

DISTRICT COURTS BILL 2015

SAMOA

Arrangement of Provisions

PART I PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Act binds the Government

PART II THE DISTRICT COURTS

4. District Courts continued
5. Places for sittings of the Court

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

6. Appointment and qualifications of Judges
7. Senior District Court Judge
8. Appointment of Fa'amasino Fesoasoani
9. Salaries and entitlements
10. Tenure and removal from office
11. Other statutory offices held by Judges
12. Acting Judges and Fa'amasino Fesoasoani
13. Oath of Office

Division 2 - The Registrar and Assistant Registrars

14. The Registrar and Assistant Registrars
15. Duties in relation to court records

TULAFONO TAU FAAOFI O FAAMASINOGA FAAITUMALO 2015

SAMOA

Faatulagaina o Aiaiga

VAEGA I FAATOMUAGA

1. Igoa puupuu ma le amataga
2. Faamatalaina o uiga o upu
3. Tulafono e noatia ai le Malo

VAEGA II FAAMASINOGA FAAITUMALO

4. E faaauau pea Faamasinoga Faaitumalo
5. Noataga mo tualumaga a le Faamasinoga

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

6. Tofiga ma agavaa o Faamasino
7. Faamasino Sinia o le Faamasinoga Faaitumalo
8. Tofia o Faamasino Fesoasoani
9. Totogi ma faamanuiaga
10. O le nofoia ma le aveesea mai le tofi
11. O isi tofi faaletulafono e umia e Faamasino
12. Sui Faamasino ma Faamasino Fesoasoani
13. Tautoga o le Tofi

Vaevaega 2 - O le Resitara ma Resitara Lagolago

14. O le Resitara ma Resitara Lagolago
15. Tiute tauave e faasino i faamaumauga a le faamasinoga

Division 3 - Bailiffs and other court officers

16. Appointment of bailiffs
17. Powers and duties of bailiffs
18. Duties of all court officers

**PART III
JURISDICTION OF THE COURTS**

Division 1 - Civil Jurisdiction

19. Civil jurisdiction limits
20. Abandonment of part of claim to give Court jurisdiction
21. Agreement of the parties for an action to proceed
22. Division of cause of action not allowed
23. Ancillary civil jurisdiction
24. Jurisdiction in actions relating to land
25. Jurisdiction to divide chattels
26. Equity jurisdiction
27. Administration in simple form
28. Exercise of civil jurisdiction under other laws
29. Summary relief in civil matters

Division 2 - Criminal Jurisdiction

30. Criminal jurisdiction of Judges and Fa'amasino Fesoasoani

**PART IV
TRANSFER OF PROCEEDINGS**

31. Transfer of civil proceedings when limit is exceeded
32. Transfer of proceedings by Fa'amasino Fesoasoani
33. Transfer of proceedings where there is a counterclaim
34. Transfer of proceedings from Supreme Court to District Court
35. Costs in transferred cases

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

16. Tofia o tagata ao sala
17. Malosiaga ma tiute tauave o tagata ao sala
18. Tiute tauave o tagata ofisa uma o le faamasinoga

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

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

19. Tapulaa o Puleaga faa-faamasinoga tau le va o tagata
20. Tuueseina o se vaega o le tagi ina ia tuuina atu ai i le Faamasinoga le puleaga faa-faamasinoga
21. Maliega a itu faamasinoga e faagasolo se tagi
22. E lē faatagaina le vaevaeina o mafuaaga o se tagi
23. Puleaga faaopoopo faa-faamasinoga tau le va o tagata
24. Puleaga faa-faamasinoga e faia ai tagi e faasino i fanua
25. Puleaga faa-faamasinoga e vaevaeina ai meatotino e mafai ona feaveai
26. Puleaga faa-faamasinoga e sa'o ma tonu
27. Pulega i le faiga faigofie
28. Faataunuaina o puleaga faa-faamasinoga tau le va o tagata i lalo o isi tulafono
29. Faamama avega e faia e aunoa ma le faatuai i mataupu tau le va o tagata

Vaevaega 2 - Puleaga Faa-Faamasinoga Tau Solitulafono

30. Puleaga faa-faamasinoga tau solitulafono a Faamasino ma Faamasino Fesoasoani

**VAEGA IV
FAALILIUINA ATU O TAUALUMAGA**

31. Faaliliuina atu o tualumaga tau le va o tagata pe afai ua maualuga atu i le tapulaa
32. Faaliliuina atu o tualumaga e Faamasino Fesoasoani
33. Faaliliuina atu o tualumaga pe afai o lo o i ai se talosaga tetee e tali atu ai
34. Faaliliuina atu o tualumaga faa-faamasinoga mai le Faamasinoga Sili i le Faamasinoga Faaitumalo
35. Totogi o le faamasinoga i mataupu ua faaliliu atu

**PART V
CIVIL PROCEDURE**

Division 1 - Parties

- 36. Capacity of parties to sue and be sued in the District Court
- 37. Persons jointly liable
- 38. Proceedings against absent defendant

Division 2 - General matters of procedure

- 39. Right of appearance
- 40. Compelling witnesses
- 41. Witness expenses
- 42. Evidence by affidavit or affirmation
- 43. Evidence of witness out of Court
- 44. Other matters of civil procedure

Division 3 - Judgments and orders

- 45. Effect of judgments and orders
- 46. Enforcement of judgments
- 47. Time limit for enforcement of judgments
- 48. Enforcement of order for payment by instalments
- 49. Proceedings on cross-judgments
- 50. Power to stay proceedings for enforcement

