

CRIMINAL PROCEDURE BILL 2015

SAMOA

Explanatory Memorandum

Introduction

The Bill seeks to repeal and replace the Criminal Procedure Act 1972. The Bill aims:

- (a) to bring the law of criminal procedure into conformity with modern practice in similar jurisdictions; and
- (b) to make better provisions relating to bail, which are lacking under the current Act; and
- (c) to change the rule relating to trial with assessors, so that it applies only to offences punishable by life imprisonment except where the defendant gives notice to be tried by Judge alone, for narcotic offences or on application of the prosecution;
- (d) to introduce a new procedure in the trials in the Supreme Court through filing of charging documents by the Attorney General; and
- (e) to clarify and strengthen the jurisdiction of the District and Fa'amasino Fesoasoani Courts; and
- (f) to preserve and strengthen the jurisdiction of the Supreme Court to hear only serious criminal matters, unless it accepts jurisdiction in relation to a trial transferred from the District Court.

TULAFONO TAU FAAOFI O TAUALUMAGA TAU SOLITULAFONO 2015

SAMOA

Faamatalaga e Faamalamalama ai

Upu Tomua

Ua taumafai le Tulafono Tau Faaofi ina ia soloia ma suia ai le Tulafono o Taulumaga Tau Solitulafono 1972. Ua faamoemoe le Tulafono Tau Faaofi ina ia:

- (a) faatulaga le tulafono o taulumaga tau solitulafono ia ogatasi ma faiga masani faaneionapo i totonu o puleaga tutusa faaletulafono; ma
- (b) ia faia o aiaiga e sili atu e faasino i le tatalaina i tua, lea e le o atoatoa i lalo o le Tulafono o i ai i le taimi nei; ma
- (c) ia suia le tulafono faafoe e faasino i faamasinoga i le itu i faatonu, ina ia faapea ona faatoa faaogāina lava i soligatulafono e mafai ona faasalaina i le solo atoa i le falepuipui seia vagana ai pe afai ua tuuina atu e le tagata tetee se faasilasilaga ina ia faamasinoina e se Faamasino na o ia lava, mo soligatulafono tau nakoti po o i luga o se talosaga a lē o faia le moliaga;
- (d) ia faaofi o se taulumaga fou i faamasinoga i totonu o le Faamasinoga Sili e ala i le faatoai atu o pepa aloaia o le moliaga e le Loia Sili; ma
- (e) ia faamanino ma faamalosia le puleaga faa-faamasinoga a Faamasinoga Faa-Itumalo ma Faamasino Fesoasoani; ma
- (f) ia puipuia ma faamalosia le puleaga faa-faamasinoga a le Faamasinoga Sili e fofogaina ai na o mataupu tau solitulafono matuia, seia vagana ai ua ia taliaina se puleaga faa-faamasinoga e faasino i se faamasinoga ua faaliliuina mai i le Faamasinoga Faa-Itumalo.

Clauses:**PART 1
PRELIMINARY**

- Clause 1:** - provides for the short title and commencement provisions.
- Clause 2:** - provides for definitions of words.
- Clause 3:** - provides for the application provision.

**PART 2
JURISDICTION OF THE COURTS***Division 1 - Supreme Court*

- Clause 4:** - provides for the jurisdiction of the Supreme Court to hear and determine criminal matters.
- Clause 5:** - empowers a Judge of the Supreme Court to transfer trial in the Supreme Court to the District Court.
- Clause 6:** - provides that all trials in the Supreme Court are to be by a Judge sitting alone. However, a defendant charged with an offence punishable by life imprisonment is to be tried with five (5) assessors except where the defendant gives notice to be tried by a judge alone or is charged under the Narcotics Act 1967.
- Clause 7:** - provides for complex fraud the Judge may, on the application of the prosecutor, order that the case be tried with a Judge alone.

Fuaiupu:**VAEGA 1
FAATOMUAGA**

- Fuaiupu 1:** - ua aiaia ai mo aiaiga o le igoa puupuu ma le amataga.
- Fuaiupu 2:** - ua aiaia ai mo le faamatalaina o uiga o upu.
- Fuaiupu 3:** - ua aiaia ai le aiaiga mo le faaogāina.

**VAEGA 2
PULEAGA FAA-FAAMASINO A FAAMASINO***Vaevaega 1 - Faamasinoga Sili*

- Fuaiupu 4:** - ua aiaia ai mo le puleaga faa-faamasinoga a le Faamasinoga Sili e fofogaina ai ma faia o faaiuga o mataupu tau solitulafono.
- Fuaiupu 5:** - ua tuuina atu ai malosiaga i se Faamasino o le Faamasinoga Sili, e faaliliuina atu ai se faamasinoga i le Faamasinoga Sili i le Faamasinoga Faaitumalo.
- Fuaiupu 6:** - ua aiaia ai e faapea o faamasinoga uma i le Faamasinoga Sili, e ao ona faia e se Faamasino o seei i le nofoa na o ia lava. Peitai, o se tagata tetee ua molia i se soligatulafono e faasalaina i le olaga soloatoa i le falepuipui, o le a faamasinoina e faatonu e toalima (5) seia vagana ai pe afai ua tuuina atu e le tagata tetee se faasilasilaga ina ia faamasinoina o ia e se faamasino na o ia lava po o ua molia i lalo o le Tulafono o Nakoti 1967.
- Fuaiupu 7:** - ua aiaia ai e faapea, e mafai e le Faamasino, i luga o se talosaga a lē faia moliaga, ona poloaia ina ia suesueina e se Faamasino na o ia lava, o mataupu lavelave o faiga tau faasese.

- Clause 8:** - empowers the Supreme Court to transfer trials in the District Court to the Supreme Court on initiative of the District Court or Supreme Court Judge or on application of prosecutor or defendant.

Division 2 - District Courts

- Clause 9:** - provides for the criminal jurisdiction of District Courts, as set out under the District Courts Act 1969, including the jurisdiction to hear and determine trials transferred from the Supreme Court.

- Clause 10:** - provides for the criminal jurisdiction the Faamasino Fesoasoani, as set out under the District Courts Act 1969.

Division 3 - Youth Court

- Clause 11:** - provides for the criminal jurisdiction of the Youth Court, as set out in the Young Offenders Act 2007.

- Clause 12:** - empowers the Youth Court to transfer trial of a child to the Supreme Court or the District Court.

- Fuaiupu 8:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e faaliliuina atu ai faamasinoga i le Faamasinoga Faaitumalo, i le Faamasinoga Sili i luga o se finagalo o le Faamasino o le Faamasinoga Faaitumalo po o le Faamasino o le Faamasinoga Sili po o i luga o se talosaga a lē o faia moliaga po o le tagata tetee.

Vaevaega 2 - Faamasinoga Faaitumalo

- Fuaiupu 9:** - ua aiaia ai mo le puleaga faa-faamasinoga tau solitulafono a Faamasinoga Faaitumalo, e pei ona faatulagaina mai i lalo o le Tulafono o Faamasinoga Faaitumalo 1969, e aofia ai le puleaga faa-faamasinoga e fofogaina ai ma faia faaiuga i faamasinoga na faaliliuina mai le Faamasinoga Sili.

- Fuaiupu 10:** - ua aiaia ai mo le puleaga faa-faamasinoga tau solitulafono a Faamasino Fesoasoani, e pei ona faatulagaina mai i lalo o le Tulafono o Faamasinoga Faaitumalo 1969.

Vaevaega 3 - Faamasinoga mo Tupulaga Talavou

- Fuaiupu 11:** - ua aiaia ai mo le puleaga faa-faamasinoga tau solitulafono a le Faamasinoga mo Tupulaga Talavou, e pei ona faatulagaina mai i le Tulafono mo Tupulaga Talavou Solitulafono 2007.

- Fuaiupu 12:** - ua tuuina atu ai malosiaga i le Faamasinoga mo Tupulaga Talavou e faaliliuina atu ai se faamasinoga o se tamaitiiti i le Faamasinoga Sili po o le Faamasinoga Faaitumalo.

**PART 3
COMMENCEMENT OF PROCEEDINGS**

- Clause 13:** - provides that all criminal proceedings are to commence in the Supreme Court by laying information.
- Clause 14:** - provides that any information laid against a person who was arrested without a warrant must be filed in Court as soon as possible. Bail may be heard on the filing of information even if the charging document has not been filed.
- Clause 15:** - empowers the Judge, Faamasino Fesoasoani or Registrar to issue summons.
- Clause 16:** - provides for time limitation for laying any information in the District Courts or the Supreme Court.
- Clause 17:** - provides that hearing in the Supreme Court is not to begin until the charging document has been filed except for private prosecution or if the Attorney General consents to the hearing to begin without the charging document. It gives the Supreme Court jurisdiction to deal with preliminary matters such as bail, name suppression and others.
- Clause 18:** - provides for the form and contents of any information.
- Clause 19:** - provides for the form and content of a charging document.

