

DISTRICT COURTS BILL 2015

SAMOA

Explanatory Memorandum

Introduction

The District Courts Bill 2015 (“Bill”) repeals and replaces the District Courts Act 1969. The Bill modernises the District Court Act 1969 by removing archaic provisions no longer applicable today and simplifies the language used. It also applies reformed arrangements relating to the Constitution, powers and procedures of the District Courts of Samoa and the Divisions of the Courts. These changes are designed to enhance the administration of the District Courts and procedures with regard to proceedings heard and determined in it.

TULAFONO TAU FAAOFI O FAAMASINOFA FAAITUMALO 2015

SAMOA

Faamatalaga e Faamalamalama ai

Faatomuaga

O le Tulafono Tau Faaofi o Faamasinoga Faaitumalo 2015 (“Tulafono Tau Faaofi”) e soloia ma suia ai le Tulafono o Faamasinoga Faaitumalo 1969. O le Tulafono Tau Faaofi ua faaleleia ai i tulaga faaonaponei le Tulafono o Faamasinoga Faaitumalo 1969, e ala i le aveesea o aiaiga tuai ua tausaga ma ua le o toe talafeagai le faaaogāina i nei aso ma le faafaigofieina o le gagana o faaaogāina. Ua faapea foi ona faaaogā faatulagaga o le toefuataiga e fesootai i le Faavae, malosiaga ma tualumaga o Faamasinoga Faaitumalo a Samoa ma Vaega o le Faamasinoga. O nei suiga ua fuafuaina mo le faaleleia o le puleaina o Faamasinoga Faaitumalo ma faagasologa e faatatau i tualumaga e fofogaina ma faia i ai faaiuga i totonu o faamasinoga faaitumalo.

Clauses:**PART I - PRELIMINARY**

- Clause 1:** - provides for the short title of the Bill and commencement date of the Act. The enacted Bill will commence on the assent date.
- Clause 2:** - provides for the interpretation of certain terms and phrases used in the Bill. It also provides that a non-suit determination, direction, decision, judgment or order is regarded to be given or made when it is given.
- Clause 3:** - provides that the Act binds the government.

PART II - THE DISTRICT COURTS

- Clause 4:** - provides that District Courts established under the repealed Act are continued under this new Act and that Divisions of the District Court may be created by an Act of Parliament.
- Clause 5:** - empowers the Minister to appoint places in Samoa for the District Courts to be permanently located.

*Division 1 - District Court Judges
and Fa'amasino Fesoasoani*

- Clause 6:** - provides that appointment of a District Court judge under the repealed Act continues under this new Act. It also empowers the Head of State

Fuaiupu:**VAEGA I - FAATOMUAGA**

- Fuaiupu 1:** - ua aiaia ai mo le igoa puupuu o le Tulafono Tau Faaofi ma le aso e amata faamamaluina ai le Tulafono. O le a amata faamamaluina le Tulafono Tau Faaofi ua pasia i le aso e tuuina i ai le maliega a Le Ao o le Malo.
- Fuaiupu 2:** - ua aiaia ai mo le faamatalaina o uiga o nisi fuaitau ma fuaitauga o faaaogāina i totonu o le Tulafono Tau Faaofi. Ua faapea foi ona aiaia ai e faapea o se fuafuaga o se mataupu e le o se moliaga faaletulafono, faatonuga, faaiuga, faaiuga a le faamasinoga po o se poloaiga, ua faatatauina e faapea na tuuina atu pe sa faia i le taimi lava lea na tuuina atu ai.
- Fuaiupu 3:** - ua aiaia ai e faapea o le Tulafono e noatia ai le Malo.

VAEGA II - FAAMASINOFAAITUMALO

- Fuaiupu 4:** - ua aiaia ai e faapea o Faamasinoga Faaitumalo na faavaeina i lalo o le Tulafono ua soloia, e faaauauina pea i lalo o lenei Tulafono fou ma e mafai ona faavaeina Vaega o le Faamasinoga Faaitumalo e ala i se Tulafono a le Palemene.
- Fuaiupu 5:** - ua tuuina atu ai malosiaga i le Minisita e atofaina ai nofoaga mautu i totonu o Samoa mo Faamasinoga Faaitumalo.

*Vaevaega 1 - Faamasino o Faamasinoga
Faaitumalo ma Faamasino Fesoasoani*

- Fuaiupu 6:** - ua aiaia ai e faapea o le tofiga o se faamasino o se Faamasinoga Faaitumalo i lalo o le Tulafono ua soloia, e faaauau pea i lalo o lenei Tulafono

to appoint a Judge and specifies qualification for a person eligible to be appointed as a Judge.

