



Tonga

# **NATIONAL IDENTITY CARD ACT 2010**

**Act No. 36 of 2010**





## NATIONAL IDENTITY CARD ACT 2010

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# NATIONAL IDENTITY CARD ACT 2010

Act No. 36 of 2010

**AN ACT TO MAKE PROVISION FOR A NATIONAL SCHEME OF  
REGISTRATION OF RESIDENTS AND FOR NATIONAL IDENTITY  
CARDS TO BE ISSUED TO RESIDENTS OF TONGA; AND FOR  
RELATED PURPOSES**

I assent,  
GEORGE TUPOU V,  
24<sup>th</sup> September 2010.

**BE IT ENACTED** by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

## PART 1 - PRELIMINARY

### 1 Short title, commencement

- (1) This Act may be cited as the National Identity Card Act 2010.
- (2) This Act shall come into force on such date as is specified by Notice published by the Minister.

### 2 Interpretation

In this Act –

“**Minister**” means the Prime Minister or such other Minister to whom responsibility for the administration of this Act is allocated;

“**Lord Privy Seal**” means the person appointed to such title by the King;

“**national identity card**” means an identity card issued under section 9;

“**National Identity Card Office**” means the office established and supervised by the Lord Privy Seal to administer the national identity card scheme, as provided in section 3;

“**register**” means the register of holders of national identity cards maintained under section 11.

## **PART 2 - NATIONAL IDENTITY CARD OFFICE**

### **3 Establishment of National Identity Card Office**

- (1) The Lord Privy Seal shall establish an office to be known as the National Identity Card Office.
- (2) The National Identity Card Office shall have –
  - (a) a Director, who shall be appointed under contract by the Lord Privy Seal with the consent of the Public Service Commission;
  - (b) such other permanent staff as the Lord Privy Seal considers necessary to carry out the functions of the office, who shall be public servants under the Public Service Act 2002;
  - (c) such staff on seconded or contracted basis, who shall not be covered under paragraph (b); and
  - (d) suitable office premises and facilities.
- (3) The National Identity Card Office shall have the following functions –
  - (a) to maintain an office where applications for national identity cards shall be received and processed;
  - (b) to provide advice and information about the national identity card scheme and to print and make available forms;
  - (c) to process applications and if approved, to prepare national identity cards and issue them;
  - (d) to maintain a register of all persons (and their photographs and details) who have been issued with a national identity card;
  - (e) to take all actions, and make all enquiries, to ensure that all persons who are defined as residents of Tonga under section 8 have applied for and been issued with national identity cards;
  - (f) to make enquiries to ensure that the register contains the names of all people eligible for a national identity card and to remove names of

those no longer eligible because they are no longer resident in Tonga or alive;

- (g) to co-operate with the authorities responsible for the Electoral Roll, Immigration, Police, Registration of Births Deaths and Marriages, driving licences, and other relevant area of government, to ensure the register is correct;
- (h) to issue replacement national identity cards when they have expired or been lost, mislaid or destroyed, and to amend national identity cards as necessary;
- (i) maintain the security and secrecy of the register and allow details to be used only for the purposes specified in section 12.

#### **4 Director's duties**

- (1) The Director shall be responsible for the proper operation of the National Identity Card Office and shall be responsible to and obey the directions of the Lord Privy Seal.
- (2) Any action by or against the National Identity Card Office shall be taken in the name of the Director of the National Identity Card Office as the person representing the Crown in that matter.

#### **5 Funding of Office**

The funds available to the National Identity Card Office shall be moneys allocated by the Legislative Assembly for that purpose or such other funds made available by the Minister or the Lord Privy Seal.

#### **6 Accounting and Audit**

- (1) The National Identity Card Office shall keep proper accounts and other records in relation to its finances and shall prepare in respect of each financial year a statement of accounts.
- (2) The accounts of the Office shall be audited annually by an auditor to be appointed by the Office.
- (3) As soon as the accounts have been audited, the Office shall forward a copy of the statement of accounts referred to in subsection (1) to the Lord Privy Seal and the Minister, together with a copy of any report made by the auditor on that statement of accounts or on the accounts of the Office.