**VAEGA 3
AMATAGA O TAUALUMAGA**

- Fuaiupu 13:** - ua aiaia ai e faapea o taualumaga uma tau solitulafono o le a amatalia i le Faamasinoga Sili, e ala i le faatoai atu o tagi.
- Fuaiupu 14:** - ua aiaia ai e faapea o so o se tagi ua faia e faasaga i se tagata, o ia lea na pueina faapagota e aunoa ma se tusi faapoloaiga, e ao ona faatoai atu i le Faamasinoga i se taimi vave lava e mafai ai. E mafai ona fofogaina se talosaga mo le tatalaina i tua i luga o ni puipuiga, i le faatoai atu o faamatalaga e tusa lava pe afai e le i faatoai atu o pepa aloaia o moliaga.
- Fuaiupu 15:** - ua tuuina atu ai malosiaga i le Faamasino, Faamasino Fesoasoani po o le Resitara e tuuina atu ai tusi samania.
- Fuaiupu 16:** - ua aiaia ai mo le faatapulaaina o le taimi e faatoai atu ai so o se tagi i Faamasinoga Faaitumalo po o le Faamasinoga Sili.
- Fuaiupu 17:** - ua aiaia ai e faapea o le fofogaina o se mataupu i le Faamasinoga Sili o le a lē amataina seia faatoai atu pepa aloaia o moliaga, ae vagana ai mo moliaga faapitoa po o pe afai ua tuuina atu le maliega a le Loia Sili i le amatalia ai o le fofogaina o le mataupu, e aunoa ma pepa aloaia o moliaga. Ua tuuina atu ai foi i le Faamasinoga Sili le puleaga faa-faamasinoga e tagofia ai o uluai mataupu e pei o le tatalaina i tua i luga o puipuiga, taofia o le faalauiloaina o le igoa ma isi.
- Fuaiupu 18:** - ua aiaia ai mo le pepa faatumu ma mataupu o aofia ai o so o se tagi.
- Fuaiupu 19:** - ua aiaia ai mo le pepa faatumu ma mataupu o aofia ai o se pepa aloaia o moliaga.

- Clause 20:** - provides for any information to provide for one (1) charge only unless the matters are stated in the alternative in the enactment provision for the offence.
- Clause 21:** - provides that two (2) or more information may be heard together.
- Clause 22:** - provides that charges may be representative if multiple offences of the same type are alleged to have been committed in similar circumstances, such as if offences were committed over a period of time and it would be unreasonable for the complainant to particularise dates or details.
- Clause 23:** - provides that two (2) or more defendants may be tried together unless it is in the interest of justice for the defendants to be tried separately.
- Clause 24:** - provides that an information to contain sufficient particulars of the offence closely following the wording of the enactment creating the offence and the reference to the enactment.
- Clause 25:** - gives the defendant the right to apply to Court for specified further particulars of the charge.
- Clause 26:** - provides that a person aged 21 or over can lay any information for an offence. A person aged under 21, can lay any information with the leave of a Judge.
- Clause 27:** - provides that if the laying of any information laid is dependent on the consent of another person, certain things may be done, such as arrest of the person, although the consent has not been given.
- Fuaiupu 20:** - ua aiaia ai mo so o se faamatalaga e tuuina atu ai na o le tasi (1) le moliaga, vagana ua taua ai o mataupu i se isi itu i le aiaiga faaletulafono mo le soligatulafono.
- Fuaiupu 21:** - ua aiaia ai e faapea e mafai ona fofogaina faatasi ni tagi se lua (2) po o le sili atu.
- Fuaiupu 22:** - ua aiaia ai e faapea e mafai ona suitulaga moliaga pe afai o le tele o soligatulafono o le ituaiga lava e tasi o lo o tuuaia ai e faapea, na faia lava i tulaga aliae mai faapena, ma o ia moliaga e peiseai o ni soligatulafono na faia a o faagasolo se vaitaimi ma o le a lē talafeagai ai mo le tagata faasea ona auiliili faapitoa o aso po o faamatalaga auiliili.
- Fuaiupu 23:** - ua aiaia ai e faapea e mafai ona faamasinoina faatasi ni tagata tetee se toalua (2) po o le sili atu, ae vagana ai e tusa ma manaoga o faiga amiotonu mo tagata tetee ina ia faamasinoina eseese.
- Fuaiupu 24:** - ua aiaia ai e faapea ia aofia ai i se tagi, o auiliiliga atoatoa o le soligatulafono e mulimulitai i le tulaga vavalalata ma le faaupuga o le tulafono ua faatulai mai ai le soligatulafono ma le faasinomaga i le tulafono.
- Fuaiupu 25:** - ua tuuina atu ai i le tagata tetee le aia tatau, e talosaga ai i le Faamasinoga mo nisi faamatalaga auiliili ua faamaotiina o le moliaga.
- Fuaiupu 26:** - ua aiaia ai e faapea e mafai e se tagata ua 21 tausaga le matua po o le sili atu, ona faataatia o so o se tagi mo se soligatulafono. O se tagata e i lalo ifo o le 21 tausaga o lona matua, e mafai ona ia faatoai atu so o se tagi ina ua i ai faatasi ma le faatagaga a le Faamasino.
- Fuaiupu 27:** - ua aiaia ai e faapea, afai o le faataatiaina atu o so o se tagi ua faatoai atu e faalagolago i le maliega a se isi tagata, e mafai ona faia o nisi mea, e pei o le pueina faapagota o le tagata, e ui lava ina e le i tuuina atu o le maliega.

- Clause 28:** - provides that information or charging document cannot be quashed, etc., by the Court for failure to comply with the proposed Act unless the Court is satisfied that there has been a miscarriage of justice or it would be contrary to the interests of justice.

**PART 4
ARREST AND SEARCH**

Division 1 - Arrest

- Clause 29:** - provides that a person can only be arrested without a warrant under the proposed Act or any other enactment. It also provides for the power of a private person to arrest another person the person finds committing an offence.
- Clause 30:** - provides that when a constable is exercising the power to arrest without a warrant, a constable (including any person assisting the constable) is also authorised to enter any premises without a warrant (and by force if necessary) to arrest an offender.
- Clause 31:** - provides the power to issue, execute and withdraw a warrant of arrest.
- Clause 32:** - obligates the person who is arresting another person to notify the arrested person of his or her rights.

Division 2 - Search

- Clause 33:** - empowers a Judge or Registrar to issue search and seize warrants.

- Fuaiupu 28:** - ua aiaia ai e faapea, e lē mafai ona faalēaogāina, po o nisi faiga faapena se tagi po o se pepa aloaia o moliaga, e le Faamasinoga, mo le lē mafaia ona tausisia o le Tulafono ua fuafuaina, seia vagana ai ua faamalieina le Faamasinoga e faapea sa i ai o se tulaga ua lē faatinoina ai le amiotonu po o e ono feteenai ma le faia o le amiotonu.

**VAEGA 4
PUEINA FAAPAGOTA MA LE SUEINA**

Vaevaega 1 - Pueina faapagota

- Fuaiupu 29:** - ua aiaia ai e faapea, e faatoa mafai lava ona pueina faapagota se tagata e aunoa ma le tusi faapoloaiga i lalo o le Tulafono ua fuafuaina po o so o se isi lava tulafono. Ua faapea foi ona aiaia ai mo le malosiaga o se tagata tutoatasi e pueina faapagota ai se isi tagata ua mauaina e lea tagata o faia o se soligatulafono.
- Fuaiupu 30:** - ua aiaia ai e faapea, afai o lo o faatinoina e se leoleo le malosiaga e pueina ai faapagota se tagata e aunoa ma se tusi faapoloaiga, o se leoleo (e aofia ai so o se tagata o fesoasoani i le leoleo) ua faapena foi ona faatagaina e ulufale i so o se nofoaga ma fale, e aunoa ma se tusi faapoloaiga (ma e ala i le malosi pe a talafeagai ai) ina ia pueina faapagota se tagata solitulafono.
- Fuaiupu 31:** - ua aiaia ai le malosiaga e tuuina atu ai, faatino ma toe faau i tua o se tusi faapoloaiga o le pueina faapagota.
- Fuaiupu 32:** - ua noatia ai le tagata, o ia lea o lo o pueina faapagota se isi tagata, ina ia logoina le tagata ua pueina faapagota, i ana aia tatau.

Vaevaega 2 - Sueina

- Fuaiupu 33:** - ua tuuina atu ai malosiaga i se Faamasino po o le Resitara e tuuina atu ai tusi faapoloaiga e sueina ma faoa faamalosi ai.

Clause 34: - empowers a Judge to issue warrants for forensic samples to be taken. Regulations may be made to set out how forensic samples may be obtained. For a child, etc., samples can only be taken in the presence of the parent or guardian.

Clause 35: - provides as to how things seized pursuant to a seizure warrant are to be kept and disposed of.

Clause 36: - protects a person executing (or assisting in executing) a warrant from criminal or civil liability.

**PART 5
SUMMONS, SERVICE, EVIDENCE AND DISCLOSURE**

Division 1 - Summons and Service

Clause 37: - empowers a Judge, Faamasino Fesoasoani or Registrar to issue summons.

Clause 38: - provides for personal service of summons or by leaving it with a family member who is aged 18 years or more.

Clause 39: - provides for service in particular cases, such as service on a company, the lawyer for the person or where the defendant is kept in prison or other institution.

Clause 40: - provides for the language of the document to be served and translated into Samoan or English language.

Fuaiupu 34: - ua tuuina atu ai malosiaga i se Faamasino e tuuina atu ai tusi poloaiga mo vaega-mea faataitai mo suesuega faapitoa o soligatulafono ina ia faia. E mafai ona faia o Tulafono Faatonutonu e faatulagaina ai pe faapefea ona mauaina o vaega-mea faataitai mo suesuega faapitoa o soligatulafono. Mo se tamaitiiti ma isi, e faatoa mafai lava ona aveina o vaega mea faataitai, i le i ai faatasi o le matua po o le tagata o lo o vaaia faaetulafono.