- Clause 7:** - empowers the Head of State to appoint a Senior District Court Judge and provides for powers of a Senior District Court Judge.
- Clause 8:** - provides that all appointments of Fa'amasino Fesoasoani under the repealed Act are continued under the new Act and empowers the Head of State to appoint a Fa'amasino Fesoasoani.
- Clause 9:** - provides for salaries and entitlements for a Judge and a Fa'amasino Fesoasoani.
- Clause 10:** - empowers the Head of State to remove a Judge or Fa'amasino Fesoasoani on the grounds of inability or misconduct and further provides for other circumstances where a Judge or a Fa'amasino Fesoasoani may vacate his or her office as a Judge or a Fa'amasino Fesoasoani.
- Clause 11:** - recognizes the appointment of a Judge as a Coroner and other statutory offices held by Judges.
- Clause 12:** - empowers the Head of State to temporarily appoint a person to be a Judge or Fa'amasino Fesoasoani until a permanent appointment is made.
- Clause 13:** - sets out the Oath to be taken by a Judge or Fa'amasino Fesoasoani when they are appointed as such.

fou. Ua faapea foi ona tuuina atu ai malosiaga i Le Ao o le Malo e tofia ai se Faamasino ma faamaoti ai agavaa mo se tagata e mafai ai ona tofia e avea o se Faamasino.

- Fuaiupu 7:** - ua tuuina atu ai malosiaga i Le Ao o le Malo e tofia ai o se Faamasino Sinia o le Faamasinoga Faaitumalo, ma aiaia ai mo malosiaga o se Faamasino Sinia o le Faamasinoga Faaitumalo.
- Fuaiupu 8:** - ua aiaia ai e faapea o tofiga uma o Faamasino Fesoasoani i lalo o le Tulafono ua soloia, e faaaauu pea i lalo o le Tulafono fou, ma tuuina atu ai malosiaga i Le Ao o le Malo e tofia ai se Faamasino Fesoasoani.
- Fuaiupu 9:** - ua aiaia ai mo totoi ma faamanuiaga e agavaa i ai se Faamasino ma se Faamasino Fesoasoani.
- Fuaiupu 10:** - ua tuuina atu ai malosiaga i Le Ao o le Malo e aveese ai se Faamasino po o se Faamasino Fesoasoani i luga o mafuaaga o le lē mafai ona faatino galuega po o le amio lē pulea, ma ua aiaia ai nisi tulaga aliae mai pe afai e tuua e se Faamasino po o se Faamasino Fesoasoani o lona tofi i le avea ai ma Faamasino po o se Faamasino Fesoasoani.
- Fuaiupu 11:** - ua aloaia ai le tofiga o se Faamasino e avea o se Tagata e Suesueina Mafuaaga Lilo o Maliu ma isi tofiga faaetulafono o umia e Faamasino.
- Fuaiupu 12:** - ua tuuina atu ai malosiaga i Le Ao o le Malo e tofia ai i se tulaga lē tumau se tagata e avea o se Faamasino po o se Faamasino Fesoasoani seia se taimi ona faia lea o se tofiga tumau.
- Fuaiupu 13:** - ua faatulagaina ai le Tautoga e ao ona faia e se Faamasino po o se Faamasino Fesoasoani pe afai e tofia i latou i ia tulaga.

Division 2 - The Registrar and Assistant Registrars

- Clause 14:** - provides for the appointment and powers of the Registrar and Assistant Registrars.
- Clause 15:** - provides for the duty of the Registrar and Assistant Registrar in relation to the keeping and maintaining of court records.

Division 3 - Bailiffs and other court officers

- Clause 16:** - provides for the appointment of a Chief Bailiff and other bailiffs and empowers a Judge or Fa'amasino Fesoasoani to appoint a police officer or any other person to act as a bailiff.
- Clause 17:** - provides for the powers and duties of bailiffs.
- Clause 18:** - requires court officers to comply with their duties, role and responsibility as officers of the court.

PART III - JURISDICTION OF THE COURTS

Division 1 - Civil Jurisdiction

- Clause 19:** - provides for the civil jurisdiction limits of actions a Judge or Fa'amasino Fesoasoani is authorised to hear and determine.
- Clause 20:** - provides that a plaintiff is entitled to abandon part of his or her claim that exceeds the District Courts jurisdiction to enable a Judge or Fa'amasino Fesoasoani to hear and determine the claim that is within their jurisdiction.

Vaevaega 2 - O le Resitara ma Resitara Lagolago

- Fuaiupu 14:** - ua aiaia ai mo le tofiga ma malosiaga o le Resitara ma Resitara Lagolago.
- Fuaiupu 15:** - ua aiaia ai mo le tiute o le Resitara ma le Resitara Lagolago e faasino i le teuina ma le tausiga o faamaumauga a le faamasinoga.

Vaevaega 3 - Tagata ao sala ma isi tagata ofisa o le faamasinoga

- Fuaiupu 16:** - ua aiaia ai mo le tofiaina o se Ofisa Sili e Aoina Sala ma isi tagata ofisa ao sala ma tuuina atu ai malosiaga i se Faamasino po o se Faamasino Fesoasoani e tofia ai se leoleo po o so o se isi lava tagata e avea ma tagata ofisa ao sala.
- Fuaiupu 17:** - ua aiaia ai mo malosiaga ma tiute tauave o tagata ao sala.
- Fuaiupu 18:** - ua manaomia ai tagata ofisa o le faamasinoga ina ia tausisia o latou tiute, galuega tauave, ma matafaioi i le avea ai o i latou ma tagata ofisa o le faamasinoga.

