



**Tuvalu**

# **TUPE FAKANAA A FALEKAUPULE ACT**

**2022 Revised Edition**

**CAP. 4.32**





Tuvalu

## TUPE FAKANAA A FALEKAUPULE ACT

### Arrangement of Sections

#### Section

1	Short title.....	4
2	Interpretation.....	4
3	Purpose of the Act.....	4
4	Incorporation of the Trust.....	5
5	Government contributions.....	5
6	The Falekaupule.....	6
7	Trust Secretariat.....	6
8	Expenditure of Trust revenue.....	6
9	Tax exemption.....	6
10	Audit of Trust.....	6
11	Reporting to Parliament.....	6
12	Arbitration.....	7
13	Limit on personal liability.....	7
14	Change of the Trust Rules.....	7
15	Falekaupule Act.....	7
16	Regulations.....	7

### Supporting Documents

#### ENDNOTES

7



Tuvalu

## TUPE FAKANAA A FALEKAUPULE ACT

AN ACT TO MAKE FINANCIAL PROVISION CONCERNING THE FALEKAUPULE TRUST FUND (“TUPE FAKANAA A FALEKAUPULE”), THE STATUS OF THE TRUST AND FOR CONNECTED PURPOSES<sup>1</sup>

Commencement [1st September 1999]<sup>2</sup>

### 1 Short title

This Act may be cited as the Tupe Fakanaa a Falekaupule Act.

### 2 Interpretation

In this Act, unless the context otherwise requires —

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

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

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

“**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 Falekaupule 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 fulfillment 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
		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.

## **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.
- (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

- (1) Notwithstanding section 70 of the Falekaupule Act, 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 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

---

<sup>1</sup> Act 4 of 1999

<sup>2</sup> LN 6/1999