Fuaiupu 35: - ua aiaia ai le tulaga o le a tausia ma faalēaogāina ai o mea ua faoa faamalosi, e tusa ai o se tusi poloaiga o le faoa faamalosi.

Fuaiupu 36: - ua puipuia ai se tagata o faataunuaina (po o fesoasoani i le faataunuaina) o se tusi faapoloaiga mai noataga tau solitulafono po o noataga tau le va o tagata.

**VAEGA 5
TUSI SAMANIA, FAAOO ATU O PEPA ALOAIA,
FAAMATALAGA MOLIMAU MA LE FAAILOA ATU**

Vaevaega 1 - Tusi Samania ma le Faaooina Atu o Pepa Aloaia

Fuaiupu 37: - ua tuuina atu ai malosiaga i se Faamasino, Faamasino Fesoasoani po o le Resitara e tuuina atu ai tusi samania.

Fuaiupu 38: - ua aiaia ai mo le faaooina atu e se tagata o tusi samania po o le taatia atu o le tusi samania i se sui o le aiga o ia lea ua 18 tausaga po o le sili atu, o lona matua.

Fuaiupu 39: - ua aiaia ai mo le faaooina atu i mataupu faapitoa, e pei o le faaooina atu i se kamupani, le loia mo le tagata po o pe afai o le tagata tetee o lo o taofia i totonu o le falepuipui po o isi nofoaga.

Fuaiupu 40: - ua aiaia ai mo le gagana o pepa aloaia o le a faaooina atu ma faaliliuina i le Gagana Samoa po o le Gagana Faaperetania.

Clause 41: - provides as to who may serve documents.

Clause 42: - provides for proof of service of documents.

Division 2 - Taking Evidence other than at Trial

Clause 43: - provides for taking of evidence of persons who is intending to leave Samoa. Evidence may be videotaped or recorded in other electronic means.

Clause 44: - provides for taking of evidence of a person who is dangerously ill.

Clause 45: - provides for taking of evidence at a place outside of the trial court.

Division 3 - Disclosure

Clause 46: - obligates the prosecutor to disclose witness's statement to the Court and the defendant, including disclosure of list of defendant's previous convictions to the defendant.

Clause 47: - empowers the Court to adjourn the trial if the defendant is taken by surprise in a manner that is prejudicial to the defendant's case if the prosecutor calls a witness who has not made a written statement or has made a written statement that is not made available to the defendant.

Clause 48: - sets out the grounds in which the prosecutor may not disclose information.

Clause 49: - provides for the right of the defendant to apply to the Court to disclose information which the defendant is entitled to.

Fuaiupu 41: - ua aiaia ai mo le tagata na te mafai ona faaoo atu pepa aloaia.

Fuaiupu 42: - ua aiaia ai mo le faamaoniga o le faaooina atu o pepa aloaia.

Vaevaega 2 - Faaaogāina o Faamatalaga Molimau e ese ai i lo taimi o se Faamasinoga

Fuaiupu 43: - ua aiaia ai mo le faaaogāina o faamatalaga molimau a le tagata, o ia lea ua faamoemoe e tuua Samoa. E mafai ona pueina faamatalaga molimau i ata vito pe pueina i isi faiga faaeletoroni.

Fuaiupu 44: - ua aiaia ai mo le faaaogāina o faamatalaga molimau a se tagata o ia lea o lo o ua matuia sona gasegase.

Fuaiupu 45: - ua aiaia ai mo le faaaogāina o faamatalaga molimau i se nofoaga i fafo atu o le fale faamasino e faia ai le faamasinoga.

Vaevaega 3 - Faailoaina atu

Fuaiupu 46: - ua noatia ai lē e faia moliaga ina ia faailoa atu le faamatalaga a le tagata molimau i le Faamasinoga ma le tagata tetee, e aofia ai le faailoa atu i le tagata tetee o le lisi o ona moliaga talu ai ua faamaonia faaetulafono.

Fuaiupu 47: - ua tuuina atu ai malosiaga i le Faamasinoga e tolopo ai le faamasinoga pe afai ua faateia le tagata tetee i se faiga lea e faaituau i lena mataupu, pe afai e valaauina e lē e faia moliaga, se tagata molimau na te le i faia pe na faia o se faamatalaga tusitusia, lea e le i mafai ona avanoa i le tagata tetee.

Fuaiupu 48: - ua faatulagaina ai mafuaaga ia e lē mafai ai, e le o faia moliaga, ona faailoa atu faamatalaga.

Fuaiupu 49: - ua aiaia ai mo le aia tatau a le tagata tetee, e talosaga ai i le Faamasinoga ina ia faailoa o faamatalaga e agavaa i ai o ia.

Clause 50: - provides for the procedures when the defendant wants to call evidence to support an alibi (evidence that the defendant was in or at another place at the time the offence was committed).

Clause 51: - provides for the procedures for calling of expert evidence.

PART 6 TRIALS

Clause 52: - provides for the place of trial, which is the Court in which the information has been filed.

Clause 53: - empowers a District Court Judge to transfer a trial in the District Court to the Supreme Court.

Clause 54: - provides for withdrawals of information by informant.

Clause 55: - empowers the court to amend charges.

Clause 56: - empowers the Court to prohibit publication of report or account of a trial or name of defendant or person connected with the trial.

Clause 57: - creates the offence dealing with contravening of a publication prohibition order under clause 56.

Clause 58: - provides those who may conduct proceedings at the hearing of a charge in the District Court.

Clause 59: - provides for the right of the Attorney General or prosecutors employed by the Attorney General to conduct proceedings in the Supreme Court.

Fuaiupu 50: - ua aiaia ai mo taualumaga pe afai e manao le tagata tetee e valaauina ni faamatalaga molimau e lagolagoina i se tetee (faamatalaga molimau e faapea sa i ai le tagata tetee i totonu o le nofoaga po o ise isi nofoaga i le taimi na faia ai le soligatulafono).

Fuaiupu 51: - ua aiaia ai mo taualumaga mo le tapaina o faamatalaga molimau mai tagata poto faapitoa.

VAEGA 6 FAAMASINOGA

Fuaiupu 52: - ua aiaia ai mo le nofoaga e faia ai le faamasinoga, o le Faamasinoga lea sa faatoai atu i ai o faamatalaga.

Fuaiupu 53: - ua tuuina atu ai malosiaga i se Faamasino o le Faamasinoga Faaitumalo e faaliliuina atu ai se faamasinoga mai le Faamasinoga Faaitumalo i le Faamasinoga Sili.

Fuaiupu 54: - ua aiaia ai mo le toe faauina i tua o faamatalaga e le tagata na tuuina atu faamatalaga.

Fuaiupu 55: - ua tuuina atu ai le malosiaga i le faamasinoga e teuteuina ai o moliaga.

Fuaiupu 56: - ua tuuina atu ai malosiaga i le Faamasinoga e faasaina ai le lomua faasalalau o se lipoti po o se oototoga o se faamasinoga po o le igoa o le tagata tetee po o se tagata e i ai se sootaga ma le faamasinoga.

Fuaiupu 57: - ua faavae ai le soligatulafono o tagofia ai le solia o se poloaiga e faasaina ai lomua faasalalau i lalo o le fuaiupu 56.

Fuaiupu 58: - ua aiaia ai mo i latou ia e mafai ona faafoeina taualumaga i le fofogaina o se moliaga i totonu o le Faamasinoga Faaitumalo.

Fuaiupu 59: - ua aiaia ai mo le aia tatau a le Loia Sili po o tagata e faia moliaga ua faafaigaluegaina e le Loia Sili, e faafoeina taualumaga i totonu o le Faamasinoga Sili.

- Clause 60:** - entitles defendants to be present in Court during the whole hearing except for misconduct for interrupting the trial.
- Clause 61:** - empowers the Court to deal with defendants who do not appear after having being served with summons.
- Clause 62:** - deals with the duty and power of the Court where the prosecutor does not appear.
- Clause 63:** - deals with cases where the defendant and the prosecutor do not appear.
- Clause 64:** - provides that the dismissal of an information for non-appearance of the prosecutor does not prevent re-filing of information.

**PART 7
PLEAS AND MENTALLY IMPAIRED DEFENDANTS**

Division 1 - Pleas

- Clause 65:** - gives the right of a person charged with an offence that is not subject to sentence of imprisonment to file with the Registrar a notice of plea of guilty.
- Clause 66:** - provides for the procedures for taking of plea of guilty or not guilty when a person is charged.
- Clause 67:** - provides for the rules for taking of pleas of corporations.
- Clause 68:** - provides for special pleas.
- Clause 69:** - provides for evidence to prove or disprove previous acquittals or conviction.