**VAEGA III - PULEAGA FAA-FAAMASINOGA
A LE FAAMASINO**

Vaevaega 1 - Puleaga Faa-Faamasinoga Tau le Va o Tagata

- Fuaiupu 19:** - ua aiaia ai tapulaa o puleaga faa-faamasinoga i mataupu tau le va o tagata, i tagi e faatagaina ai se Faamasino po o se Faamasino Fesoasoani na te fofogaina ma faia o faaiuga.
- Fuaiupu 20:** - ua aiaia ai e faapea e agavaa se tagata talosaga ina ia faalēaogāina se vaega o lana talosaga lea e sili atu i le puleaga faa-faamasinoga a Faamasinoga Faaitumalo ina ia mafai ai e se Faamasino po o se Faamasino Fesoasoani ona fofogaina ma faia se faaiuga o le talosaga lea e talafeagai ma le latou puleaga faa-faamasinoga.

- Clause 21:** - entitles parties to a proceeding to consent for a Judge or Fa'amasino to hear and determine proceedings that a Judge or Fa'amasino would have jurisdiction to hear and determine but for the amount of the claim.
- Clause 22:** - prohibits the division of a cause of action.
- Clause 23:** - empowers the District Courts to grant certain remedies and make certain orders.
- Clause 24:** - provides for a Judge's jurisdiction with regard to actions relating to land.
- Clause 25:** - provides for remedies a person can seek from the court with regard to actions concerning division of chattels.
- Clause 26:** - provides for the equity jurisdiction of the District Court.
- Clause 27:** - delegates powers of a Justice of the Supreme Court with regard to the granting of administration of a deceased person in the absence or inability of a Justice of the Supreme Court.
- Clause 28:** - provides for the application of this Act especially with regard to its civil jurisdiction under other laws.
- Clause 29:** - empowers a Judge or Fa'amasino Fesoasoani to deal summarily with any civil procedure.

- Fuaiupu 21:** - ua agavaa ai vaega auai i se tualumaga e tuuina atu se maliega mo se Faamasino po o se Faamasino Fesoasoani e fofogaina ma faia se faaiuga o tualumaga lea e ono i ai le puleaga faa-faamasinoga i se Faamasino po o se Faamasino Fesoasoani e fofogaina ai ma faia le faaiuga, peitai e mo le aofaiga o le tupe ua talosagaina.
- Fuaiupu 22:** - ua faasaina ai le vaevaeina o se faapogai o se tagi.
- Fuaiupu 23:** - ua tuuina atu ai malosiaga i Faamasinoga Faaitumalo e faamatuu atu ai nisi faiga e foia ai ma faia nisi poloaiga.
- Fuaiupu 24:** - ua aiaia ai mo se puleaga faa-faamasinoga a se Faamasino e faatatau i tagi e faasino i elelee.
- Fuaiupu 25:** - ua aiaia ai mo faiga e foia ai, ia e mafai ona sailia e se tagata mai le faamasinoga e faatatau i tagi e aafia ai le vaevaeina o meatotino e mafai ona feaveai.
- Fuaiupu 26:** - ua aiaia ai mo le tulaga tutusa o le puleaga faa-faamasinoga a Faamasinoga Faaitumalo.
- Fuaiupu 27:** - ua faamatuu atu ai malosiaga o se Faamasino o le Faamasinoga Sili e faatatau i le tuuina atu o le faafoega o esetete a se tagata ua maliu, i le toesea ai po o le tulaga ua lē mafaia e se Faamasino o le Faamasinoga Sili ona faatino.
- Fuaiupu 28:** - ua aiaia ai mo le faaaogāina o lenei Tulafono aemaise ai le itu e faatatau i lana puleaga i mataupu tau le va o tagata i lalo o isi tulafono.
- Fuaiupu 29:** - ua tuuina atu ai malosiaga i se Faamasino po o se Faamasino Fesoasoani e tagofia ai e aunoa ma le faatuai o so o se tualumaga o mataupu tau le va o tagata.

Division 2 - Criminal Jurisdiction

Clause 30: - provides for the Criminal jurisdiction of Judges and Fa'amasino Fesoasoani.

PART IV - TRANSFER OF PROCEEDINGS

Clause 31: - empowers a Judge to transfer civil proceedings to be heard and determined in the Supreme Court if the matter is not within the jurisdiction of the District Court or if the amount of the claim exceeds the jurisdiction of the District Court.

Clause 32: - empowers a Fa'amasino Fesoasoani to transfer civil proceedings to be heard and determined by a Judge if the matter is not within his or her jurisdiction or if the amount of the claim exceeds the jurisdiction of a Fa'amasino Fesoasoani.

Clause 33: - empowers a Judge to transfer proceedings where there is a counterclaim which exceeds the jurisdiction of the District Court to the Supreme Court or make other necessary orders in such circumstances. The Supreme Court must send to the Registrar of a District Court any order made under this section.

Vaevaega 2 - Puleaga Faa-Faamasinoga Tau Solitulafono

Fuaiupu 30: - ua aiaia ai mo le puleaga tau Solitulafono a Faamasino ma Faamasino Fesoasoani.