Division 4 - Appeals

- 51. Right to appeal
- 52. Notice of appeal
- 53. Time for appeal
- 54. Security for appeals
- 55. Cross-appeals
- 56. Procedure where appeal not prosecuted
- 57. Procedure on hearing of appeal
- 58. Further powers of Supreme Court on hearing of appeal
- 59. Court appealed from to be advised of determination

**VAEGA V
TAUALUMAGA FAA-FAAMASINOVA TAU LE VA O TAGATA**

Vaevaega 1 - Itu Faamasinoga

- 36. Tulaga agavaa o itu faamasinoga latou te molia ai ma molia ai foi i latou i totonu o le Faamasinoga Faaitumalo
- 37. O tagata ua noatia soofaatasi
- 38. Taulumaga e faia faasaga i le toesea ai o lē ua tetee

Vaevaega 2 - Mataupu Eseese o Taulumaga

- 39. Aia tatau e tulai ai i luma o le faamasinoga
- 40. Faamalosia tagata molimau
- 41. Tupe alu e totogi ai tagata molimau
- 42. O faamatalaga molimau e ala i faamatalaga tauto po o faamaoniga aloaia
- 43. Faamatalaga molimau a tagata molimau i fafo atu o le Faamasinoga
- 44. O isi mataupu o taulumaga tau le va o tagata

Vaevaega 3 - Faaiuga ma poloaiga

- 45. Aloaia o faaiuga ma poloaiga
- 46. Faamalosia o faaiuga
- 47. Taimi faatapulaaina mo le faamalosia o faaiuga
- 48. Faamalosia o poloaiga mo le totogiina o tupe e ala i le totogi auauai
- 49. Taulumaga i luga o faaiuga fetauiai
- 50. Malosiaga e taofia ai taulumaga mo le faamalosia

Vaevaega 4 - Talosaga Tetee

- 51. Aia tatau e talosaga tetee ai
- 52. Faasilasilaga o talosaga tetee
- 53. Taimi mo talosaga tetee
- 54. Faamalugaluga mo talosaga tetee
- 55. Talosaga tetee e tali ai
- 56. Taulumaga pe afai e le i suesueina se talosaga tetee
- 57. Taulumaga i le fofogaina o le talosaga tetee
- 58. O isi malosiaga o le Faamasinoga Sili i le fofogaina o talosaga tetee
- 59. E ao ona fautuaina le Faamasinoga na talosaga tetee mai ai, e uiga i le faaiuga

60. Stay of proceedings on appeal

**PART VI
EXERCISE OF THE JUDICIAL POWERS**

- 61. Trials by Judges or Fa'amasino Fesoasoani
- 62. Fa'amasino Fesoasoani may sit with a Judge
- 63. Judge and Fa'amasino Fesoasoani to take notes
- 64. No action lies unless act is in excess of or without jurisdiction

- 65. Indemnity to Judges and Fa'amasino Fesoasoani
- 66. Proceedings not to be questioned for want of form

**PART VII
OFFICERS OF THE COURT**

- 67. Resisting or obstructing a court officer
- 68. Misconduct of officers
- 69. Officers of Court not to act as solicitors
- 70. Neglect by bailiffs
- 71. Irregularity in executing warrants
- 72. Actions against bailiffs acting under warrants
- 73. Production of warrant sufficient proof of Court's authority

**PART VIII
ADMINISTRATION OF THE COURTS**

Division 1 - Sittings

- 74. Place of sittings
- 75. Times of sittings
- 76. Adjourned sittings

Division 2 - Financial Provisions

- 77. Payment and recovery of fees in civil proceedings

60. Taofia o taualumaga i luga o talosaga teteo

**VAEGA VI
FAATINOGA O MALOSIAGA FAA-FAAMASINOGA**

- 61. Faamasinoga e faia e Faamasino po o Faamasino Fesoasoani
- 62. E mafai ona seei faatasi le Faamasino Fesoasoani ma se Faamasino
- 63. Ia faia tusitusiga ootoo e Faamasino ma Faamasino Fesoasoani
- 64. E leai se tagi e faia seia vagana ai se gaoioiga ua sili atu i lo, po o, e aunoa ma se puleaga faa-faamasinoga
- 65. Faamalumaluga i Faamasino ma Faamasino Fesoasoani
- 66. E lē fesiligia Taulumaga mo faatulagaga manaomia

**VAEGA VII
TAGATA OFISA O LE FAAMASINOGA**

- 67. Teteo po o le faalavelaveina o se tagata ofisa o le faamasinoga
- 68. Amio lē pulea a tagata ofisa
- 69. E lē galulue tagata ofisa o le Faamasinoga e aveia ma loa faufautua
- 70. Faatamala o tagata ao sala
- 71. Tulaga faaletonu i le faatinoga o tusi faapoloaiga
- 72. Tagi e faia faasaga i tagata ao sala o lo o galulue i lalo o tusi faapoloaiga
- 73. O le tuuina atu o tusi faapoloaiga o faamaoniga atoatoa ia o le pule faataga a le Faamasinoga

**VAEGA VIII
FAAFOEGA O FAAMASINOGA**

Vaevaega 1 - Taulumaga

- 74. Nofoaga o taualumaga
- 75. Taimi o taualumaga
- 76. Taulumaga e tolopoina

Vaevaega 2 - O Aiaiga Tau Tupe

- 77. Tupe totogi ma le toe faaolaina mai o totogifuapauina i taualumaga tau le va o tagata

78. Fees to be paid to Public Account
 79. Payment and recovery of fees in criminal proceedings
 80. Money to be payable in first instance to Registrar

**PART IX
 MISCELLANEOUS**

81. Summonses and other documents to be under Seal
 82. Proof of service of documents
 83. Language of court documents
 84. Actions on lost instruments
 85. No privilege to barristers or solicitors
 86. Police officers must assist Court
 87. District Court Rules
 88. Regulations
 89. Transitional and savings provisions
 90. Application of this Act in relation to other laws

2015, No.

