



**OFFICIAL PRESS RELEASE**

6 September 2018

**PUBLIC NOTICE**

**New Foreign Exchange Control Act 2018 comes into force on 10<sup>th</sup> July 2018**

To ensure Tonga's macroeconomic stability, the country's level of foreign exchange reserves must be sufficient at all times to pay for our overseas payment obligations (such as payment of imports, loan repayments and other foreign obligations). Since its inception, the Reserve Bank has therefore been tasked by law to regulate the movements of foreign exchange in order to support and maintain the Kingdom's foreign reserves at a minimum level equivalent to at least 3 months of the country's imports of goods and services.

Prior to July 2018, regulating the movements of foreign exchange was carried out via the Foreign Exchange Control Act 1963, which was amended in 2000; and the Foreign Exchange Control Regulations 1965, which was amended in 2000 and in 2009. The power for administering the Foreign Exchange Control Act 1963 and Regulations issued thereafter was with the Minister of Finance until the amendment in 2000 to give this authority to the Reserve Bank. The Reserve Bank has implemented the requirements of the Foreign Exchange Control Act and Regulations through issuing of Exchange Control Guidelines that outlines the documentary requirements for each type of overseas payment. This is currently implemented by the banks and the foreign exchange dealers (money transfer operators).

The challenges that we have been facing under the old legislations are that:-

- especially when the level of foreign reserves is very low and unable to meet Tonga's overseas payment obligations, there was no requirement in place to ensure the repatriation of the proceeds of export of say fish and squash as well as income from whale watching that are being paid overseas by the tourists before coming to Tonga.
- there was no level playing field in both complying with the exchange control requirements, and on enforcing these requirements on both banks and foreign exchange dealers (money transfer operators) because there was weak enforcement powers.
- there was no legal provision to also impose limit on foreign exchange dealers' exchange rate spreads.

The Reserve Bank therefore consolidated the existing Act and Regulations and introduced new provisions to address the above challenges. This new law enhances the ability of the country to ensure the foreign exchange that is due to Tonga and its residents are realised and repatriated back to Tonga to facilitate macroeconomic stability and sustainable economic development.

The Reserve Bank is hereby notifying the public that the Foreign Exchange Control Act 2018 was gazetted and became effective on 10<sup>th</sup> July 2018. The Foreign Exchange Control Act 2018 repeals the Foreign Exchange Control Act 1963 and the (Amendment) Act 2000, and all Regulations made under this repealed Act.

Stakeholder consultation was conducted for all banks, foreign exchange dealers, Tonga Chamber of Commerce, Ministry of Revenue & Customs (MRC), Ministry of Commerce, Consumer, Trade, Innovation & Labour (MCCTIL). Some of the suggestions from the consultations were taken on board in this Act.

Major sections of the Foreign Exchange Control Act 2018 are highlighted below:

- **Section 4:** This is expanded from the previous Foreign Exchange Control Act 1963 and Foreign Exchange Regulations 1965 and amendments in 2000, to also include receipts from outside Tonga, to be conducted in accordance with the requirements of the new Act. This is to assist the Reserve Bank in capturing all foreign exchange that are due to Tonga.

- Section 5: These were requirements in the previous Foreign Exchange Control Act 1963 and Foreign Exchange Control Regulation 1965. These transactions are still allowed but in accordance with the provisions of the Act. The applicable requirements are set out by the Reserve Bank through its Exchange Control Policy Guidelines.
- Section 7: All exports of goods and services from Tonga are required to be declared to the Reserve Bank and other relevant authorities supported by relevant documentation to quantify the value of such goods and services that are being exported. This is to assist with setting of requirements for the realisation and repatriation of the proceeds from such export of goods and services pursuant to section 8.
- Section 8: The Reserve Bank now has the power to impose requirements to repatriate back any gold or foreign exchange that is due or has accrued to any person resident in Tonga within a period and in such a manner as may be specified. This relates to the proceeds of exports that are declared in section 7, and offshore investments or holdings by Tongan residents.
- Section 9: The Reserve Bank may prescribe limits as exemptions to the requirements in Sections 5 and 8 e.g. limit on how much foreign exchange or gold to be held by a resident, or a limit on a resident's foreign currency account.
- Section 10: Only persons authorised by the Reserve Bank can deal in foreign exchange, foreign securities and gold. Authorised persons that the Reserve Bank has licenced under the previous Foreign Exchange Control Act and Regulations include the Banks and Foreign exchange dealers.
- Section 11: The Reserve Bank now has the power to issue directives and impose penalties on authorised persons for non-compliance with the provisions of the Act.

The remaining sections of the Act relates to Licensing requirements for Foreign Exchange Dealers, Contravention and Penalties, Enforcement and Miscellaneous provisions. A complete copy of the Foreign Exchange Act 2018 can also be found on the NRBT's website on this [link](#) for further details.

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