VAEGA IV - FAALILIUINA ATU O TAUALUMAGA

Fuaiupu 31: - ua tuuina atu ai malosiaga i se Faamasino e faaliliuina atu ai tualumaga o mataupu tau le va o tagata ina ia fofogaina ma faia ai faaiuga i le Faamasinoga Sili, pe afai o le mataupu e le o aofia ai i totonu o le puleaga faa-faamasinoga a le Faamasinoga Faaitumalo, po o pe afai o le aofaiga o le tupe talosagaina ua sili atu i le tapulaa faatulagaina o lo o i lalo o le puleaga faa-faamasinoga a le Faamasinoga Faaitumalo.

Fuaiupu 32: - ua tuuina atu ai malosiaga i se Faamasino Fesoasoani e faaliliuina atu ai tualumaga o mataupu tau le va o tagata ina ia fofogaina ma faia ai faaiuga e se Faamasino pe afai e le o aofia ai le mataupu i totonu o lana puleaga faa-faamasinoga po o pe afai e sili atu le aofaiga o tupe talosagaina i le tapulaa faatulagaina o lo o i lalo o le puleaga faa-faamasinoga a se Faamasino Fesoasoani.

Fuaiupu 33: - ua tuuina atu ai malosiaga i se Faamasino e faaliliuina atu ai tualumaga, pe afai e i ai se talosaga fetauiai e sili atu i le puleaga faa-faamasinoga a le Faamasinoga Faaitumalo, i le Faamasinoga Sili po o le faia o isi poloaiga talafeagai i ia tulaga aliae ai. E tatau i le Faamasinoga Sili ona auina atu i le Resitara o se Faamasinoga Faaitumalo so o se poloaiga ua faia i lalo o lenei fuaiupu.

Clause 34: - empowers the Supreme Court to transfer civil proceedings which concern a subject matter that is within the jurisdiction of the District Courts.

Clause 35: - provides for how costs are determined in relation to transferred cases.

PART V - CIVIL PROCEDURE

Division 1 - Parties

Clause 36: - sets out persons who have the capacity to sue and be sued in proceedings of the District Court.

Clause 37: - provides for a situation where a plaintiff has a claim against two (2) or more persons who are jointly liable.

Clause 38: - empowers the District Court to hear and determine proceedings against a defendant absent from Samoa.

Division 2 - General matters of procedure

Clause 39: - provides that a party to a civil proceeding may appear unrepresented or represented by a lawyer. It also empowers the District Court to permit a party to appear by an agent or by a person holding power of attorney.

Fuaiupu 34: - ua tuuina atu ai malosiaga i le Faamasinoga Sili e faaliliuina atu ai tualumaga i mataupu tau le va o tagata, ia e aafia ai se mataupu autu e i totonu o le puleaga faa-faamasinoga a Faamasinoga Faaitumalo.

Fuaiupu 35: - ua aiaia ai mo le faiga e fuafuaina ai tupe totogi e tusa ai ma mataupu e faaliliuina atu.

VAEGA V - TAUALUMAGA FAA-FAAMASINOGA TAU LE VA O TAGATA

Vaevaega 1 - Itu Faamasinoga

Fuaiupu 36: - ua faatulaga atu ai tagata e agavaa e molia ai ma e mafai foi ona molia i latou i tualumaga a le Faamasinoga Faaitumalo.

Fuaiupu 37: - ua aiaia ai mo se tulaga e tulai mai ai se talosaga a se itu talosaga faasaga i ni tagata se tolua (2) pe sili atu foi ua noatia faatasi.

Fuaiupu 38: - ua tuuina atu ai malosiaga i le Faamasinoga Faaitumalo e fofogaina ma faia faaiuga o tualumaga faasaga i se tagata tetee o lo o toesea mai Samoa.

Vaevaega 2 - Mataupu eseese o tualumaga

Fuaiupu 39: - ua aiaia ai e faapea e mafai e se itu faamasinoga i se tualumaga o mataupu tau le va o tagata ona tulai e aunoa ma sona sui po o se loa. Ua faapea foi ona tuuina atu ai malosiaga i le Faamasinoga Faaitumalo e faatagaina ai se itu faamasinoga e tulai e ala i se sui soupu po o e ala i se tagata o umia se malosiaga tusitusia faaletulafono e aveai ai ma sui o se tasi.

Clause 40: - provides that a person who is summoned as a witness in a Court in a civil proceeding who refuses or neglects to appear without sufficient reasons or refuses to be sworn or give evidence commits an offence. It further provides that a witness must be given sufficient money to enable the person to meet the expense of travelling to the Court.

Clause 41: - entitles any person summoned as a witness to a proceeding to have his or her expenses paid by the party for whom the evidence is given.

Clause 42: - clarifies that an affidavit or affirmation to be used in Court may be made before any person authorized by law except for the solicitor engaged in the proceedings.

Clause 43: - empowers the Court to make an order for the taking of the evidence on oath by an officer of the court or any other person and in any place if it appears necessary in the interests of justice. It also empowers the Court to make orders with regard to filing of a deposition in Court and to authorize a party to a proceeding to give such deposition in evidence in a proceeding.

Fuaiupu 40: - ua aiaia ai e faapea ua faia se soligatulafono e se tagata, o ia lea ua samania e avea o se tagata molimau i totonu o se Faamasinoga i se taulumaga tau le va o tagata, ua tetee po o ua faatalale e tulai i le Faamasinoga e aunoa ma ni mafuaaga ua lava atoatoa, po o ua tetee i le faatautoina po o le tuuina atu o faamatalaga molimau. Ua aiaia ai foi e faapea, e ao ona tuuina atu i se tagata molimau se tupe talafeagai e mafai ai e le tagata ona totogi tupe alu e malaga mai ai i le Faamasinoga.