A BILL INTITULED

AN ACT to repeal the District Courts Act 1969 and to apply reformed arrangements relating to the constitution, powers and procedures of the District Courts of Samoa and the Divisions of the Court, and for related purposes.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART I
 PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the District Courts Act 2015.

78. E totogi totogifuapauina i Teugatupe a le Malo
 79. Tupe totogi ma le toe maua mai o totogifuapauina i tualumaga faasolitulafono
 80. E totogi muamua tupe i le Resitara

**VAEGA IX
 AIAIGA ESEESE**

81. O tusi samania ma isi pepa aloaia e i lalo o le Faamaufaaailoga
 82. Faamaoniga o le faaooina atu o pepa aloaia
 83. Gagana o lo o faaaogāina i totonu o pepa aloaia a le faamasinoga
 84. Tagi ua faia i pepa faamaonia faaletulafono ua leiloloa
 85. E leai ni tulaga aloaia mo loaia o le faamasinoga po o loaia faufautua
 86. E ao ona fesoasoani leoleo i le Faamasinoga
 87. Tulafono Faafoe o le Faamasinoga Faaitumalo
 88. Tulafono Faatonutonu
 89. Aiaiga tau soloaiga ma aiaiga faasaoina
 90. Faaaogāina o lenei Tulafono i isi tulafono

2015, Nu.

O SE TULAFONO TAU FAAOFI UA TAUA

O SE TULAFONO e soloia ai le Tulafono o le Faamasinoga Faaitumalo 1969 ma ia faaaogā faatulagaga o le toefuataiga e faasino i le faavaeina, malosiaga ma tualumaga a le Faamasinoga Faaitumalo a Samoa ma Vaega o le Faamasinoga, ma mo faamoemoega e fesootai i ai.

UA FAIA e le Fono Aoao Faitulafono a Samoa i totonu o le Palemene ua potopoto e faapea:

**VAEGA I
 FAATOMUAGA**

1. Igoa puupuu ma le amataga-(1) E mafai ona taua lenei Tulafono o le Tulafono o Faamasinoga Faaitumalo 2015.

(2) This Act commences on the date of its assent by the Head of State.

2. Interpretation-(1) In this Act, unless the context otherwise requires:

“bailiff” means a bailiff or deputy bailiff and any person acting as bailiff holding that office under this Act, and includes any person acting in that position;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry, and includes any person acting in that position;

“child” means any person below the age of 18 years;

“Court” or “District Court” means a District Court of Samoa constituted under this Act;

“defendant” means:

(a) in civil proceedings - any person against whom proceedings have been commenced or an application for relief has been made, and includes any party served with notice of or entitled to attend the proceedings otherwise than as plaintiff; or

(b) in any other proceedings - any person charged with an offence or for any other order which the Court has jurisdiction to make.

“Fa’amasino Fesoasoani” means a Fa’amasino Fesoasoani holding office under this Act;

“Judge” means a District Court Judge holding office under this Act, and includes the Senior District Court Judge appointed under section 7;

“Judicial Service Commission” means the Judicial Service Commission constituted by Article 72 of the Constitution;

(2) O lenei Tulafono e amata faamamaluina i le aso e tuuina i ai le maliega a Le Ao o le Malo.

2. Faamatalaina o uiga o upu-(1) I totonu o lenei Tulafono, ae vagana ai ua manaomia e le mataupu se isi uiga e ese ai:

“tagata ao sala” o lona uiga o se tagata ao sala po o se sui o le tagata ao sala ma so o se tagata o galue e avea ma tagata ao sala o umia lea tofiga i lalo o lenei Tulafono, ma e aofia ai so o se tagata o galue i lea tulaga tofi;

“Ofisa Sili o Pulega” o lona uiga o le Ofisa Sili o Pulega o le Matagaluega, ma e aofia ai so o se tagata o galue i lea tulaga tofi;

“tamaitiiti” o lona uiga o so o se tagata e i lalo ifo o le 18 tausaga le matua;

“Faamasinoga” po o “Faamasinoga Faaitumalo” o lona uiga o se Faamasinoga Faaitumalo a Samoa ua faavaeina i lalo o lenei Tulafono;

“lē ua tetee” o lona uiga:

(a) i tualumaga faa-faamasinoga tau le va o tagata - o so o se tagata ua faia faasaga i ai se tagi ua amatalia po o se talosaga mo faamama avega na faia ma e aofia ai so o se itu faamasinoga ua faaoo atu i ai se faaaliga e uiga i, po o e agavaa ona auai i tualumaga faa-faamasinoga e ese ai na i lo se tasi ua avea ma le ua tagi; po o

(b) i so o se tasi lava tualumaga faa-faamasinoga - o so o se tagata ua molia i se soligatulafono po o mo so o se isi lava poloaiga ua i ai i le Faamasinoga le puleaga faa-faamasinoga e faia ai.

