



Tonga

LAND COURT RULES 1991

GS 7 of 1991



LAND COURT RULES 1991

Arrangement of Orders

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LAND COURT RULES 1991

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LAND ACT

[14th November 1991]

IN EXERCISE of the powers conferred by section 168 of the Land Act, the Chief Justice with the approval of His Majesty and the Privy Council hereby makes the following Rules:

LAND COURT RULES 1991

ORDER 1 : CITATION

These rules may be cited as the Land Court Rules 1991 and shall come into effect on 1st January 1992.

ORDER 2 : APPLICATION

Rule 1.

These rules shall apply to all proceedings in the Land Court.

Rule 2.

Except as provided in these rules, the procedure set out in the Supreme Court Rules shall apply.

ORDER 3 : INTERPRETATION

Rule 1.

The Interpretation Act shall apply to these rules.

Rule 2.

“**Court**” means the Land Court of Tonga.

“**Judge**” means the Chief Justice and any other judge of the Land Court.

“**Supreme Court Rules**” means the Supreme Court Rules for the time being in force.

ORDER 4 : COMMENCEMENT OF PROCEEDINGS

Rule 1.

All proceedings shall be commenced by writ

Rule 2.

Every writ shall be in Form 1.

Rule 3.

A writ may be issued in Nuku'alofa or in the Registry nearest to the land the title to which is in dispute.

ORDER 5 : SERVICE OUT OF THE JURISDICTION

Rule 1.

A writ may, with the leave of the Court, be served out of the jurisdiction on any person who is a necessary party to an action. .

Rule 2.

Leave shall be obtained, and service effected, in accordance with the Supreme Court Rules.

ORDER 6 : DISPOSAL OF ACTIONS

Rule 1.

The trial of an action shall be conducted by a judge sitting with an assessor selected from the panel of assessors.

Rule 2.

Proceedings in chambers may be conducted by a judge without an assessor.

Rule 3.

Order 13 of the Supreme Court Rules (Judgment in default of defence) shall not apply.

ORDER 7 : ENFORCEMENT OF JUDGMENTS AND ORDERS

Rule 1.

An order for possession of land may be enforced by a writ of possession.

Rule 2.

A writ of possession shall be in Form 2.

Rule 3.

Any other order may be enforced in accordance with the Supreme Court Rules.

ORDER 8 : REPEAL AND TRANSITIONAL

Rule 1.

The Land Court Rules are revoked.

Rule 2.

Notwithstanding the revocation of the Land Court Rules, any act which was properly done in accordance with those Rules before they were repealed, and which can be validly done under these Rules, is deemed to have been validly done under these Rules.

FORMS**FORM 1 - WRIT**

(0.4 r. 2)

[Royal Arms]

IN THE LAND COURT OF TONGA

Case No/

Registry

[state Registry in which issued]

BETWEEN

Plaintiff

and

Defendant

To the Defendant [name]

of [address]

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff(s) whose claim is fully set out in the statement of claim * attached/ set out overleaf.

TAKE NOTICE THAT

1. If you wish to defend the claim you must, within 28 days of service of this writ on you, send to the court a written defence, stating concisely the ground upon which you intend to rely. A sealed copy must be served on each plaintiff.

2. If you fail to file a defence within the time stated, the Plaintiff may apply for summary judgment against you.

(* delete as appropriate)

Issued this day of 19

[SEAL]

Note : This writ may not be served later than 12 months from its date of issue unless renewed by order of the Court.

[Reverse of Form 1]

STATEMENT OF CLAIM

The Plaintiff claims [set out the nature of the claim concisely]

PARTICULARS

[set out the grounds upon which the claim is made]

(Signed)
(Lawyer for) Plaintiff

This writ was issued by [name of lawyer, or of Plaintiff in person] who will accept
service of all documents at [address for service]

FORM 2 - WRIT OF POSSESSION

(0.7 r. 2)

[Heading as in Form 1]

To : The Officer in charge, Police Station, [location]

WHEREAS in this action on the day of 19

the Plaintiff [naming him]

of [address]

obtained a judgment of order against the Defendant

[naming him]

of [address]

that the said Defendant

1. do give to him possession of the land described in schedule 1 overleaf

and

*2. do pay him damages/costs, and the sum set out in schedule 2 overleaf remains unpaid

YOU ARE COMMANDED

1. to enter the said land and to cause the Plaintiff to have possession of it;

* and unless the amount shown in schedule 2 is paid,

2. to seize property of the Defendant up to the value of the said amount (except his house and fixtures, his growing crops, the clothes of him and his family, and his tools of his trade up to a value of \$200);

3. to sell the same by public auction (unless otherwise ordered by the Court) and to pay the proceeds of such sale to the Registrar of the Court;

4. if no such property can be found, to certify to that effect to the Registrar of the Court.

Dated the day of 19

Registrar of the Land Court

(* Delete as appropriate)

[Reverse of Form 2]

SCHEDULE 1

[description of land to be possessed]

SCHEDULE 2

Amount adjudged	:	\$
Less paid	:	\$
Balance due	:	\$
Costs of this writ	:	\$
Total to be levied	:	\$

Made this 16th day of August, 1991.

Hon. Mr Justice G.W. Martin
CHIEF JUSTICE