Fuaiupu 41: - ua agavaa ai so o se tagata ua samania e avea o se molimau i se taulumaga ina ia totogiina ana tupe faaogā e le itu faamasinoga lea o lo o tuuina atu ai lana faamatalaga molimau.

Fuaiupu 42: - ua faamanino ai e faapea, e mafai ona faia se faamatalaga tauto po o se faamaoniga o le a faaogāina i totonu o se Faamasinoga, i luma o so o se tagata ua faatagaina e le tulafono, vagana ai se loia faufautua o lo o galue i taulumaga.

Fuaiupu 43: - ua tuuina atu ai malosiaga i le Faamasinoga e faia ai o se poloaiga mo le faia o faamatalaga molimau i luga o se tautoga e se tagata ofisa o le faamasinoga po o so o se isi lava tagata ma i totonu o so o se nofoaga pe afai e ono talafeagai ai i le faia ai o le amiotonu. Ua faapea foi ona tuuina atu ai malosiaga i le Faamasinoga e faia ai poloaiga e faatatau i le faatoai atu se faamatalaga tauto i totonu o se Faamasinoga ma ia faatagaina ai se itu faamasinoga i se taulumaga ina ia tuuina atu sea faamatalaga tauto e avea ma faamatalaga molimau i se taulumaga.

Clause 44: - specifies certain matters of civil procedures that Regulations made under this Act or the Rules of Court may make provision on.

Division 3 - Judgments and orders

Clause 45: - provides for the effect of judgments and orders and its exceptions.

Clause 46: - provides how judgments are enforced by the Courts and states that Regulations or Rules of Court may make provision in relation to any power or process in relation to enforcement of judgments including certain specified matters.

Clause 47: - provides for the time limit for enforcement of judgments.

Clause 48: - provides for procedures in relation to the enforcement of any order for payment by instalments.

Clause 49: - provides for procedures on enforcement of cross-judgments.

Clause 50: - empowers a Judge or Fa'amasino Fesoasoani to vary a judgment or order or suspend or stay proceedings where it appears that a party is unable to pay a sum recoverable against him or her.

Fuaiupu 44: - ua faamaotiina ai nisi mataupu o tualumaga o mataupu tau le va o tagata ia sa faia e Tulafono Faatonotonu i lalo o lenei Tulafono, po o e mafai e Tulafono Faafoe o le Faamasinoga ona faia i luga o ia mataupu.

Vaevaega 3 - Faaiuga ma poloaiga

Fuaiupu 45: - ua aiaia ai mo le faamamaluina o faaiuga ma poloaiga ma ona tuusaunoaga.

Fuaiupu 46: - ua aiaia ai le faiga e faamalosi ai faaiuga e Faamasinoga ma o lo o taua ai e faapea e mafai e Tulafono Faatonotonu po o Tulafono Faafoe o le Faamasinoga ona faia aiaiga e faasino i so o se malosiaga po o se faagasologa e faasino i le faamalosi o faaiuga e aofia ai nisi mataupu ua faamaotiina.

Fuaiupu 47: - ua aiaia ai mo le taimi faatapulaaina mo le faamalosi o faaiuga.

Fuaiupu 48: - ua aiaia ai mo tualumaga e faasino i le faamalosi o so o se poloaiga mo tupe totogi e ala i le totogi auuauai.

Fuaiupu 49: - ua aiaia ai faagasologa o le faamalosi o faaiuga fetauiai.

Fuaiupu 50: - ua tuuina atu ai malosiaga i se Faamasino po o se Faamasino Fesoasoani e suia ai se faaiuga po o se poloaiga po o le taofia lē tumau po o le tolopoina o tualumaga pe afai e foliga mai ua lē mafai e se itu faamasinoga ona totogi se aofaiga o tupe e mafai ona toe maua mai e faasaga ia te ia.

Division 4 - Appeals

- Clause 51:** - gives a party the right to appeal to the Supreme Court against any non-suit or final determination or direction of the District Court.
- Clause 52:** - provides that a notice of appeal must be lodged with the Registrar of the Supreme Court for any appeal to the Supreme Court and empowers the Supreme Court to direct the notice of appeal to be served on all parties to the proceedings or any other person who is not a party to the proceedings.
- Clause 53:** - provides the time limit for an appeal to commence.
- Clause 54:** - provides for payment of security for an appeal, amount to be set under the Rules of Court and exempts an appellant on legal aid or any other ground from the payment of the security.
- Clause 55:** - provides for procedures in relation to cross-appeals.
- Clause 56:** - provides for procedures where appeal may be dismissed.
- Clause 57:** - provides for procedures on hearing of an appeal and empowers the Supreme Court to rehear the whole or part of the evidence and to receive further evidence upon questions of fact.