“Faamasino Fesoasoani” o lona uiga o se Faamasino Fesoasoani o lo o umia le tofi i lalo o lenei Tulafono;

“Faamasino” o lona uiga o se Faamasino o le Faamasinoga Faaitumalo o lo o umia le tofi i lalo o lenei Tulafono, ma e aofia ai le Faamasino Sinia o le Faamasinoga Faaitumalo na tofia i lalo o le fuaiupu 7;

“Komisi o Galuega Tau Faamasinoga” o lona uiga o le Komisi o Galuega Tau Faamasinoga ua faavaeina i le Mataupu 72 o le Faavae;

“matter”, in any civil proceedings, means any proceeding in a Court which may be commenced as prescribed otherwise than by statement of claim;

“Minister” means the Minister responsible for Justice and Courts Administration;

“Ministry” means the Ministry responsible for Justice and Courts Administration;

“officer”, in relation to a Court, includes all of the following:

- (a) a Registrar or Assistant Registrar of the Court;
- (b)
- (c) any other administrative officer in the service of the court (including clerks, bailiffs and interpreters);
- (d)
- (c) any police officer acting in support of a Court in accordance with this Act.

“party”, in any civil proceedings, includes every person served with notice of, or attending, any proceeding other than as a witness or spectator, whether named as a party to that proceeding or not;

“plaintiff” includes every person seeking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of civil proceedings;

“police officer” means any sworn member of the Samoa Police Service;

“prescribed” means prescribed by this Act or by Rules of Court for the time being in force;

“proceedings” with reference to civil proceedings, includes both actions and matters;

“mataupu”, i so o se tualumaga faa-faamasinoga tau le va o tagata, o lona uiga o so o se tualumaga i totonu o se Faamasinoga lea e mafai ona amata e pei ona faatonuina i se tasi lava faiga e ese ai na i lo le faia e ala i se faamatalaga o le talosaga;

“Minisita” o lona uiga o le Minisita e fitoitonu ma Faamasinoga ma Pulega Tau Faamasinoga;

“Matagaluega” o lona uiga o le Matagaluega e fitoitonu ma Faamasinoga ma Pulega Tau Faamasinoga;

“tagata ofisa”, e faasino i se Faamasinoga, e aofia ai itu uma ua taua e faapea:

- (a) o se Resitara po o se Resitara Lagolago o le Faamasinoga;
- (b) so o se isi lava tagata ofisa tau pulega i totonu o galuega a le faamasinoga (e aofia ai failautusi, tagata ao sala ma faamatala upu);
- (c) o so o se leoleo o lo o galue e lagolago i se Faamasinoga e tusa ai ma lenei Tulafono.

“itu faamasinoga”, i so o se tualumaga faa-faamasinoga tau le va o tagata, e aofia ai tagata taitoatasi uma ua faaoo atu i ai se faasilasilaga e uiga i, po o o lo o auai, i so o se tualumaga e ese ai na i lo le avea ma tagata molimau po o se tagata faalogologo, tusa lava po o taua lona igoa e ave a o se itu faamasinoga i lea tualumaga faa-faamasinoga pe leai foi;

“lē ua tagi” e aofia ai tagata taitoatasi uma o lo o faatagisia so o se faamama avega (e ese ai na i lo le ui atu i se talosaga tetee e tali atu ai e ave a ai ma lē ua tetee) e faasaga i so o se tasi lava tagata e ala i so o se isi ituaiga o tualumaga faa-faamasinoga tau le va o tagata;

“leoleo” o lona uiga o so o se sui ua faatautoina o le Galuega Tau Leoleo a Samoa;

“faatonuina” o lona uiga ua faatonuina e lenei Tulafono po o e Tulafono Faafoe o le Faamasinoga mo le taimi na faamamaluina ai;

“tualumaga” i le itu e faasino i tualumaga faa-faamasinoga i le va o tagata, e aofia ai tulaga uma e lua o tagi ma mataupu;

“Registrar” means the Registrar of the District Court;

“Repealed Act” means the District Court Act 1969, as amended;

“Rules” and “Rules of Court” means District Court Rules made under the authority of this Act;

“Rules Committee” means the Rules Committee as established under the Judicature Ordinance 1961.

(2) A non-suit, determination, direction, decision, judgment or order is regarded for all lawful purposes to be given or made when it is delivered (whether orally or in writing), whether or not reasons for it are subsequently delivered, and whether or not a formal judgment or order is subsequently drawn up, signed and sealed.

3. Act binds the Government - This Act binds the Government.

PART II THE DISTRICT COURTS

4. District Courts continued-(1) The District Courts established under the repealed Act as subordinate Courts of record are continued, and are constituted, empowered, administered and staffed in accordance with this Act.

(2) Divisions of the District Court may be created by an Act of Parliament.

(3) Each Division of the District Court has a seal, which must be kept by the Registrar or Assistant Registrar responsible for a Division.

5. Places for sittings of the Court-(1) The Minister has authority to appoint places in Samoa in which District Courts are to be permanently located.

“Resitara” o lona uiga o le Resitara o le Faamasinoga Faaitumalo;

“Tulafono ua Soloia” o lona uiga o le Tulafono o Faamasinoga Faaitumalo 1969, e pei ona teuteuina;

“Tulafono Faafoe” ma “Tulafono Faafoe o le Faamasinoga” o lona uiga o Tulafono Faafoe o le Faamasinoga ua faia i lalo o le pule faataga a lenei Tulafono;

“Komiti o Tulafono Faafoe” o lona uiga o le Komiti o Tulafono Faafoe e pei ona faavaeina i lalo o le Tulafono o Faamasinoga 1961.

(2) Ua faatatauina le taofiga o se moliaga, fuafuaina, faatonuga, faaiuga, iuga po o se poloaiga a le faamasinoga, mo faamoemoega uma e tusa ai ma le tulafono, ina ia tuuina atu po o le faia pe a faaooina atu (tusa lava pe tuufofoga po o e ala i se faiga tusitusia), tusa lava pe faaoo atu mulimuli ane mafuaaga mo lea itu pe leai foi, ma e tusa foi po o e tusia, sainia, ma faamaufaafilogaina mulimuli ane se faaiuga po o se poloaiga aloaia pe leai foi.

