



**Tuvalu**

**OATHS AND STATUTORY  
DECLARATIONS ORDINANCE**

**12 of 1979, 9 of 1987**





Tuvalu

## OATHS AND STATUTORY DECLARATIONS ORDINANCE

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Tuvalu

# OATHS AND STATUTORY DECLARATIONS ORDINANCE

12 of 1979, 9 of 1987

## AN ORDINANCE TO MAKE PROVISION FOR THE TAKING OF OATHS, FOR THE MAKING OF AFFIDAVITS AND STATUTORY DECLARATIONS AND FOR MATTERS RELATING AND INCIDENTAL THERETO

ENACTED BY THE PARLIAMENT OF TUVALU

Commencement [20th August 1979]

### 1 Short title

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

### 2 Interpretation

In this Ordinance, 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 Ordinance;

*Cap.97*

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

*Schedule 1*

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

*Cap. 2*

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

*S.1.*

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

*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.

*Schedule 2*

- (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 Ordinance to administer oaths.
- (3) The Minister may from time to time by order amend Schedule 2.

*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.

**7 Clerk to the Cabinet to take certain oaths**

- (1) The Clerk to the Cabinet shall take the oath of allegiance and an oath of secrecy at the opening of the first meeting of the Cabinet which he attends after his acceptance of office.
- (2) Both such oaths shall be taken and subscribed before the Prime Minister or the member of the Cabinet presiding at such meeting.
- (3) The oath of secrecy referred to in subsection (1) shall be in the following form, that is to say —

“I, \_\_\_\_\_, being appointed to be Clerk to the Cabinet, swear that I will not directly or indirectly reveal such matters as shall be debated in Cabinet and committed to my secrecy.”
- (4) If any person shall once have duly taken the oaths or made the affirmation in this section prescribed for the Clerk to the Cabinet, such person shall not, if re-appointed to perform the duties of Clerk to the Cabinet within a space of 1 year from the time of his taking such oaths, or of his making such affirmations as aforesaid, be required a second time to take such oaths or to make such affirmations of the Cabinet.

**8 Unnecessary repetition of oaths**

No person shall be required in respect of the same appointment to the same office to take any oath, required to be taken by any person appointed to that office, more times than one.

**9 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 or make any affirmation which such person should take or have taken or should make or have made:

Provided that, if any person declines, neglects or omits, where any oath or affirmation required to be taken or made by him under this Ordinance 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.

## **10 Provisions applicable to certain special cases and for certain persons to affirm**

- (1) When any oath is required to be taken under the provisions of this Ordinance, 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 word “swear” and omitting the words “So help me God!”.
- (2) If any person to whom an oath is administered desires to swear with uplifted hand in the form and manner in which an oath is usually administered in Scotland he shall be permitted so to do and the oath shall be administered to him in such form and manner without further question.
- (3) Where an oath or affirmation has been duly administered and taken the fact that the person making such oath or affirmation had at the time of the making thereof no religious belief shall not for any purpose affect the validity of such oath.

## **11 Authority for judicial officers to administer oaths**

- (1) Any judge, magistrate and justice of the peace may administer any lawful oath or take any affidavit, affirmation or declaration which may be required to be taken or made for the purpose of complying with the requirements of this Ordinance, and which is not expressly required to be administered by any other person, or in relation to any matter or proceedings before him in the exercise of any jurisdiction or powers conferred upon him by any law for the time being in force.
- (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 proceedings before the court to which he is appointed as such Registrar or clerk, as the case may be.

## **12 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, and may revoke any such appointment.
- (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, including matters relating to the registration of any instrument in Tuvalu, and take any bail or recognisance in or for the purpose of any civil proceeding in the High Court or any 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 is solicitor to any of the parties to the proceeding, or clerk to any such solicitor, or in which he is interested.

- (3) Any oath or affidavit required for the purpose of any court or matter in Tuvalu, or for the registration of any instrument in.

## **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 Ordinance 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 —

“I .....do swear by Almighty God that I will well and truly serve Our Sovereign Lady Queen Elizabeth. 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

.....

this .....day of .....19 .....

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 Ordinance, Cap. 6.

**SIGNED** .....

Declared at .....

this .....day of .....19 .....

before me

.....

**SIGNED** .....

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

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>

**Table of Endnote References**