Vaevaega 4 - Talosaga Tetee

- Fuaiupu 51:** - ua tuuina atu ai i se itu faamasinoga le aia tataua e talosaga tetee ai i le Faamasinoga Sili faasaga i so o se mataupu e le o se tagi po o se faaiuga mulimuli po o se faatonuga a le Faamasinoga Faaitumalo.
- Fuaiupu 52:** - ua aiaia ai e faapea e ao ona faatoai atu se faasilasilaga o se talosaga tetee i le Resitara o le Faamasinoga Sili mo so o se talosaga tetee i le Faamasinoga Sili ma tuuina atu ai malosiaga i le Faamasinoga Sili e faatonuina ai le faaoo atu o le faasilasilaga o le talosaga tetee i itu faamasinoga uma i taualumaga po o so o se isi lava tagata, o ia lea e le o se itu faamasinoga i taualumaga.
- Fuaiupu 53:** - ua aiaia ai le taimi faatapulaaina mo le amatalia o se talosaga tetee.
- Fuaiupu 54:** - ua aiaia ai mo le totogiina o se faamalumaluga mo se talosaga tetee, se aofaiga e faatulagaina i lalo o Tulafono Faafae o le Faamasinoga, ma tuusaunoa ai se tagata talosaga tetee i fesoasoani faaletulafono po o so o se isi lava mafuaaga, mai le totogiina o le faamalumaluga.
- Fuaiupu 55:** - ua aiaia ai mo faagasologa e faasino i talosaga tetee fetalai.
- Fuaiupu 56:** - ua aiaia ai mo taualumaga pe afai e ono mafai ona faalēaogāina se talosaga tetee.
- Fuaiupu 57:** - ua aiaia ai mo taualumaga i le fofogaina o se talosaga tetee ma tuuina atu ai malosiaga i le Faamasinoga Sili e toe fofogaina ai faamatalaga molimau atoa po o sona vaega, ma ia taliaina nisi faamatalaga molimau i luga o mataupu o mea moni.

- Clause 58:** - empowers the Supreme Court to make certain orders in relation to the appeal.
- Clause 59:** - provides that Registrar of the District Court is to be advised by the Registrar of the Supreme Court of the determination of the appeal and return all affidavits and exhibits provided for the purposes of the appeal.
- Clause 60:** - provides that a notice of appeal does not operate as a stay of proceedings under judgment unless the specified circumstances apply.

PART VI - EXERCISE OF THE JUDICIAL POWERS

- Clause 61:** - empowers a Judge or Fa'amasino Fesoasoani to determine any questions of fact or law in any proceedings in the District Court and that he or she are the sole arbiters in the proceedings.
- Clause 62:** - empowers a Judge to elect or preside over a proceeding with a Fa'amasino Fesoasoani and authorises a Fa'amasino Fesoasoani to advise on any matter involving Samoan custom.
- Clause 63:** - provides for the duty of a Judge or Fa'amasino Fesoasoani to take notes in any proceedings which there is a right of appeal without leave.

- Fuaiupu 58:** - ua tuuina atu ai malosiaga i le Faamasinoga Sili e faia ai nisi poloaiga e faasino i le talosaga tetee.
- Fuaiupu 59:** - ua aiaia ai e faapea ia fautuaina le Resitara o le Faamasinoga Faaitumalo e le Resitara o le Faamasinoga Sili, e uiga i le faaiuga o le talosaga tetee ma faafoi atu faamatalaga tauto uma ma pepa o faaaliga na tuuina mai mo faamoemoega o le talosaga tetee.
- Fuaiupu 60:** - ua aiaia ai e faapea e lē faagaoioia se faasilasilaga o se talosaga tetee e aveva ma mafuaaga e tolopo ai tualumaga i lalo o se faaiuga ae vagana ai ua faaaogā tulaga aliaie mai ua faamaotiina.

VAEGA VI - FAATINOGA O MALOSIAGA FAA-FAAMASINOGA

- Fuaiupu 61:** - ua tuuina atu ai malosiaga i se Faamasino po o se Faamasino Fesoasoani ina ia fuafuaina so o se mataupu e fesiligia ai le mea moni po o le tulafono i totonu o so o se tualumaga i le Faamasinoga Faaitumalo ma ua na o ia lava le tagata e mafai ona tu i le va o itu faamasinoga o tualumaga.
- Fuaiupu 62:** - ua tuuina atu ai malosiaga i se Faamasino e filifili ai pe nofoia le nofoa mo se tualumaga ma se Faamasino Fesoasoani ma faatagaina ai se Faamasino Fesoasoani e tuuina atu fautuaga i so o se mataupu e aafia ai aganuu faa-Samoa.
- Fuaiupu 63:** - ua aiaia ai mo tiute o se Faamasino po o se Faamasino Fesoasoani ina ia faia ni oototoga o so o se tualumaga lea e i ai se aia tatau e talosaga tetee ai e aunoa ma se faatagaga.

- Clause 64:** - prohibits a person to take action against a Judge or Fa'amasino Fesoasoani in relation to a judicial act, unless a Judge or Fa'amasino Fesoasoani has exceeded his or her jurisdiction.
- Clause 65:** - indemnifies a Judge or Fa'amasino Fesoasoani from payment of damages or costs to any person injured as a result of any act done in excess of jurisdiction.
- Clause 66:** - provides that no court document, process or proceedings in a Court is to be quashed, set aside or held invalid by the Court on certain grounds unless Court is satisfied that there has been a miscarriage of justice.