3. Tulafono e noatia ai le Malo - O lenei Tulafono e noatia ai le Malo.

VAEGA II O FAAMASINOGA FAAITUMALO

4. E faaauau pea Faamasinoga Faaitumalo-(1) E faaauau pea Faamasinoga Faaitumalo na faavaeina i lalo o le Tulafono ua soloia e aveia ma Faamasinoga lagolago tau faamaumauga, ma ua faavaeina, tuuina i ai le malosiaga, faafoe ma i ai le aufaigaluega ina ia tusa ai ma lenei Tulafono.

(2) E mafai ona faavaeina Vaega o le Faamasinoga Faaitumalo e ala i se Tulafono a le Palemene.

(3) E i ai i Vaega taitasi o le Faamasinoga Faaitumalo se faamaufaailoga, lea e ao ona teuina ma tausia e le Resitara po o le Resitara Lagolago e fitoitonu i se Vaega.

5. Nofoga mo taualumaga a le Faamasinoga-(1) E i ai i le Minisita le pule faataga e atofa ai ni nofoaga i totonu o Samoa ia e mafai ona faatuina tumau ai Faamasinoga Faaitumalo.

(2) The Minister has authority to amend or revoke any appointment made under subsection (1).

(3) Nothing in this section prevents a Judge from holding sittings of a Court at any place the Judge considers convenient.

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

6. Appointment and qualifications of Judges-(1) All appointments to the office of District Court Judge under the repealed Act are taken to have been made under the authority of this Act, and any terms or conditions applicable to the appointment continue to have full force and effect.

(2) Subject to subsection (3), the Head of State, acting on the advice of the Judicial Service Commission, has authority to appoint by warrant, fit and proper persons to be Judges.

(3) A person is not eligible to be appointed as a Judge unless he or she has been admitted as a barrister or solicitor in Samoa or in an approved country for a period of, or for periods amounting in the aggregate to, not less than eight (8) years.

(4) For the purposes of this section, the Head of State, acting on the advice of the Judicial Service Commission, has authority to designate by Order any country as an approved country if, in the opinion of the Commission, that country has a legal system similar to that applying in Samoa.

(5) The Head of State, acting on the advice of the Judicial Service Commission, has authority to permit a Judge to hold an office that is taken to be compatible with the office of Judge.

(2) E i ai i le Minisita le pule faataga e teuteu po o e faalēaogā ai so o se nofoaga atofaina na faia i lalo o le faafu'aiupu (1).

(3) E leai se mea o i lenei fu'aiupu e taofia ai se Faamasino mai le faia o taualumaga a se Faamasinoga i so o se nofoaga ua manatu le Faamasino ua talafeagai ai.

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

6. Tofiga ma agavaa o Faamasino-(1) O tofiga uma i le tofi o Faamasino o Faamasinoga Faaitumalo i lalo o le Tulafono ua soloia ua faatatauina lava e faapea na faia i lalo o le pule faataga a lenei Tulafono, ma so o se aiaiga po o tuutuuga e talafeagai i le tofiga, e faaauau pea ona faamamaluina ma aloaia.

(2) I le noatia ma le fai fuafua i le faafu'aiupu (3), e i ai lava i Le Ao o le Malo, i le faia i luga o le fautuaga a le Komisi o Galuega Tau Faamasinoga, le pule faataga e tofia ai ni tagata e lelei ma talafeagai e ala i se tusi faapoloaiga, e avea ma Faamasino.

(3) E lē agavaa se tagata e tofia e avea ma Faamasino seia vagana ai ua taliaina o ia e avea o se loia i totonu o le faamasinoga po o se loia faufautua i totonu o Samoa po o, i totonu o se atunuu ua faamaonia mo se vaitaimi e, po o mo ni vaitaimi i le tuufaatasiga e lē itiiti ifo i le valu (8) tausaga.

(4) Mo faamoemoega o lenei fu'aiupu, e i ai i Le Ao o le Malo, i le faia i luga o le fautuaga a le Komisi o Galuega Tau Faamasinoga, le pule faataga e tofia ai e ala i se Poloaiga so o se atunuu e avea ma atunuu ua faamaonia pe afai, i le manatu o le Komisi, o lo o i ai i lea atunuu se puleaga faaletulafono e tutusa ma lea o lo o faaogāina i totonu o Samoa.

(5) E i ai i Le Ao o le Malo, i le faia i luga o le fautuaga a le Komisi o Galuega Tau Faamasinoga, le pule faataga e faataga ai se Faamasino e umia se tofi lea ua faatatauina e ogatasi ma le tofi Faamasino.

7. Senior District Court Judge-(1) The Head of State, acting on the advice of the Judicial Service Commission, has authority to appoint a District Court Judge to hold the office of Senior District Court Judge.

(2) The Senior District Court Judge has authority to do all or any of the following:

- (a) to delegate any function, duty or responsibility to a Judge or Fa'amasino Fesoasoani, or to authorise a Judge or Fa'amasino Fesoasoani to do anything necessary for the efficient administration or operation of the District Courts;
- (b) to ensure the professional development of Judges and Fa'amasino Fesoasoani, and require that Judges or Fa'amasino Fesoasoani undertake any course of training or instruction;
- (c) to approve and apply any roster or allocation of responsibilities applicable to Judges or Fa'amasino Fesoasoani;
- (d) to ensure that Judges and Fa'amasino Fesoasoani are allocated to all places where the Court sits, and to facilitate the movement of Judges or Fa'amasino Fesoasoani to all places where the Court has sittings; or
- (e) to otherwise give any directions or take any action necessary for the efficient administration and operation of the District Courts.

