



Tuvalu

**TUPE FAKANAA A FALEKAUPULE ACT
1999**

Act 4 of 1999



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TUPE FAKANAA A FALEKAUPULE ACT 1999

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AN ACT TO MAKE FINANCIAL PROVISION CONCERNING THE FALEKAUPULE TRUST FUND (“TUPE FAKANAA A FALEKAUPULE”), THE STATUS OF THE TRUST AND FOR CONNECTED PURPOSES

I assent,
TAUFA'AHAU TUPOU IV,
30th August 1999

Commencement [1st September 1999]

1 Short title and commencement

- (1) This Act may be cited as the Tupe Fakanaa a Falekaupule Act 1999.
- (2) This Act shall come into force on such date as the Minister may by notice appoint.

2 Interpretation

In this Act, unless the context otherwise requires —

“**Falekaupule**” has the same meaning as in section 2(1) of the Falekaupule Act 1997;

“**Government**” means the State of Tuvalu;

“**Kaupule**” has the same meaning as in section 2(1) of the Falekaupule Act 1997;

“**Minister**” means the Minister to whom responsibility; for island development is assigned;

“**Trust**” means the “**Tupe Fakanaa a Falekaupule**” established by the Falekaupule Trust Fund Deed of 31st July, 1999, the original of which is deposited in the office of the Minister;

“**Trust Deed**” means the document by which the Trust was established.

3 Purpose of the Act

- (1) The purpose of this Act is —
 - (a) to support island development consistent with the purposes set out in the Trust Deed;
 - (b) to promote the development and maintenance of physical and social resources of the islands of Tuvalu; and
 - (c) to provide a dedicated revenue source for Falekaupu for island development in addition to its other sources of revenue.
- (2) The purposes of this Act will be promoted by —
 - (a) a special budgetary supplementation of \$500,000 to the Kaupule in each of the years 1999 and 2000; and
 - (b) an incentive contribution by the Government to match the initial contribution of each Falekaupule to the Trust.

4 Incorporation of the Trust

- (1) The Trust shall be a body corporate with perpetual succession and a common seal and an office at such place as it may designate.
- (2) The Trust shall have all the powers of a natural person of full age and capacity for the fulfilment of the purposes of the Trust.
- (3) The powers of the Trust shall be exercised by the Trustees appointed under the Trust Deed.

5 Government contributions

- (1) The Government may, with the approval of Parliament by resolution, from time to time contribute money to the Trust.
- (2) Without prejudice to subsection (1), the Government shall without further procedure contribute to the Trust as follows-
 - (a)

Grants	Initial	\$4,000,000.00
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		Second	\$2,000,000.00
(b)	Incentive contribution		\$1,327,229.23
(c)	Grants consequent on a loan agreement between Tuvalu and the Asian Development Bank	Initial	\$4,000,000.00
		Second	\$2,000,000.00

6 The Falekaupule

The Falekaupule of each island shall, for the purposes of this Act, be a body corporate and shall exercise its powers under the Trust Deed by the person designated by it in writing to the Trust.

7 Trust Secretariat

- (1) The Minister shall provide or cause to be provided —
 - (a) an advisory service to the Trust;
 - (b) the administrative, secretarial and office services necessary for the purposes of the Trust Deed and of this Act; and
 - (c) the costs incurred by Falekaupule in respect of the Trust until 31 March 2002.
- (2) A person who is a representative of a Falekaupule for the purposes of the Trust shall not serve on the Trust Secretariat.
- (3) The Minister shall report annually to Parliament on the activities of the Trust Secretariat and the Trust.

8 Expenditure of Trust revenue

No Falekaupule or Kaupule shall expend money received from the Trust except for a purpose set out in the Trust Deed and in accordance with an express appropriation of that money in a budget authorised under section 64 or 65 of the Falekaupule Act 1997.

9 Tax exemption

Contributions to and income received by the Trust shall be exempt from payment of all taxes, rates and duties in the hands of the Trust or of any Falekaupule or Kaupule.

10 Audit of Trust

The Auditor-General of Tuvalu shall be the auditor of the accounts and financial activities of the Trust.

11 Reporting to Parliament

The following documents shall be laid before Parliament at the sitting next following the date on which the document is received by the Minister —

- (a) the annual report of the Trust;
- (b) the annual accounts of the Trust;
- (c) the report by the auditor of the Trust; and
- (d) the annual report of the Trust Secretariat.

12 Arbitration

- (1) Any dispute, which arises between the Trust and the Government or between the Trust or the Government and any other person in respect of the operation of the Trust which cannot be resolved through consultation, shall be settled by arbitration in accordance with the Arbitration Act 1991.
- (2) The award of the arbitrator under subsection (1) shall be final and conclusive of the issues in dispute.

13 Limit on personal liability

No individual involved in the administration of the Trust shall be liable for any personal act or omission or for the act or omission of the Trust or of any employee of the Trust, done or made in good faith in the administration of the Trust.

14 Change of the Trust Rules

The rules of the Trust Deed relating to borrowing and lending powers; changing the Rules of the Trust; maintaining the real value of the Trust Fund; the distribution formula and termination of the Trust shall not be amended without the unanimous decision of the Trustees and the agreement of the Government expressed by a resolution of Parliament.

15 Falekaupule Act 1997

- (1) Notwithstanding section 70 of the Falekaupule Act 1997, a Kaupule may, with the express approval of the Falekaupule alone, place money in the

Trust. Such placement shall be deemed for all purposes to be an investment of money.

- (2) The powers of the Minister under section 40(5) or section 50 of the Falekaupule Act 1997 shall not apply in relation to the operation of the Trust.

16 Regulations

The Minister may make regulations to further the purposes of this Act.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References