PART VII - OFFICERS OF THE COURT

- Clause 67:** - provides that a person who willfully resists and obstructs a court officer commits an offence.
- Clause 68:** - empowers a Judge to conduct an inquiry into a misconduct of an officer of the Court and to impose a fine upon the officer.
- Clause 69:** - prohibits officers of the Court to act as solicitors unless provided in this Act or any other law and a person who contravenes this section commits an offence.

- Fuaiupu 64:** - ua faasaina ai se tagata ona faia se tagi e faasaga i se Faamasino po o se Faamasino Fesoasoani e uiga i se gaoioiga faa-faamasinoga, seia vagana ua sili atu le puleaga faa-faamasinoga a se Faamasino po o se Faamasino Fesoasoani.
- Fuaiupu 65:** - ua tuuina atu ai le faamalumaluga i se Faamasino po o se Faamasino Fesoasoani mai le tofogiina o tau'i po o tupe tofogi atu i so o se tagata ua afaina ona o se taunuuga o so o se gaoioiga ua faia ua sili atu i le puleaga faa-faamasinoga.
- Fuaiupu 66:** - ua aiaia ai e faapea e le o ni pepa aloaia a le faamasinoga, faagasologa po o se taualumaga i totonu o se Faamasinoga o le a faalēaogāina, faataatiaese po o le taofia i se tulaga lē aloaia e le Faamasinoga i luga o nisi mafuaaga, vagana ua faamalieina le Faamasinoga e faapea, e le i faia se faaiuga amiotonu.

VAEGA VII - TAGATA OFISA O LE FAAMASINO

- Fuaiupu 67:** - ua aiaia ai e faapea o se tagata o ia lea ua tetee ma le loto i ai ma faalavelaveina se tagata ofisa o le faamasinoga ua faia se soligatulafono.
- Fuaiupu 68:** - ua tuuina atu ai malosiaga i se Faamasino e faatautaia ai se suesuega i se amioga lē pulea a se tagata ofisa o le Faamasinoga ma ia faaee atu se sala tupe i le tagata ofisa.
- Fuaiupu 69:** - ua faasaina ai tagata ofisa o le Faamasinoga e galulue e ave'a ma loa faufautua, seia vagana ai ua aiaia i lenei Tulafono po o so o se isi lava tulafono ma o se tagata na te solia lenei fuaiupu ua na faia o se soligatulafono.

- Clause 70:** - provides that a party to a proceeding may complain to a Judge for a negligent act of a bailiff that may have affected the party and a Judge is authorised to order the bailiff to pay damages.
- Clause 71:** - provides that no officer of the Court is to be regarded as a trespasser in the execution of such a warrant despite the specified irregularity or informality of proceeding on which the warrant depends on, form of the warrant or how it was executed.
- Clause 72:** - prohibits any action to be made against a bailiff acting pursuant to a warrant issued under this Act unless the specified circumstances occur.
- Clause 73:** - provides that production of warrant is sufficient proof of Court's authority.

PART VIII - ADMINISTRATION OF THE COURTS

Division 1 - Sittings

- Clause 74:** - provides for the sittings of the Court and authorizes a Judge or Fa'amasino Fesoasoani to determine where a sitting is to be held.
- Clause 75:** - authorises a Judge or Fa'amasino Fesoasoani to appoint days for sittings of the Court.

- Fuaiupu 70:** - ua aiaia ai e faapea e mafai e se itu faamasinoga i se taulumaga ona faasea i se Faamasino mo se gaoioiga faatamala a se ao sala lea e ona mafai ona aafia ai le itu tagi ma ua faatagaina ai se Faamasino ina ia poloaina le ao sala e totogi tau i o mea ua faaleagaina.
- Fuaiupu 71:** - ua aiaia ai e faapea, e lē faatatauina e faapea ua solia i se tagata ofisa o le Faamasinoga le Faamasinoga i le faatinoga o sea tusi faapoloaiga, e ui lava i se tulaga faaetonu ua faamaotiina po o se itu e lē aloaia o taulumaga lea e faalagolago i ai le tusi faapoloaiga, le ituaiga o tusi faapoloaiga po o pe na faapefea ona faataunuina.
- Fuaiupu 72:** - ua faasaina ai o so o se tagi e faia faasaga i se ao sala o lo o galue e tusa ai o se tusi faapoloaiga ua tuuina atu i lalo o lenei Tulafono seia vagana ai tulaga aliae mai ua faamaotiina.
- Fuaiupu 73:** - ua aiaia ai e faapea, o le tuuina atu o se tusi faapoloaiga, o se faamaoniga lea ua lava atoatoa le pule faataga a le Faamasinoga.

VAEGA VIII - FAAFOEGA O FAAMASINO

Vaevaega 1 - Taulumaga

- Fuaiupu 74:** - ua aiaia ai mo aso faatulagaina o taulumaga a le Faamasinoga ma faatagaina ai se Faamasino po o se Faamasino Fesoasoani e fuafua le nofoaga o le a faatautaia ai taulumaga a le Faamasinoga.
- Fuaiupu 75:** - ua faatagaina ai o se Faamasino po o se Faamasino Fesoasoani e atofaina aso mo taulumaga a le Faamasinoga.