8. Appointment of Fa'amasino Fesoasoani-(1) All appointments to the office of Fa'amasino Fesoasoani under the repealed Act are taken to have been made under the authority of this Act, and any terms or conditions applicable to such appointments continue to have full force and effect.

(2) The Head of State, acting on the advice of the Judicial Service Commission, has authority to appoint by warrant, fit and proper persons to be Fa'amasino Fesoasoani.

7. Faamasino Sinia o le Faamasinoga Faaitumalo-(1) E i ai i Le Ao o le Malo, i le faia i luga o le fautuaga a le Komisi o Galuega Tau Faamasinoga, le pule faataga e tofia ai se Faamasino o le Faamasinoga Faaitumalo e umia le tofi o le Faamasino Sinia o Faamasinoga Faaitumalo.

(2) E i ai i le Faamasino Sinia o le Faamasinoga Faaitumalo le pule faataga e faia uma ai po o so o se tasi o tulaga ua taua e faapea:

- (a) e tuuina atu so o se galuega tauave, tiute po o matafaioi i se Faamasino po o Faamasino Fesoasoani, po o le faatagaina o se Faamasino po o se Faamasino Fesoasoani e faia so o se mea e talafeagai ai mo le faafoega lelei po o le faagaoioiga o Faamasinoga Faaitumalo;
- (b) e faamautinoa le atiae o tomai faapitoa o Faamasino ma Faamasino Fesoasoani, ma manaomia Faamasino po o Faamasino Fesoasoani ia faapea ona faatino so o se mataupu tau aoaoga po o faatonuga;
- (c) ia faamaonia ma faaaogā so o se faagasologa po o se faatulagaga o matafaioi e talafeagai i Faamasino po o Faamasino Fesoasoani;
- (d) ia faamautinoa ua faapea ona faatulaga Faamasino ma Faamasino Fesoasoani i nofoaga uma ia e fai ai Faamasinoga ma ia faafaigofie le feoaiga o Faamasino po o Faamasino Fesoasoani i nofoaga uma e fai ai Faamasinoga; po o
- (e) ia tuuina atu i se isi faiga e ese ai so o se faatonuga, po o le faia o so o se gaoioiga e talafeagai mo le faafoega lelei ma le faagaoioiga o Faamasinoga Faaitumalo.

8. Tofia o Faamasino Fesoasoani-(1) Ua faatatauina tofiga uma i tofi Faamasino Fesoasoani i lalo o le Tulafono ua soloia, e faapea na faia i lalo o le pule faataga a lenei Tulafono, ma e faaauau pea ona faamamaluina ma aloaia so o se aiaiga po o tuutuuga e talafeagai i ia tofiga.

(2) E i ai i Le Ao o le Malo, i le faia i luga o le fautuaga a le Komisi o Galuega Tau Faamasinoga, le pule faataga e tofia ai tagata e talafeagai ma lelei e ala i se tusi faapoloaiga, e avea ma Faamasino Fesoasoani.

9. Salaries and entitlements-(1) A Judge and Fa'amasino Fesoasoani (including any appointed temporarily under section 12) is entitled to be paid such salary, allowances and entitlements as are fixed by the Head of State, acting on the advice of Cabinet after receiving the advice of the Judicial Service Commission.

(2) Leave and other entitlements for Judges must not be less favourable than those given to Chief Executive Officers of Ministries, and must also reflect the nature of the office held.

(3) In the absence of a determination of entitlements under this section Judges are to be given the entitlements given to Chief Executive Officers of Ministries.

(4) Judges are to receive pension entitlements which are not less favourable than those payable to Members of Parliament, and for this purpose Regulations made under this Act may provide for all of the following:

- (a) the utilisation of the Judiciary Retirement Fund established under Part XI of the National Provident Fund Act 1972, or any other Fund and financial mechanism, for the pension scheme applicable to Judges;
- (b) additional contributions from the government and Judges to those provided for under Part XI of the National Provident Fund Act 1972, to fund the pension scheme applicable to Judges;
- (c) spouse entitlements which are not less favourable to those payable to the spouses of Members of Parliament; and
- (d) any other matter relevant to the management of a pensions scheme for Judges, and the entitlements under the scheme.

(5) All salaries, allowances and entitlements referred to in this section are deemed taken as appropriated for those purposes.

9. Totogi ma faamanuiaga-(1) Ua agavaa se Faamasino ma se Faamasino Fesoasoani (e aofia ai so o se tasi na tofia mo se vaiataimi lē tumau i lalo o le fuaiupu 12) ina ia totogiina i sea totogi, alauni ma faamanuiaga e pei ona faatulagaina e Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta i le maea ai ona maua le fautuaga a le Komisi o Galuega Tau Faamasinoga.

(2) O aso malolo ma isi faamanuiaga mo Faamasino e lē tatau ona itiiti ifo i lo ia faamanuiaga ua tuuina atu i Ofisa Sili o Pulega o Matagaluega, ma e ao foi ona atagia ai le uiga moni o le tofi o lo o umia.

(3) I le aunoa ai ma se faaiuga e faia i faamanuiaga i lalo o lenei fuaiupu, e ao ona tuuina atu i Faamasino faamanuiaga ua tuuina atu i Ofisa Sili o Pulega o Matagaluega.