- Fuaiupu 60:** - ua agavaa ai tagata tetee ina ia auai i totonu o Faamasinoga a o faagasolo tualumaga atoa, seia vagana ai mo amioga ua lē talafeagai ua faalavelaveina ai le faamasinoga.
- Fuaiupu 61:** - ua tuuina atu ai malosiaga i le Faamasinoga e faafoe ai tagata tetee o i latou ia ua lē oo mai ina ua maea ona faaooina atu i ai o tusi samania.
- Fuaiupu 62:** - ua tagofia ai le tiute ma malosiaga o le Faamasinoga, pe afai ua lē oo mai lē e faia moliaga i le faamasinoga.
- Fuaiupu 63:** - ua tagofia ai o mataupu ia ua lē oo mai ai tagata tetee ma lē e faia moliaga.
- Fuaiupu 64:** - ua aiaia ai e faapea o le faalēaogāina o se faamatalaga mo le lē auai o lē e faia moliaga, o le a lē taofia ai le toe faatoai atu o faamatalaga.

**VAEGA 7
TAUTINOGA ALOAIA MA TAGATA
TETEE E AFAINA LE MAFAUFAU**

Vaevaega 1 - Tautinoga aloaia

- Fuaiupu 65:** - ua tuuina atu ai le aia tatau a se tagata ua molia i se soligatulafono e le o noatia i se faasalaga o le nofosala i le falepuipui ina ia faatoai atu i le Resitara se faasilasilaga o le tautinoga aloaia o le nofosala.
- Fuaiupu 66:** - ua aiaia ai mo tualumaga o le faia o le tautinoga aloaia o le nofosala po o le leai foi pe afai ua molia se tagata.
- Fuaiupu 67:** - ua aiaia ai mo tulafono faafoe mo le faia o tautinoga aloaia a faalapotopotoga i se moliaga.
- Fuaiupu 68:** - ua aiaia ai mo tautinoga aloaia faapitoa.
- Fuaiupu 69:** - ua aiaia ai mo faamatalaga molimau e faamaonia pe lē faamaonia ai foi ni moliaga sa solofua muamua po o ni moliaga na faamaonia.

- Clause 70:** - provides that on the trial of an issue of plea of previous acquittal or conviction, the court is obligated to dismiss the information.
- Clause 71:** - provides for the rule for barring of information by previous acquittal or conviction if the information is substantially for the same offence for which the defendant was formerly charged but adds a statement of aggravation tending to increase the punishment.
- Clause 72:** - provides for application to vacate guilty plea by leave of the Court.

Division 2 - Mentally Impaired Defendants

- Clause 73:** - provides for definition.
- Clause 74:** - empowers the Court to make a finding whether or not the defendant is fit to stand trial before or during the taking of plea at any stage after commencement of the proceedings but before all the evidence is concluded.
- Clause 75:** - provides that the Court must postpone the hearing, etc if the Court has sufficient information on the condition as to whether or not the defendant is fit to stand trial.
- Clause 76:** - provides for medical opinion on whether or not the defendant is fit to stand trial.
- Clause 77:** - provides for appeal to the Court of Appeal on any finding of the Supreme Court as to whether the defendant is fit to stand trial.

- Fuaiupu 70:** - ua aiaia ai e faapea i le faamasinoina o se mataupu o le tautinoga aloaia i moliaga ua faamaonia ona solofua talu ai po o moliaga ua faamaonia, e noatia le faamasinoga i le faalēaogāina o faamatalaga.
- Fuaiupu 71:** - ua aiaia ai mo le tulafono faafoe mo le taofia o tagi e ala i le tuusaolotoina po o le faamaoniga o le nofosala talu ai, pe afai ua faamautuina o le tagi, e mo lea lava soligatulafono, lea sa molia muamua ai le tagata tetee, peitai ua faaopoopo i ai o se faamatalaga o itu matuia ua agai ai ina siitia o le faasalaga.
- Fuaiupu 72:** - ua aiaia ai mo talosaga ina ia faasee ese le tautinoga aloaia o le nofosala e ala i le faatagaga a le Faamasinoga.

Vaevaega 2 - Tagata Tetee e Afaina le Mafaufau

- Fuaiupu 73:** - ua aiaia ai mo faamatalaga.
- Fuaiupu 74:** - ua tuuina atu ai malosiaga i le Faamasinoga e faia ai o se suesuega, pe ua talafeagai pe leai foi ona tulai i luma o le faamasinoga le tagata tetee a o lumanai ai po o a o faagasolo le faia o se tautinoga aloaia i so o se laasaga, ina ua tuanai ai le amataga o taualumaga, ae le i oo ina faaiuina o faamatalaga molimau uma.
- Fuaiupu 75:** - ua aiaia ai e faapea e ao i le Faamasinoga ona tolopo le fofogaina o le faamasinoga, ma isi tulaga faapena, pe afai ua i ai i le Faamasinoga o faamatalaga ua atoatoa, i le tulaga i le talafeagai ai pe leai foi, ona tulai i luma o le faamasinoga lē ua tetee.
- Fuaiupu 76:** - ua aiaia ai mo manatu faafomai i le tulaga pe ua talafeagai pe leai foi, ona tulai i luma o le faamasinoga lē ua tetee.
- Fuaiupu 77:** - ua aiaia ai mo talosaga i le Faamasinoga o Talosaga, i luga o so o se sailiiliga a le Faamasinoga Sili i le itu pe ua talafeagai ona tulai i luma o le faamasinoga lē ua tetee.

- Clause 78:** - provides for detention of defendant found unfit to stand trial or to be insane.
- Clause 79:** - provides for the role of the Judge when the defendant is not guilty on account of insanity.
- Clause 80:** - right of defendant to appeal verdict of insanity.

PART 8 WITNESSES

- Clause 81:** - provides for issuing of witnesses summons.
- Clause 82:** - empowers the Court to issue warrant for appearance of a witness who has been summonsed but fails to appear.
- Clause 83:** - creates an offence for witnesses who have been summonsed but refuse to appear or to produce documents, etc.
- Clause 84:** - provides for person present in Court at the hearing of a charge to give evidence.
- Clause 85:** - empowers the Court to order witnesses to leave the courtroom during the course of hearing until they are called to give evidence.

PART 9 CONDUCT OF TRIAL, ADJOURNMENTS AND BAIL

Division 1 - Conduct of Trial

- Clause 86:** - provides the right of the defence to admit facts in writing.

- Fuaiupu 78:** - ua aiaia ai mo le taofia o le tagata tetee ua maua e lē talafeagai ona tulai i luma o le faamasinoga po o ua lē lelei lona mafaufau.
- Fuaiupu 79:** - ua aiaia ai mo le matafaioi a le Faamasino pe afai ua lē faamaonia le nofosala o le tagata tetee, ona o tulaga ua lē lelei lona mafaufau.
- Fuaiupu 80:** - o le aia tatau a le tagata tetee e talosaga tetee ai i le faaiuga ua faamaonia ai le ma'i valea.

VAEGA 8 MOLIMAU

- Fuaiupu 81:** - ua aiaia ai mo le tuuina atu o tusi samania o molimau.
- Fuaiupu 82:** - ua tuuina atu ai malosiaga i le Faamasinoga e tuuina atu ai o tusi faapoloaiga o le auai mai o se tagata molimau, o ia lea ua faaoo i ai se tusi samania ae peitai ua lē mafai ona auai mai.
- Fuaiupu 83:** - ua faia ai o se soligatulafono mo tagata molimau, o i latou ia sa samania peitai ua tetee i le auai mai po o le tuuina mai o pepa aloaia, ma isi mea faapena.
- Fuaiupu 84:** - ua aiaia ai mo tagata o auai i totonu o le Faamasinoga i le fofogaina o se moliaga, ina ia faia o ni faamatalaga molimau.
- Fuaiupu 85:** - ua tuuina atu ai le malosiaga i le Faamasinoga e poloaia ai tagata molimau ina ia tuua le potu faamasino a o faagasolo taulumaga o le faamasinoga seia vagana ai ua tapaina i latou ina ia faia o ni faamatalaga molimau.

VAEGA 9 FAAFOEINA O FAAMASINO, TOLOPOINA MA LE TATALAINA I TUA I PUIPUIGAMALU

Vaevaega 1 - Faafoeina o Faamasinoga

- Fuaiupu 86:** - ua aiaia ai le aia tatau a le tagata tetee e ioeina ai faamatalaga moni i se faiga tusitusia.

Clause 87: - provides for the procedures for presentation of evidence at the trial of the defendant beginning with the prosecution and followed by the defence.

Clause 88: - provides for the right to caution the unrepresented defendant on the defendant's right to cross-examination of prosecution witnesses and the right of the defendant to give evidence, including calling of witnesses, etc.

Clause 89: - provides that witnesses are to give evidence either on oath or on affirmation.

Clause 90: - provides that if the offence is not proved but the evidence establishes an attempt to commit a crime, the defendant may be convicted of attempt.

Clause 91: - provides that if the attempt is not proved but the evidence establishes commission of the full crime, the defendant may be convicted of attempt.

Clause 92: - provides that the defendant may be convicted of part of an offence if the charge is divisible.

Clause 93: - empowers the Court or appellate court to amend information or charge in accordance with the evidence.

Fuaiupu 87: - ua aiaia ai tualumaga mo le tuuina atu o faamatalaga molimau i le faamasinoga o le tagata tetee, e amata i le itu o faia le moliaga ma sosoo atu ai ma le itu a le tagata tetee.

Fuaiupu 88: - ua aiaia ai mo le aia tatau e lapataia ai le tagata tetee e leai sē o avea ma ona sui, i luga o le aia tatau e suesueina ai e ala i fesili tagata molimau a le itu o faia moliaga ma le aia tatau a le tagata tetee e tuuina atu ai faamatalaga molimau, e aofia ai le valaauina o tagata molimau, ma isi tulaga faapena.