## PART 3 – IDENTITY CARDS

### 7 Residents to apply for identity card

- (1) It shall be mandatory that every person who is resident in Tonga, as defined in section 8, shall have a national identity card.
- (2) Every such resident of Tonga shall apply for a national identity card by –
  - (a) completing Form 1 in Schedule 1;
  - (b) applying in person at a National Identity Card Office;
  - (c) allowing himself to be photographed;
  - (d) if so required, allowing his fingerprints and other biometric information about himself to be taken and recorded;
  - (e) providing such information as may reasonably be required by the National Identity Card Office for the purpose of verifying the contents of a national identity card.
- (3) Application for a national identity card shall be made within the following times –
  - (a) for all people who qualify under section 8 as residents of Tonga at the date of commencement of this Act, within 3 months from the date of commencement of this Act;
  - (b) for all persons who qualify under section 8 as residents of Tonga after the date of commencement of this Act, within 3 months of becoming so qualified as residents of Tonga;
  - (c) if a national identity card expires or is lost or destroyed, the holder of that card shall, no later than 10 days after such expiry, loss, or destruction, apply for a replacement national identity card.

### 8 Definition of resident

For the purposes of this Act, a person is resident in Tonga if he is 14 years of age or more, and –

- (a) has been present in Tonga for the preceding 6 months;
- (b) has entered Tonga intending to remain there for not less than 6 months;  
or
- (c) has been present in Tonga for a cumulative period of 6 months within the preceding period of 12 months.

**9 National Identity Card Office to issue identity cards**

- (1) The National Identity Card Office shall issue national identity cards to any person who applies and is eligible for a national identity card.
- (2) A national identity card shall be in such form as the Lord Privy Seal determines, and different forms may be issued for different categories of residents.
- (3) A national identity card shall be valid for 5 years from the date it is issued.
- (4) The fees payable for the issue of a national identity card are specified in Schedule 2.

**10 Contents of national identity cards**

- (1) A national identity card issued under this Act shall contain the following information about the holder of that card –
  - (a) Name;
  - (b) Photograph;
  - (c) Address;
  - (d) Date of birth;
  - (e) Nationality;
  - (f) Signature;
  - (g) Sex;
  - (h) Date of Issue;
  - (i) Date of Expiry;
  - (j) Personal ID Number;
  - (k) Serial number of card;
  - (l) A Reference to any drivers licence or passport issued to the holder;
  - (m) Other biometric data which the National Identity Card Office considers is useful in the public interest to include.
- (2) At the advice of the Prime Minister, the King may exercise his royal prerogative to include additional features on the card.

**PART 4 – THE REGISTER****11 Register to be established**

- (1) For the purpose of issuing national identity cards, the National Identity Card Office shall establish and maintain an accurate register of people –

- (a) to whom an identity card has been issued; and
  - (b) who it considers are liable to apply for a national identity card, and in such case, the Lord Privy Seal shall issue a national identity card to such people who he considers should hold a national identity card.
- (2) The register shall contain the information specified in section 10(1).
- (3) If any detail on an identity card changes, the holder shall within 10 working days notify the National Identity Card Office and provide all relevant information requested and if it considers it appropriate, either as the result of a notification by the holder or through its own enquiries, the National Identity Card Office shall amend the register and issue an amended national identity card.

## **12 Purposes for which register may be used**

- (1) The National Identity Card Office may only make use of information in the register if it is necessary in the public interest for the following purposes –
- (a) to provide for a reliable identity card to be held by all specified people;
  - (b) to assist in the more orderly and efficient administration of Tonga and the dispensing of government services;
  - (c) to assist in the identification of electors under the Electoral Act.
- (2) For the purposes of this Act something is necessary in the public interest if it is –
- (a) in the interests of national security;
  - (b) for the purposes of the prevention or detection of crime;
  - (c) for the purposes of the enforcement of immigration controls;
  - (d) for the purposes of employment, education or health services;
  - (e) related to elections; or
  - (f) for the purpose of securing the efficient and effective provision of public services.

