



Tuvalu

CUSTODY OF CHILDREN ACT

2022 Revised Edition

CAP. 22.15



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CUSTODY OF CHILDREN ACT

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Tuvalu

CUSTODY OF CHILDREN ACT

AN ACT TO PROVIDE FOR THE CUSTODY OF CHILDREN AND MATTERS CONNECTED THEREWITH¹

Commencement [15th April 1974]

1 Short title

This Act may be cited as the Custody of Children Act.

2 Interpretation

In this Act —

“**child**” means any person under the age of 18 years;

“**custody order**” means an order made under section 3(1).

3 Custody orders

(1) A court may on application by or on behalf of any person make such order regarding —

(a) the custody of any child; and

(b) the right of access to the child of his mother or father,

as the court thinks fit having regard to the welfare of the child and to the conduct and wishes of the mother and father.

(2) Before making a custody order the court shall make a full enquiry into all the circumstances and shall call for any evidence or report it may in the interests of justice consider necessary.

(3) In exercising jurisdiction under this section the court shall regard the welfare of the child as the first and paramount consideration and shall not take into

consideration whether from any other point of view the claim of the father is superior to that of the mother or the claim of the mother is superior to that of the father.

- (4) A court may at any time on application by or on behalf of any person make an order discharging or varying a custody order.
- (5) This section is subject to the Native Lands Act.²

4 Liability to maintain children

Any person having the custody of a child and any person with whom a child is living shall be liable to maintain that child whether or not any other person is also so liable.

5 Jurisdiction of courts

Notwithstanding any other law to the contrary but subject to any different provision which may be made by regulations made under this Act every court shall for the purpose of proceedings under this Act exercise jurisdiction throughout Tuvalu.

6 Regulations

Without prejudice to any powers conferred by other laws to make rules of court or regulations governing magistrates' courts, the Minister after consultation with the Chief Justice may make regulations for those courts in respect of proceedings under this Act —

- (a) regulating the jurisdiction of the courts;
- (b) regulating the practice and procedure;
- (c) regulating the forms to be used and all matters connected therewith;
- (d) prescribing rules of evidence to be observed;
- (e) generally for the better carrying into effect of the provisions, objects and intentions of this Act.

ENDNOTES

¹ 1990 Revised Edition, Cap. 20 – Act 16 of 1973, 13 of 1974, LN 13/1974

Amended by Act 9 of 2021 (commencement 3/6/22 by LN 26/2022); This amending Act contained a section that provided that orders, rulings, decisions, or judgments of an Island Court concerning this Act, are saved, remain valid and continue in force; and likewise certain pending matters before the Island Court continue for determination by the Magistrate's Court

² Cap. 46.20