Fuaiupu 89: - ua aiaia ai e faapea ia tuuina atu faamatalaga molimau e tagata molimau i luga o se tautoga po o i luga o se faamaoniga aloaia.

Fuaiupu 90: - ua aiaia ai e faapea, afai e lē faamaonia le soligatulafono, peitai ua faamautuina i faamatalaga molimau se taumafaiga e faia se solitulafono, e mafai ona faamaonia le nofosala o le tagata tetee, i le taumafai lea e faia le solitulafono.

Fuaiupu 91: - ua aiaia ai e faapea afai ua lē faamaonia le taumafaiga ae peitai ua faamautuina i faamatalaga molimau le faia o le solitulafono, e mafai ona faamaonia le nofosala o le tagata tetee, i le taumafai lea e faia o le solitulafono.

Fuaiupu 92: - ua aiaia ai e faapea e mafai ona faamaonia le nofosala o le tagata tetee, i se vaega o se soligatulafono, pe afai o le moliaga e mafai ona tuu faeseeseina.

Fuaiupu 93: - ua tuuina atu ai malosiaga i le Faamasinoga po o le faamasinoga tau talosaga ina ia teuteuina se tagi po o se moliaga e tusa ai ma faamatalaga molimau.

Division 2 - Adjournments

- Clause 94:** - empowers the Court to adjourn hearing.
- Clause 95:** - empowers the Court to release the defendant at large or on bail if the defendant has been detained for bail or a hearing is adjourned.
- Clause 96:** - empowers the Court to adjourn hearing after the defendant is convicted but before sentencing in order for the Court to make enquiries or determine the suitable method of dealing with the defendant.
- Clause 97:** - empowers a District Court Judge to deal with any question of law raised in a trial presided by a Fa'amasino Fesoasoani.

Division 3 - Bail

- Clause 98:** - provides for the right of a defendant to bail for offences not punishable by imprisonment.
- Clause 99:** - sets out the factors for bail to be considered by the Court when determining whether the defendant should be in or continue to be in custody.
- Clause 100:** - restricts bail for treason and espionage charges.

Vaevaega 2 - Tolopoina

- Fuaiupu 94:** - ua tuuina atu ai malosiaga i le Faamasinoga e tolopoina ai taualumaga o se faamasinoga.
- Fuaiupu 95:** - ua tuuina atu ai malosiaga i le Faamasinoga e tuusaoloto ai le tagata tetee o lo o fealualuai solo, po o o lo o ua tatalaina i tua i luga o ni puipuigamalu pe afai sa taofia le tagata tetee e talia ai le tatalaina i tua i luga o puipuigamalu po o ua tolopoina o se taualumaga o le faamasinoga.
- Fuaiupu 96:** - ua tuuina ai malosiaga i le Faamasinoga e tolopoina ai se taualumaga o se faamasinoga, i le tuana'i ai ona faamaonia le nofosala o le tagata tetee, ae o lo o lumanai ai le fofogaina o lona faasalaga, ina ia mafai ai e le Faamasinoga ona faia ni sutesuga po o le fuafuaina o se auala talafeagai, e faafoe ai le tagata tetee.
- Fuaiupu 97:** - ua tuuina atu ai malosiaga i se Faamasino o le Faamasinoga Faaitumalo e tagofia ai so o se mataupu tau tulafono e faatulai mai i se faamasinoga o taitaia e se Faamasino Fesoasoani.

Vaevaega 3 - Puipuigamalu mo le tatalaina i tua, a o tatali le faamasinoga

- Fuaiupu 98:** - ua aiaia ai mo le aia tatau a se tagata tetee i le tatalaina i tua i luga o se puipuigamalu, mo soligatulafono e lē mafai ona faasalaina i le nofosala i le falepuipui.
- Fuaiupu 99:** - ua faatulagaina ai o mea ua mautinoa e moni mo le tatalaina i tua i luga o puipuigamalu ina ia iloiloaina e le Faamasinoga pe afai e fuafuaina pe ua tatau ona tatalaina i tua le tagata tetee pe faaauau pea ona taofia i tulaga malupuipua.
- Fuaiupu 100:** - ua taofia ai le tatalaina i tua i luga o puipuigamalu mo moliaga o le fouvale ma gaoioiga faalilolilo faasipai.

- Clause 101:** - provides for restrictions on bail.
- Clause 102:** - provides for rules on bail for defendants charged with narcotic offence.
- Clause 103:** - provides for rules on bail pending sentencing of the defendant.
- Clause 104:** - provides for defendants having right to bail to be brought before the Court to apply for bail.
- Clause 105:** - provides for evidence required for bail applications.
- Clause 106:** - sets out conditions for bail, including the power of the Court to impose other conditions.
- Clause 107:** - provides for application for calling up of bond, guarantee or surety.
- Clause 108:** - empowers the Court or Registrar to issue warrant of detention of a defendant released on bail.

Division 4 - Procedure following Grant of Bail

- Clause 109:** - obligates the Registrar to prepare notice of bail setting out the bail conditions to be signed by the defendant.
- Clause 110:** - provides for issuance of warrant of deliverance if a warrant of detention has been issued to deliver the defendant to prison.

- Fuaiupu 101:** - ua aiaia ai mo aiaiga faatapulaaina o le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 102:** - ua aiaia ai mo tulafono faafoe o le tatalaina i tua i luga o puipuigamalu mo tagata tetee ua molia i soligatulafono tau nakoti.
- Fuaiupu 103:** - ua aiaia ai mo tulafono faafoe o le tatalaina i tua i luga o puipuigamalu a o talia le fofogaina o le faasalaga o le tagata tetee.
- Fuaiupu 104:** - ua aiaia ai mo tagata tetee e i ai le aia tatau i le tatalaina i tua i luga o puipuigamalu, ina ia aumaia i luma o le Faamasinoga, e talosaga ai mo le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 105:** - ua aiaia ai mo faamatalaga molimau e manaomia mo talosaga i le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 106:** - ua faatulagaina ai o aiaiga mo le tatalaina i tua i luga o puipuigamalu, e aofia ai le malosiaga o le Faamasinoga e faaee atu ai o isi aiaiga.
- Fuaiupu 107:** - ua aiaia ai mo talosaga e tapa ai o feagaiga i tupe totogi, faamalumaluga po o se tagata e faamaonia mautinoa.
- Fuaiupu 108:** - ua tuuina atu ai malosiaga i le Faamasinoga po o le Resitara, e tuuina atu ai tusi faapoloaiga o le taofiga o se tagata tetee ua faasaoloto e tusa ma aiaiga o le tatalaina i tua i luga o puipuigamalu.

Vaevaega 4 - Taulumaga i le maea ai ona Faamatuu Atu o le Tatalaina i Tua

- Fuaiupu 109:** - ua noatia ai le Resitara ina ia saunia o se faasilasilaga o le tatalaina i tua i luga o puipuigamalu, o lo o faatulagaina ai aiaiga o le tatalaga i tua, ina ia sainia e le tagata tetee.
- Fuaiupu 110:** - ua aiaia ai mo le tuuina atu o le tusi faapoloaiga o le faaooina atu pe afai sa tuuina atu o se tusi faapoloaiga e faaoo atu ai le tagata tetee i le falepuipui.

- Clause 111:** - empowers the Court to vary or revoke condition of bail on application.
- Clause 112:** - sets out grounds on which a defendant on bail may be arrested without a warrant, such as when the defendant is about to run away to evade justice.
- Clause 113:** - empowers the Court or Registrar to issue warrant to arrest a defendant who is or about to be absconded or contravenes bail condition.
- Clause 114:** - creates an offence for failing to answer bail or for breach of bail condition.

Division 5 - Bail relating to Appeals

- Clause 115:** - provides for the conditions in which the Court or an appellate court may grant bail pending appeal.
- Clause 116:** - gives the right of appeal for refusing bail.
- Clause 117:** - provides for warrant of detention to be issued if bail is refused.
- Clause 118:** - provides for hearing of bail application pending appeal by the presiding judge or another judge if the presiding judge is not available.
- Clause 119:** - provides for arrest of appellant on bail if appellant intends to abscond, etc.

- Fuaiupu 111:** - ua tuuina atu ai malosiaga i le Faamasinoga e suia ai pe faalēaogāina ai o aiaiga o le tatalaina i tua i luga o puipuigamalu, ua talosagaina.
- Fuaiupu 112:** - ua faatulagaina ai mafuaaga ia e mafai ai ona pueina faapagota se tagata tetee, e aunoa ma se tusi faapoloaiga, e pei o le taimi ua manatu ai le tagata tetee o le a sola ese ina ia alofia ai, le faia o le amiotonu.
- Fuaiupu 113:** - ua tuuina atu ai malosiaga i le Faamasinoga po o le Resitara e tuuina atu ai se tusi faapoloaiga e pueina ai faapagota se tagata tetee o ia lea ua sola po o o le a sola ese po o le solia o aiaiga o le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 114:** - ua faia ai o se soligatulafono mo le lē mafaia ona tali atu i aiaiga o le tatalaina i tua i luga o puipuigamalu po o mo le solia o ia lava aiaiga.