(4) E ao ona maua e Faamasino faamanuiaga tau penisione ia e lē itiiti ifo i lo faamanuiaga ia e totogi atu i Sui Usufono o le Palemene, ma mo lenei faamoemoe, o Tulafono Faatonotonu ua faia i lalo o lenei Tulafono, e mafai ona aiaia ai mo tulaga uma nei:

- (a) o le faaaogāina o le Faaputugatupe Litaea o Faamasino ua faavaeina i lalo o le Vaega XI o le Tulafono o Faaputuga-Tupe mo le Lumanai Manuia o Tagata 1972, po o so o se isi lava Faaputugatupe ma faiga o lo o faagaioi ai tupe, mo le polokalame o penisione e talafeagai i Faamasino;
- (b) o saofaga faapoopo mai le Malo ma Faamasino i saofaga ia o lo o aiaia i lalo o le Vaega XI o le Tulafono o Faaputuga-Tupe mo le Lumanai Manuia o Tagata 1972, e faatupe ai le polokalame o penisione e talafeagai i Faamasino;
- (c) o faamanuiaga mo le toalua, lea e lē itiiti ifo i faamanuiaga ia e totogi atu i toalua o Sui Usufono o le Palemene; ma
- (d) so o se isi lava mataupu e talafeagai ai i le faafoega o se polokalame o penisione mo Faamasino, ma faamanuiaga i lalo o le polokalame.

(5) O totogi uma, alauni ma faamanuiaga ua faasinomia i totonu o lenei fuaiupu, ua faataauina lava ua talafeagai mo na faamoemoega.

10. Tenure and removal from office-(1) The Head of State, acting on the advice of the Judicial Service Commission and subject to any grounds or procedures, if any, prescribed by Regulations under this Act, has authority by Order, to remove a Judge or Fa'amasino Fesoasoani from office on the grounds of inability or misconduct.

(2) Every District Court Judge or Fa'amasino Fesoasoani is regarded as retired from office on reaching the age of 70 years.

(3) A Fa'amasino Fesoasoani is regarded to have vacated the office if he or she is removed from the office of a Land and Titles Court Judge on any grounds related to inability or misconduct.

(4) Nothing done by a Judge or a Fa'amasino Fesoasoani in the performance of his or her duties, is to be regarded invalid for either of the following reasons:

- (a) by reason that he or she has reached the retirement age;
- or
- (b) by reason that his or her term of office has expired.

(5) A Judge or Fa'amasino Fesoasoani may resign from his or her office in writing addressed to the Chief Executive Officer, and such resignation takes effect when it is received by the Chief Executive Officer, or on an agreed date.

11. Other statutory offices held by Judges-(1) A Judge is, by virtue of his or her office, taken to have been appointed a Coroner, unless an Act which makes provision in relation to the appointment and responsibilities of Coroners provides to the contrary.

(2) Regulations made under this Act may prescribe for a Judge to hold any other office for any other purpose or function under law.

10. O le nofoia ma le aveesea mai le tofi-(1) E i ai i Le Ao o le Malo, i le faia i luga o le fautuaga a le Komisi o Galuega Tau Faamasinoga ma e noatia ma fai fuafua i so o se mafuaaga po o tualumaga pe afai e i ai, e pei ona faatonuina i Tulafono Faatonutonu i lalo o lenei Tulafono, le pule faataga e ala i se Poloaiaga, ona aveesea se Faamasino po o se Faamasino Fesoasoani mai le tofi i luga o mafuaaga o le lē atoatoa o le malosi po o se amioga lē pulea.

(2) O Faamasino po o Faamasino Fesoasoani taitoatasi uma o le Faamasinoga Faaitumalo ua faatatauina, e faamalolo litaea mai le tofi pe a aulia le 70 tausaga le matutua.

(3) Ua faatatauina se Faamasino Fesoasoani e faapea ua tuua le tofi, pe afai ua aveesea o ia mai le tofi o le Faamasino o Faamasinoga o Fanua ma Suafa, i luga o so o se mafuaaga e faasino i le lē atoatoa o le malosi po o se amioga lē pulea.

(4) E lē tatau ona faatatauina se mea ua faia e se Faamasino po o se Faamasino Fesoasoani i le faatinoga o ona tiute tauave e faapea e lē aloaia mo so o se tasi o mafuaaga nei:

- (a) e ala i se mafuaaga e faapea ua ia aulia le matua o tausaga e malolo litaea ai; po o
- (b) e ala i se mafuaaga e faapea ua muta le vaitaimi i le tofi.

(5) E mafai ona faamavae mai le tofi se Faamasino po o se Faamasino Fesoasoani, i se faiga tusitusia e faatuatusi atu i le Ofisa Sili o Pulega, ma e aloaia sea faamavaega pe a mauaina e le Ofisa Sili o Pulega, po o i se aso ua malilie i ai.

11. O isi tofi faaletulafono e umia e Faamasino-(1) Ua faatatauina se Faamasino e tusa ai o lona tofi, e faapea na tofia ma Faamasino e Suesueina Mafuaaga Lilo o Maliu, seia vagana ai ua aiaia i se isi faiga e ese ai, se Tulafono e faia ai aiaiga e faasino i le tofiga ma matafaioi a Faamasino e Suesueina Mafuaaga Lilo o Maliu.

(2) O Tulafono Faatonutonu ua faia i lalo o lenei Tulafono e mafai ona faatonuina ai se Faamasino e umia so o se isi lava tofi mo so o se isi lava faamoemoe po o galuega tauave i lalo o le tulafono.

12. Acting Judges and Fa’amasino Fesoasoani-(1) The Head of State, acting on the advice of the Judicial Service Commission, has authority to temporarily appoint by warrant a Judge or Fa’amasino Fesoasoani to hold office until a permanent appointment is made, or for such other time as is specified in the Warrant.