Clause 76: - authorises a Judge or Fa'amasino Fesoasoani to adjourn a proceeding or sitting.

Division 2 - Financial Provisions

Clause 77: - provides for the payment and recovery of fees in civil proceedings.

Clause 78: - provides that all fees in relation to civil proceedings in the District Court are to be paid to the Registrar at first instance and fees are then paid by the Registrar or any other authorised officer of the Court into the Public Account.

Clause 79: - provides that section 78 applies to fees in criminal proceedings and section 78(2) applies to any police officer or representative of Government in criminal proceedings.

Clause 80: - provides for money payable in criminal proceedings to be paid in first instance to the Registrar.

PART IX - MISCELLANEOUS

Clause 81: - provides that all summonses and other documents to be sealed with the Seal of the Court.

Clause 82: - clarifies the means of proof of service of documents.

Clause 83: - provides for the appropriate language to be used for court documents.

Fuaiupu 76: - ua faatagaina ai se Faamasino po o se Faamasino Fesoasoani e tolopo ai tualumaga po o galuega a le faamasinoga.

Vaevaega 2 - O Aiaiga Tau Tupe

Fuaiupu 77: - ua aiaia ai mo le totoigiina ma le toe faaola mai o totogifuapauina i tualumaga o mataupu tau le va o tagata.

Fuaiupu 78: - ua aiaia ai e faapea, o totogifuapauina uma e faasino i tualumaga o mataupu tau le va o tagata i totonu o le Faamasinoga Faaitumalo e ao ona totoigi atu i le Resitara i se taimi vave lava, ma totoigi atu ia totogifuapauina e le Resitara po o so o se isi lava tagata ofisa faatagaina o le Faamasinoga i totonu o le Teugatupe a le Malo.

Fuaiupu 79: - ua aiaia ai e faapea o le fuaiupu 78 e faaaogā i totogifuapauina i tualumaga tau solitulafono ma o le fuaiupu 78(2) e faaaogā i so o se leoleo po o se sui o le Malo i totonu o tualumaga tau solitulafono.

Fuaiupu 80: - ua aiaia ai mo tupe e mafai ona totoigi atu i tualumaga tau solitulafono ina ia totoigi i se taimi vave lava i le Resitara.

VAEGA IX - AIAIGA ESEESE

Fuaiupu 81: - ua aiaia ai e faapea o tusi samania uma ma isi pepa aloaia e ao ona faamauina i le Faamaufaaailoga a le Faamasinoga.

Fuaiupu 82: - ua faamanino ai auala o le faamaoniga o le faaooina atu o pepa aloaia.

Fuaiupu 83: - ua aiaia ai mo le gagana talafeagai e ao ona faaaogā mo pepa aloaia a le faamasinoga.

- Clause 84:** - authorises the Court to give judgment in an action founded on an instrument declared on the affidavit or the plaintiff to be lost.
- Clause 85:** - specifies that no privilege extends to any lawyer to exempt him or her from the jurisdiction of the Court.
- Clause 86:** - provides for the duty of all police officers to offer aid and assistance to the District Court.
- Clause 87:** - empowers the Head of State to make, alter or revoke District Court Rules on the advice of the Rules Committee. These Rules is with regard to regulating the practice and procedure of the District Court.
- Clause 88:** - empowers the Head of State to make regulations.
- Clause 89:** - provides for the transitional provisions for matters made under the repealed Act to apply in this new Act and save matters and appointments made under the repealed Act.
- Clause 90:** - provides for the application of this Act in relation to other laws.

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

- Fuaiupu 84:** - ua faatagaina ai le Faamasinoga e faia le faaiuga i se tagi e faavae ua i luga o se pepa aloaia faaletulafono ua faaalua manino mai i luga o se faamatalaga tauto po o e lē ua tagi, e faapea ua leiloa.
- Fuaiupu 85:** - ua faamaoti ai e faapea, e leai ni tulaga taualoga e tuusaunua ai se loia e tuusaunua ai o ia mai le puleaga faa-faamasinoga a le Faamasinoga.
- Fuaiupu 86:** - ua aiaia ai mo le tiute o leoleo uma e ofoina galuega lagolago ma fesoasoani i le Faamasinoga Faaitumalo.
- Fuaiupu 87:** - ua tuuina atu ai malosiaga i Le Ao o le Malo e faia ai, suia pe faalēaogā Tulafono Faafoe o le Faamasinoga Faaitumalo i luga o le fautuaga a le Komiti o Tulafono Faafoe. O nei Tulafono Faafoe e faatatau i le faatonutonuina faaletulafono o faiga masani ma taualumaga a le Faamasinoga Faaitumalo.
- Fuaiupu 88:** - ua tuuina atu ai malosiaga i Le Ao o le Malo e faia ai tulafono faatonutonu.
- Fuaiupu 89:** - ua aiaia ai mo aiaiga tau soloaiga mo mataupu na faia i lalo o le Tulafono ua soloia ina ia faaaogā i lenei Tulafono fou ma faasoina ai mataupu ma tofiga na faia i lalo o le Tulafono ua soloia.
- Fuaiupu 90:** - ua aiaia ai mo le faaaogāina o lenei Tulafono e faasino i isi tulafono.

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