Vaevaega 5 - Tatalaina i tua i luga o Puipuiga e faasino i Talosaga

- Fuaiupu 115:** - ua aiaia ai mo aiaiga ia e mafai ai e le Faamasinoga po o se faamasinoga tau talosaga, ona faamatuu atu o le tatalaina i tua i luga o puipuigamalu, a o talia se talosaga.
- Fuaiupu 116:** - ua tuuina atu ai le aia tatau e talosaga ai mo le teena o le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 117:** - ua aiaia ai mo le tuuina atu o se tusi faapoloaiga e taofia ai, pe afai ua teena le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 118:** - ua aiaia ai mo le fofogaina o le talosaga mo le tatalaina i tua i luga o puipuigamalu a o talia le talosaga a le faamasino o nofoia le nofoa po o se isi faamasino pe afai e le o avanoa le faamasino o nofoia le nofoa.
- Fuaiupu 119:** - ua aiaia ai mo le pueina faapagota o le tagata talosaga tetee o lo o tatalaina i tua i luga o puipuigamalu, pe afai ua faamoemoe le tagata talosaga tetee e sola ese, ma isi tulaga faapena.

- Clause 120:** - provides for appellant who has been released from custody on bail to surrender or apply to a Judge to discharge any bail-bond.
- Clause 121:** - provides for decision relating to bail that may be appealed against.
- Clause 122:** - sets out the time in which to appeal a bail decision.
- Clause 123:** - sets out the effect of the decision of the Court of Appeal on bail appeal.

**PART 10
TRIAL IN THE SUPREME COURT**

Division 1 - General

- Clause 124:** - provides for the independence of the prosecutor.
- Clause 125:** - provides for the right of a defendant charged with an offence punishable by life imprisonment be tried with a judge alone.
- Clause 126:** - gives the right to the prosecutor to apply for trial before a judge alone if the defendant has elected to be tried with assessors.

Division 2 - Assessors

- Clause 127:** - provides for qualifications for appointment of assessors from Samoan citizens between 25 years and 68 years.

- Fuaiupu 120:** - ua aiaia ai mo le tagata talosaga tetee o ia lea ua faasaoloto mai le puipuiga mo le tatalaina i tua ina ia tuuina atu o ia e ia lava po o le talosaga i se Faamasino ina ia faamatuu ese so o se tupe totogi faafeagaiga mo le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 121:** - ua aiaia ai mo faaiuga e faasino i le tatalaina i tua i luga o puipuigamalu, lea e mafai ona talosaga tetee i ai.
- Fuaiupu 122:** - ua faatulagaina ai le taimi lea e mafai ai ona talosaga tetee i se faaiuga o le tatalaina i tua i luga o puipuigamalu.
- Fuaiupu 123:** - ua faatulagaina ai le faamamaluina o le faaiuga a le Faamasinoga o Talosaga i se talosaga mo le tatalaina i tua i luga o puipuigamalu.

**VAEGA 10
SUESUEGA I TOTONU O LE FAAMASINOGA SILI**

Vaevaega 1 - Tulaga Lautele

- Fuaiupu 124:** - ua aiaia ai mo le tulaga tutoatasi o le Fafoe Moliaga.
- Fuaiupu 125:** - ua aiaia ai mo le aia tatau a le tagata tetee ua molia i se soligatulafono, e mafai ona faasalaina i le nofosala i le falepuipui mo le olaga atoa, ina ia faamasinoina e na o se faamasino lava.
- Fuaiupu 126:** - ua tuuina atu ai le aia tatau i le Fafoe Moliaga e talosaga ai mo le faamasinoga i luma o se faamasino na o ia lava pe afai o le tagata tetee ua filifili ina ia faamasinoina o ia e faatonu o le faamasinoga.

Vaevaega 2 - O Faatonu

- Fuaiupu 127:** - ua aiaia ai mo agavaa e tofia ai faatonu o le faamasinoga mai tagatanuu moni o Samoa e i le va o le 25 ma le 68 tausaga le matutua.

- Clause 128:** - allows assessors to serve for five (5) years who may be re-appointment after a lapse of five (5) years.
- Clause 129:** - provides for maintaining of the List of Assessors of at least 250 assessors and its annual review by the Registrar of the Supreme Court.
- Clause 130:** - provides for choosing and summoning of assessors.
- Clause 131:** - provides that a summonsed assessor who does not attend the trial is guilty of contempt of Court.
- Clause 132:** - provides for the duty of the Registrar to inform the prosecution and defence about the names of the five (5) assessors, including the right to object to an assessor.
- Clause 133:** - provides for challenge on assessors.
- Clause 134:** - provides for assessors to take oath or affirmation before acting as an assessor.
- Clause 135:** - empowers the presiding judge to discharge assessors on certain grounds.

Division 3 - Verdict of Assessors

- Clause 136:** - provides for the concurrence of assessors and the presiding judge.
- Clause 137:** - provides for assessors to be kept together if directed by the Court.

**PART 11
APPEALS**

*Division 1 - Appeals from the District Courts
to the Supreme Court*

- Fuaiupu 128:** - ua avanoa ai faatonu o le faamasinoga e galulue mo le lima (5) tausaga, o i latou ia e mafai ona toe tofia i le tuanai ai o le lima (5) tausaga.
- Fuaiupu 129:** - ua aiaia ai mo le tausia o le Lisi o Faatonu o le Faamasinoga, a itiiti mai e 250 faatonu ma o lona iloilogia faaletausaga e faia e le Resitara o le Faamasinoga Sili.
- Fuaiupu 130:** - ua aiaia ai le filifilia ma le samaniaina o faatonu o le faamasinoga.
- Fuaiupu 131:** - ua aiaia ai e faapea, o se faatonu o le faamasinoga na samaniaina, o ia lea ua lē auai i le faamasinoga, e nofosala i le uiga lē migao i le Faamasinoga.
- Fuaiupu 132:** - ua aiaia ai mo le tiute o le Resitara e faailoa i le itu o faia moliaga ma le itu tetee, o igoa o faatonu e toalima (5) o le faamasinoga, e aofia ai le aia tatau e teena ai o se faatonu o le faamasinoga.
- Fuaiupu 133:** - ua aiaia ai mo tulaga fesiligia o faatonu o le faamasinoga.
- Fuaiupu 134:** - ua aiaia ai mo faatonu o le faamasinoga ina ia faia o tautoga po o faamaoniga aloaia a o le i galue e ave a o se faatonu o le faamasinoga.
- Fuaiupu 135:** - ua tuuina atu ai malosia i le faamasino o nofoia le nofoa, e faatulai ese ai faatonu o le faamasinoga, i luga o nisi mafuaaga.

Vaevaega 3 - Faaiuga a Faatonu

- Fuaiupu 136:** - ua aiaia ai mo le finagalo autasi o faatonu o le faamasinoga ma le faamasino o nofoia le nofoa.
- Fuaiupu 137:** - ua aiaia ai mo faatonu o le faamasinoga ina ia tuufaatasia i latou pe a faatonuina e le Faamasinoga.

**VAEGA 11
TALOSAGA**

*Vaevaega 1 - Talosaga mai Faamasinoga
Faaitumalo i le Faamasinoga Sili*

- Clause 138:** - empowers a Judge to reserve question of law to the Supreme Court by way of case stated.
- Clause 139:** - gives the right of appeal to the Supreme Court if the District Court Judge refuses to reserve a question of law to be determined by the Supreme Court.
- Clause 140:** - provides that if the determination of an information is wrong on question of law, appeal to the Supreme Court is by way of case stated on question of law only.
- Clause 141:** - empowers a District Court Judge to refuse to state a case if the appeal is frivolous. But the Supreme Court may still require the District Court Judge to state a case.
- Clause 142:** - empowers the Supreme Court to dismiss any application or appeal if it is certified that it has not been prosecuted within a time specified.
- Clause 143:** - empowers the Supreme Court to send the case stated back to the District Court for amendment.
- Clause 144:** - empowers the Supreme Court to hear and determine question of law on case stated.
- Clause 145:** - bars appeal on same decision that was appealed on case stated, unless leave of the Supreme Court is given.

- Fuaiupu 138:** - ua tuuina atu ai malosiaga i se Faamasino e faataatia atu ai se fesili tau le tulafono i le Faamasinoga Sili, e ala i se mataupu na suesueina ua taua.
- Fuaiupu 139:** - ua tuuina atu ai le aia tatau e talosaga ai, i le Faamasinoga Sili pe afai e teena e le Faamasino o le Faamasinoga Faaitumalo le faataatia o se fesili i tulafono ina ia fuafuaina e le Faamasinoga Sili.
- Fuaiupu 140:** - ua aiaia ai e faapea, afai e sese o se faaiuga i se tasi, i luga o se fesili i tulafono, o se talosaga i le Faamasinoga Sili e faia e ala i se mataupu ua taua na suesueina i le na o le fesili e faataata i tulafono.
- Fuaiupu 141:** - ua tuuina atu ai malosiaga i se Faamasino o le Faamasinoga Faaitumalo e teena ai le taua o se mataupu pe afai e faatauvaa le talosaga. Peitai, e mafai lava e le Faamasinoga Sili ona manaomia le Faamasino o le Faamasinoga Faaitumalo ina ia faailoa mai se mataupu ua na suesueina.
- Fuaiupu 142:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e faalēaogāina ai so o se talosaga po o se talosaga tetee pe afai ua faamaonia e faapea e le i faia i ai ni moliaga i totonu o se taimi faamaotiina.
- Fuaiupu 143:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili ina ia toe auina atu le mataupu ua taua ua suesueina i le Faamasinoga Faaitumalo mo le toe teuteuina.
- Fuaiupu 144:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e fofogaina ma faia o se faaiuga i le mataupu o le fesiligia o tulafono i se mataupu ua taua na suesueina.
- Fuaiupu 145:** - ua taofia ai talosaga i luga o lea lava faaiuga e tasi, lea sa talosaga tetee i ai i le mataupu ua taua na suesueina, seia vagana ai ua tuuina atu o se faatagaga a le Faamasinoga Sili.

