
| (3) Here insert full name of other person who consents to the adoption, if applicable. | (9) Here insert address of person who wishes to adopt the child. |
| (4) Here give address of other person. | (10) Here insert full name of spouse in the case of a joint application. |
| (5) Delete inapplicable status. | (11) Here insert address of spouse. |
| (6) Here insert full name of child. | |

Adoption Rules

FORM 3

rs 4-5, 9

CONDITIONS OF ADOPTION

Any person who wishes to adopt a child must be —

- (a) a Tokelauan, ordinarily resident in Tokelau;
- (b) of good repute and a fit and proper person to have the care and custody of the child;
- (c) of sufficient ability to maintain the child.

EFFECT OF CERTIFICATE OF ADOPTION

On the issue of an adoption certificate —

- (a) the family name of the adoptive parent/s is conferred on the child with such Christian names as the Council for the Ongoing Government may fix;
- (b) the adopted child is, for all purposes of the law, civil, criminal or otherwise, the child of the adoptive parent/s;
- (c) every adoptive parent is, for all purposes of the law, civil, criminal or otherwise, the parent of the adopted child;
- (d) all rights and duties which exist between the child and the natural parents of the child, except the right of the child to take property as heir of his or her natural parents, are terminated.

FORM 4

rs 4, 9

ADOPTION CERTIFICATE

On the application of (1) of (2)
and (3) of (4)
We, the Council for the Ongoing Government certify that (5)
a (6) male/female child born at on the day of
is adopted by (7) and (8)
and is named (9)
Dated at on the day of
Council for the Ongoing Government

- (1) Here insert full name of applicant.
- (2) Here insert address of applicant.
- (3) Here insert full name of spouse in the case of a joint application.
- (4) Here insert address of spouse.
- (5) Here insert full name of child to be adopted.
- (6) Delete inapplicable description.

- (7) Here insert full name of person who wishes to adopt the child.
- (8) Here insert full name of spouse in the case of a joint application.
- (9) Here insert the full name the child is to be known by after the issue of the adoption certificate.

FORM 5
r 12
ADOPTION REGISTER

[Office Use Only]

Date of certificate

CHILD

- (a) Full name before issue of certificate
- (b) Sex
- (c) Date of birth
- (d) Birthplace
- (e) Full name after issue of certificate

NATURAL PARENTS OR LAST PRECEDING ADOPTIVE PARENTS OR LEGAL GUARDIANS OF CHILD

- (a) Name (or names)
- (b) Consent given to adoption of child on

ADOPTIVE FATHER (if applicable)

- (a) Name
- (b) Address
- (c) Date of birth
- (d) Birthplace

ADOPTIVE MOTHER (if applicable)

- (a) Name
- (b) Address
- (c) Date of birth
- (d) Birthplace

Dated at on the day of

Council for the Ongoing Government