## **13 Secrecy and security**

- (1) Information from the register shall be kept secret, safe and secure by the National Identity Card Office and shall not be divulged to any person except for the purposes specified in section 12 or in pursuance of an order of the Supreme Court.
- (2) The Director and all persons employed at the National Identity Card Office, including consultants, shall before being allowed access to any of the records of the office, take the oath of secrecy set out in Schedule 2 in the presence of a Magistrate.

## PART 5 - ENFORCEMENT

### 14 Duty to produce card

A person who has been issued with a national identity card shall carry it on his person at all times and produce that card if –

- (a) a police officer has a reasonable doubt about the identity of a person, the police officer may request that the national identity card be produced to him forthwith and hold him liable otherwise;
- (b) so required by any government or public authority which requires proof of identity; or
- (c) so required by any Act.

### 15 Offences

- (1) It shall be mandatory that every person who is resident in Tonga, as defined in section 8, shall have a national identity card.
- (2) A person who deliberately provides false or misleading information to the National Identity Card Office or who fails to comply with a provision of this Act not otherwise specified, is guilty of an offence against this Act.
- (3) A person who, for an illegal or fraudulent purpose, is in possession of a national identity card that –
  - (a) is false or has been forged or tampered with;
  - (b) was improperly obtained;
  - (c) relates to someone else,is guilty of an offence and liable to a fine of \$10,000 or to imprisonment for 12 months, or to both such fine and imprisonment.
- (4) A person who divulges any document or information contrary to section 13 or the oath in Schedule 3, is guilty of an offence and liable to a fine of \$10,000 and to imprisonment for 12 months.
- (5) A person guilty of an offence under this Act for which no other penalty is provided is liable to a fine of \$4,000 or to imprisonment for 6 months, or to both such fine and imprisonment.

Passed by the Legislative Assembly on 14<sup>th</sup> day of September 2010

**SCHEDULE 1**

<p><b>National Identity Card</b>  <b>Application No.</b>  <b>123456</b></p>
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<p><b>OFFICIAL USE ONLY</b></p> <p>Date of Issue:  Date of expiry:  Personal ID No.:</p>
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**THE NATIONAL IDENTITY CARD ACT, 2010**  
Form 1 (Section 7(2))

**APPLICATION FOR NATIONAL IDENTITY CARD**

**To the National Identity Card Office**

I hereby apply for a National Identity Card

**Surname:** .....

**Maiden name:** .....

**First name:** .....

**Middle name(s):**.....

**Residential address:** .....

**Date of birth (DD/MM/YYYY):** ..... **Sex:** .....

**Place of birth (District, Village or Country, City):** .....

**Nationality:**.....

**Supporting document type:** ..... **No.:**.....

<p>Please attach here  one recent passport  photo of yourself</p>
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*(passport(if available), driver's licence(if available), other)*

**I hereby declare that –**

- I am a resident of Tonga because, as specified in section 8 of the National Identity Card Act 2010 – *(tick which applies)*
  - (a) I have been present in Tonga for the preceding 6 months;
  - (b) I have entered Tonga intending to remain there for not less than 6 months;
  - (c) I have been present in Tonga for a cumulative period of 6 months within the preceding period of 12 months;
- I am of the age of 14 years or upwards;
- The above particulars respecting my application are true to the best of my knowledge and belief.

Dated the .....day of ..... 20 .....

<p>.....</p> <p><i>Signature of applicant</i></p>
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**SCHEDULE 2****FEEES FOR IDENTITY CARDS**

<b>Item</b>	<b>Service</b>	<b>Fee</b>
1	For the first and subsequent issues of a national identity card (meaning expired card)	FREE
2	For the issue of a national identity card that has been lost, mislaid, amended or destroyed	\$50.00

**SCHEDULE 3**

**OATH OF SECRECY**

I .....swear by Almighty God that I shall not communicate any document or information obtained by me by means of my holding or having held any office or employment in or under the National Identity Card Office to any person to whom the same or any of them ought not in the interest of the State or otherwise in the public interest to be communicated.

So help me God.

Date..... Signature .....