Division 2 - General Appeals

- Clause 146:** - gives appeal as of right to the Supreme Court from decision of the District Court.
- Clause 147:** - gives the right of the Attorney General to appeal decisions of the District Court to the Supreme Court.
- Clause 148:** - provides for appeal to be made under a notice of appeal and to be filed within 14 working days after the date of sentencing, etc.
- Clause 149:** - obligates the Registrar of the District Court to send certain documents to the Supreme Court when an appeal is filed.
- Clause 150:** - obligates the Registrar of the District Court to give documents to the appellant to prepare the record of appeal.
- Clause 151:** - obligates the appellant to lodge appeal record with the Registrar and serve a copy to the respondent.
- Clause 152:** - obligates the Registrar to set down the appeal for hearing and to notify the parties.
- Clause 153:** - provides that evidence in the District Court be brought to the Supreme Court if the appeal involves a question of fact.
- Clause 154:** - empowers the Supreme Court to hear and determine general appeal from the District Court.
- Clause 155:** - empowers the Supreme Court to prohibit publication of report of proceedings, etc.

Vaevaega 2 - Talosaga Eeseese

- Fuaiupu 146:** - ua tuuina atu ai talosaga, e tusa o se aia tatau i le Faamasinoga Sili, mai faaiuga a le Faamasinoga Faaitumalo.
- Fuaiupu 147:** - ua tuuina atu ai le aia tatau a le Loia Sili e talosaga tetee ai i faaiuga a le Faamasinoga Faaitumalo, i le Faamasinoga Sili.
- Fuaiupu 148:** - ua aiaia ai mo le faia o talosaga tetee i lalo o se faasilasilaga o talosaga ma ia faatoai atu i totonu o le 14 aso faigaluega, i le tuanai ai o le aso na laaina ai le faasalaga, ma isi tulaga faapena.
- Fuaiupu 149:** - ua noatia ai le Resitara o le Faamasinoga Faaitumalo ina ia auina atu nisi pepa aloaia i le Faamasinoga Sili pe a oo i le taimi e faatoai atu ai se talosaga.
- Fuaiupu 150:** - ua noatia ai le Resitara o le Faamasinoga Faaitumalo e tuuina atu pepa aloaia i lē ua talosaga, e saunia ai pepa o faamaumauga o le talosaga tetee.
- Fuaiupu 151:** - ua noatia ai lē ua talosaga e faaoo atu faamaumauga o le talosaga tetee i le Resitara ma faaoo atu se ata o ia faamaumauga i le itu tetee.
- Fuaiupu 152:** - ua noatia ai le Resitara ina ia faatulaga le talosaga mo le fofogaina ma ia logoina o vaega auai.
- Fuaiupu 153:** - ua aiaia ai e faapea, ia faaoo atu i le Faamasinoga Sili o faamatalaga molimau o i le Faamasinoga Faaitumalo, pe afaai o le talosaga tetee e aafia ai se mataupu o mea moni.
- Fuaiupu 154:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e fofogaina ma faia o faaiuga o talosaga lautele mai le Faamasinoga Faaitumalo.
- Fuaiupu 155:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e faasaina ai le lomua faasalalau o lipoti o taulumaga tau faamasinoga, ma isi tulaga faapena.

Division 3 - Provisions relating to all Appeals

- Clause 156:** - empowers a Supreme Court Judge to extend time.
- Clause 157:** - provides for the rules about admitting fresh evidence on appeal.
- Clause 158:** - provides for issuance of warrant of committal for the sentence even if notice of appeal has been issued.
- Clause 159:** - gives the right to the appellant to abandon the appeal by notice to the Registrar of the Supreme Court and the respondent.
- Clause 160:** - provides that a party to an appeal who is in custody can make written argument on the case instead of oral argument. If the party is represented by a lawyer, the lawyer is to be present for the case, and the party is not required to be present.
- Clause 161:** - empowers the Supreme Court to direct a re-trial after hearing the appeal from the District Court.
- Clause 162:** - empowers the Supreme Court to amend conviction on appeal or quash the sentence and impose another sentence or remit the matter to the District Court with a direction to amend the conviction.
- Clause 163:** - empowers the Supreme Court to dismiss an appeal for non-prosecution.
- Clause 164:** - obligates the Registrar of the Supreme Court to send a certificate of determination to the Registrar of the District Court on the appealed decision.

Vaevaega 3 - Aiaiga e faasino i Talosaga uma

- Fuaiupu 156:** - ua tuuina atu ai malosiaga i se Faamasino o le Faamasinoga Sili e faaopoopo ai le taimi.
- Fuaiupu 157:** - ua aiaia ai mo tulafono faafoe e uiga i le taliaina o faamatalaga molimau fou o le talosaga.
- Fuaiupu 158:** - ua aiaia ai mo le tuuina atu o tusi faapoloaiga e noatia ai mo le faasalaga e tusa lava pe afai ua maea ona tuuina atu se faasilasilaga o le talosaga.
- Fuaiupu 159:** - ua tuuina atu ai le aia tatau i le tagata talosaga ina ia faalēaogāina le talosaga, e ala i se faasilasilaga i le Resitara o le Faamasinoga Sili ma lē ua tetee.
- Fuaiupu 160:** - ua aiaia ai e faapea, e mafai e se vaega auai i se talosaga, o ia lea o lo o taofia i se tulaga puipuia, ona faia o se finauga tusitusia i le mataupu, ae le o se finauga tuufofoga. Afai o se loia o lo o fai ma sui o se vaega auai, e ao ona auai le loia mo le mataupu ma o le a lē manaomia ai le vaega auai ina ia faatasi atu i ai.
- Fuaiupu 161:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e faatonuina ai le toe faia o le faamasinoga, i le tuanai ai ona fofogaina le talosaga mai le Faamasinoga Faaitumalo.
- Fuaiupu 162:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e teuteuina ai le moliaga ua faamaonia po o le faalēaogāina o le faasalaga ma faaee atu se isi faasalaga po o le faasee atu le mataupu i le Faamasinoga Faaitumalo faatasi ai ma se faatonuga ina ia teuteuina le moliaga ua faamaonia.
- Fuaiupu 163:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e faalēaogāina ai o se talosaga mo le lē faia o ni moliaga.
- Fuaiupu 164:** - ua noatia ai le Resitara o le Faamasinoga Sili ina ia auina atu o se tusi faamaonia o faaiuga i le Resitara o le Faamasinoga Faaitumalo i luga o se faaiuga ua talosaga tetee i ai.

- Clause 165:** - provides for the procedures for enforcing the appeal decision of the Supreme Court.
- Clause 166:** - provides for procedures for arresting or releasing a person affected by the appeal decision after the appeal has been decided.
- Clause 167:** - provides for the procedures for resumption of probation following the appeal decision.
- Clause 168:** - empowers the Supreme Court to order costs for the respondent if the appeal is dismissed, etc.
- Clause 169:** - provides for the enforcement of order as to costs.
- Clause 170:** - provides that no court fees are to be payable if the appellant is sentenced to imprisonment after an appeal.

*Division 4 - Appeals from Supreme
Court to Court of Appeal*

- Clause 171:** - provides for definitions for Division 4.
- Clause 172:** - provides for right of appeal on certain matters, such as amending charges, etc.
- Clause 173:** - provides for reserving question of law to the Court of Appeal.
- Clause 174:** - empowers the Court of Appeal to grant leave if the Supreme Court refuses to reserve question of law to the Court of Appeal.
- Clause 175:** - empowers the Court of Appeal to re-state a case.
- Clause 176:** - provides for general right of appeal by a person convicted in the Supreme Court except on conviction from an appeal from the District Court.

- Fuaiupu 165:** - ua aiaia ai mo taualumaga mo le faamalosia o le faaiuga a le Faamasinoga Sili i le talosaga.
- Fuaiupu 166:** - ua aiaia ai mo taualumaga mo le pueina faapagota po o le faasaolotoina o se tagata o aafia i le faaiuga o le talosaga i le tuanai ai ona faia o le faaiuga i le talosaga.
- Fuaiupu 167:** - ua aiaia ai mo taualumaga mo le toe amatalia o tulaga o le nofo vaavaaia i le maea ai o le faaiuga i le talosaga.
- Fuaiupu 168:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e poloaia ai tupe totogi mo le itu talosaga pe afai e faalēaogāina le talosaga, ma isi tulaga faapena.
- Fuaiupu 169:** - ua aiaia ai mo le faamalosia o le poloaiga e uiga i tupe totogi.
- Fuaiupu 170:** - ua aiaia ai e faapea, e leai ni totogifuapauina o le faamasinoga e totogi atu pe afai o le tagata tetee ua faasalaina i le nofosala i le falepuipui i le tuanai ai o se talosaga.

*Vaevaega 4 - Talosaga mai le Faamasinoga Sili
i le Faamasinoga o Talosaga*

- Fuaiupu 171:** - ua aiaia ai mo faamatalaga o le Vaevaega 4.
- Fuaiupu 172:** - ua aiaia ai mo aia tatau e talosaga ai i nisi mataupu, e pei o le teuteuina o moliaga, ma isi tulaga faapena.
- Fuaiupu 173:** - ua aiaia ai mo le taofiofia o fesili faaletulafono i le Faamasinoga o talosaga.
- Fuaiupu 174:** - ua tuuina atu ai malosiaga i le Faamasinoga o Talosaga e faamatuu atu ai le faatagaga, pe afai e teena e le Faamasinoga Sili le taofiofia o fesili faaletulafono i le Faamasinoga o Talosaga.
- Fuaiupu 175:** - ua tuuina atu ai malosiaga i le Faamasinoga o Talosaga e toe faatulai mai ai se mataupu.
- Fuaiupu 176:** - ua aiaia ai mo aia tatau lautele e talosaga ai se tagata ua faamaonia faaletulafono sona moliaga i le Faamasinoga Sili, seia vagana ai i luga o se moliaga ua faamaonia mai se talosaga mai le Faamasinoga Faaitumalo.

- Clause 177:** - gives the right to the Attorney General to appeal against a sentence passed on a person.
- Clause 178:** - give the right to the Attorney General to appeal against a decision of the Supreme Court on an appeal from the District Court.
- Clause 179:** - gives the right to appeal any sentence or conviction for contempt of court.
- Clause 180:** - empowers the Court of Appeal to allow appeal on conviction on certain grounds.
- Clause 181:** - empowers the Court of Appeal to affirm sentence, etc.
- Clause 182:** - deals with re-vesting and restitution of property upon conviction.
- Clause 183:** - empowers the Court of Appeal to make other orders.
- Clause 184:** - obligates the Registrar of the Court of Appeal to ensure that all documents, etc are laid before the Court during the hearing of an appeal.
- Clause 185:** - provides that the trial Judge may be required by the Court of Appeal to send the notes of the Judge taken during the trial.
- Clause 186:** - provides for the right for representation on the hearing of the appeal.
- Clause 187:** - give the Court of Appeal the same power of the Supreme Court to prohibit publication of reports of its appeal proceedings, etc.
- Fuaiupu 177:** - ua tuuina atu ai le aia tatau i le Loia Sili e talosaga ai faasaga i se faasalaga na tuuina atu i se tagata.
- Fuaiupu 178:** - ua tuuina atu ai le aia tatau i le Loia Sili e talosaga ai faasaga i se faaiuga a le Faamasinoga Sili i luga o se talosaga mai le Faamasinoga Faaitumalo.
- Fuaiupu 179:** - ua tuuina atu ai le aia tatau e talosaga tetee ai i so o se faasalaga po o se moliaga ua faamaonia faaletulafono mo le uiga lē migao i le faamasinoga.
- Fuaiupu 180:** - ua tuuina atu ai malosiaga i le Faamasinoga o Talosaga e faatagaina ai o talosaga i luga o se moliaga ua faamaonia faaletulafono ona o nisi mafuaaga.
- Fuaiupu 181:** - ua tuuina atu ai malosiaga i le Faamasinoga o Talosaga e faamaonia ai faasalaga, ma isi tulaga faapena.
- Fuaiupu 182:** - ua tagofia ai le toe faaee atu ma le toe mauaina o meatotino pe a faamaonia faaletulafono o se moliaga.
- Fuaiupu 183:** - ua tuuina atu ai malosiaga i le Faamasinoga o Talosaga e faia ai o isi poloaiga.
- Fuaiupu 184:** - ua noatia ai le Resitara o le Faamasinoga o Talosaga ina ia faamautinoa o pepa aloaia uma ma isi tulaga faapena, ina ia faataatia i luma o le Faamasinoga a o faagasolo le fofogaina o se talosaga.
- Fuaiupu 185:** - ua aiaia ai e faapea e ono manaomia le Faamasino o faatautaia le faamasinoga e le Faamasinoga o Talosaga ina ia auina atu o faamatalaga ootoo tusitusia a le Faamasino na faia a o faagasolo le faamasinoga.
- Fuaiupu 186:** - ua aiaia ai mo le aia tatau e avea ai se tasi ma sui i taualumaga o se talosaga.
- Fuaiupu 187:** - ua tuuina atu ai i le Faamasinoga o Talosaga o lea lava malosiaga tutusa o le Faamasinoga Sili e faasaina ai lomiga faasalalau o lipoti o ana taualumaga o talosaga, ma isi tulaga faapena.

**PART 12
MISCELLANEOUS**

- Clause 188:** - empowers the Court to order defendant who is convicted to pay costs, lawyer’s fees, etc.
- Clause 189:** - provides for payment of witnesses’ expenses.
- Clause 190:** - provides for acts that are not to be done on a Sunday, subject to exceptions.
- Clause 191:** - provides that proceedings are not to be invalidated for any defect, etc.
- Clause 192:** - provides for consent of the Attorney General for proceedings for acts committed outside Samoa on any vessel or aircraft or above the airspace of Samoa.
- Clause 193:** - allows civil remedy to be pursued even if the act is also an offence.
- Clause 194:** - provides for contempt of court.
- Clause 195:** - removes the distinction between felonies and misdemeanours.
- Clause 196:** - provides that a case may be brought against other parties even if a case has not been brought against the principal offender or other parties.

**VAEGA 12
AIAIGA ESEESE**

- Fuaiupu 188:** - ua tuuina atu ai malosiaga i le Faamasinoga e poloaia ai le tagata tetee o ia lea ua faamaonia faaetulafono sona moliaga ina ia totoigiina, tau, totogifuapauina a le loia, ma isi tulaga faapena.
- Fuaiupu 189:** - ua aiaia ai mo le totoigiina o tupe faaaogā a tagata molimau.
- Fuaiupu 190:** - ua aiaia ai mo gaoioiga e lē tatau ona faia i se Aso Sa, i le noatia ma le fai fuafua i tuusaunoaga.
- Fuaiupu 191:** - ua aiaia ai e faapea ia lē faalēaogāina o taualumaga ona o so o se tulaga faaetonu, ma nisi tulaga faapena.
- Fuaiupu 192:** - ua aiaia ai mo le maliega a le Loia Sili mo taualumaga mo gaoioiga na faia faasolitulafono i fafo atu o Samoa i luga o so o se vaa po o se vaalele po o i luga a’e o le vanimonimo o Samoa.
- Fuaiupu 193:** - ua faatagaina ai tulaga faaleleia tau le va o tagata e ao ona tuliloa, e tusa lava pe afai o le gaoioiga foi o se soligatulafono.
- Fuaiupu 194:** - ua aiaia ai mo le uiga lē migao i le faamasinoga.
- Fuaiupu 195:** - ua aveesea ai le eseesea i le va o solitulafono matuia ma ni gaoioiga sese mama.
- Fuaiupu 196:** - ua aiaia ai e faapea e mafai ona faatulai mai se mataupu e faasaga i isi itu faa-faamasinoga, e tusa lava pe afai e le i faatulai mai se mataupu e faasaga i le tagata solitulafono autu po o isi itu faa-faamasinoga.

- Clause 197:** - allows a Ministry to provide any document in its possession if the document is required for any investigation or prosecution of an offence.
- Clause 198:** - empowers the Head of State to make regulations acting on the advice of Cabinet.
- Clause 199:** - empowers the Head of State to make rules acting on the advice of the Prime Minister and with the concurrence of the Rules Committee.
- Clause 200:** - provides for repeal of the current Criminal Procedure Act 1972, consequential amendment to the Young Offenders Act 2007 and for transitional and saving matters.
- Schedule:** - Sets out forms.

.....
 (Hon FIAME Naomi Mataafa)
**MINISTER FOR JUSTICE AND
 COURTS ADMINISTRATION**

- Fuaiupu 197:** - ua faatagaina ai se Matagaluega ina ia tuuina atu so o se pepa aloaia o lo o ia umia, pe afai o lo o manaomia le pepa aloaia mo so o se suesuega po o se moliaga o se soligatulafono.
- Fuaiupu 198:** - ua tuuina atu ai malosiaga i Le Ao o le Malo, e faia ai o tulafono faatonotonu, i le faia i luga o le fautuaga a le Kapeneta.
- Fuaiupu 199:** - ua tuuina atu ai malosiaga i Le Ao o le Malo e faia ai tulafono faafoe, i le faia i luga o le fautuaga a le Palemia ma i le i ai faatasi ma le maliega a le Komiti o Tulafono Faafoe.
- Fuaiupu 200:** - ua aiaia ai mo le soloia o le Tulafono o Taulumaga Tau Solitulafono 1972, teuteuga faatupulaia i le Tulafono o Tupulaga Talavou Solitulafono ma mo mataupu tau soloaiga ma mataupu faasaoina.
- Faamatalaga:** - ua faatulaga atu ai pepa faatumu.

.....
 (Hon FIAME Naomi Mataafa)
**MINISITA O FAAMASINOGA MA
 PULEGA TAU FAAMASINOGA**