(2) The power to make a temporary appointment under subsection (1) is exercisable in any of the following circumstances:

- (a) after the removal, retirement or resignation of any Judge or Fa’amasino Fesoasoani;
- (b) during the illness or absence of any Judge or Fa’amasino Fesoasoani; and
- (c) in any other circumstances where a temporary appointment is needed.

(3) Only persons who are qualified to be appointed as Judges are eligible for temporary appointment under this section.

(4) No qualified person is precluded from appointment as a Judge under this section by reason only of the fact that he or she has attained the age of 70 years.

13. Oath of Office-(1) An oath in the form in subsection (3) must be taken by a Judge and Fa’amasino Fesoasoani, and by an acting District Court Judge or Fa’amasino Fesoasoani, prior to exercising any authority of that office.

(2) The oath to be taken under this section shall be administered by a District Court Judge, or if no District Court Judge is available for that purpose, by a Justice of the Supreme Court.

(3) The oath taken under this section must be in the following form:

12. Sui Faamasino ma Faamasino Fesoasoani-(1) E i ai i Le Ao o le Malo, i le faia i luga o le fautuaga a le Komisi o Galuega Tau Faamasinoga le pule faataga e tofia ai mo se vaitaimi lē tumau e ala i se tusi faapoloaiga se Faamasino po o se Faamasino Fesoasoani e umia le tofi seia faia se tofiga tumau, po o mo se isi taimi e pei ona faamaoti mai i le Tusi Faapoloaiga.

(2) O le malosiaga e faia ai se tofiga mo se vaitaimi lē tumau i lalo o le faafuaiupu (1) e mafai ona faataunuaina i so o se tasi o tulaga aliae mai nei:

- (a) i le tuanai ai o le aveesea, faamalolo litaea po o le faamavae mai le tofi so o se Faamasino po o se Faamasino Fesoasoani;
- (b) i le vaitaimi o le gasegase po o le toesea o so o se Faamasino po o se Faamasino Fesoasoani; ma
- (c) i so o se isi lava tulaga aliae mai pe afai ua manaomia se tofiga mo se vaitaimi lē tumau.

(3) Na o tagata o i latou ia ua agavaa ina ia tofia e avea ma Faamasino, e agavaa mo le tofiaina i se vaitaimi lē tumau i lalo o lenei fuaiupu.

(4) E leai se tagata agavaa e taofia mai le tofiaina e avea o se Faamasino i lalo o lenei fuaiupu, e ala i le na o se mafuaaga o le mea moni e faapea, ua ia aulia le 70 le matua o tausaga.

13. Tautoga o le Tofi-(1) O se tautoga ua faaalua i totonu o le faafuaiupu (3) e ao ona faia e se Faamasino ma Faamasino Fesoasoani, ma e se sui Faamasino o Faamasinoga Faaitumalo po o Faamasino Fesoasoani, a o lumanai ai le faataunuaina o so o se pule faataga o lea tofi.

(2) O le tautoga e faia i lalo o lenei fuaiupu, e tataua ona faataunuaina e se Faamasino o Faamasinoga Faaitumalo, po o afai e le o avanoa se Faamasino o Faamasinoga Faaitumalo mo lea faamoemoe, e faataunuaina e se Faamasino o le Faamasinoga Sili.

(3) O le tautoga e faia i lalo o lenei fuaiupu e ao ona faia faapea:

“I..... swear by Almighty God that I will well and truly serve the Independent State of Samoa in the office of, in accordance with the Constitution and the law; and I will do right to all manner of people, without fear or favour, affection or ill will.”.

Division 2 - The Registrar and Assistant Registrars

14. The Registrar and Assistant Registrars-(1) A public servant must be appointed to the office of Registrar of the District Court, and any person appointed to this office must hold any qualifications determined for that office by the Judicial Services Commission.

(2) One (1) or more public servants may be appointed to the office of Assistant Registrar of the District Court, and Assistant Registrars may be appointed to any Division of the Court.

(3) The Chief Executive Officer has authority to hold the office of Registrar if no other public servant is currently appointed to that office.

(4) Where the Chief Executive Officer is not the Registrar, the Registrar is responsible to the Chief Executive Officer and the Minister for the efficient operation of the District Court, and the implementation of this Act.

(5) Each Assistant Registrar is subject to the direction and control of the Registrar, and subject to that direction and control, all of the following apply to an Assistant Registrar:

- (a) he or she has the same powers and enjoys the same privileges as the Registrar;
- (b) he or she has authority to perform the same duties as the Registrar; and
- (c) he or she is subject to the same provisions and penalties as if he or she were the Registrar.

“O a’u, ou te tauto atu i le Atua e Ona le Malosi Uma Lava, o le a ou tautua faamaoni ma le atoatoa i le Malo Tutoatasi o Samoa i le tofiga o le ina ia tusa ai ma le Faavae ma le tulafono; ma o le a ou tausisia le moni ma le faamaoni i so o se tagata, e aunoa ma le fefe po o le faaituau, alofa po o le lē alofa.”.

Vaevaega 2 - O le Resitara ma Resitara Lagolago

14. O le Resitara ma Resitara Lagolago-(1) E ao ona tofia se tagata faigaluega o galuega a le Malo i le tofi o le Resitara o le Faamasinoga Faaitumalo, ma e ao i so o se tagata ua tofia i leni tofiga ona umia so o se tulaga agavaa ua fuafuaina mo lea tofi e le Komisi o Galuega Tau Faamasinoga.

(2) E mafai ona tofia le toatasi (1) po o le sili atu o tagata faigaluega o galuega a le Malo, i le tofi o Resitara Lagolago o le Faamasinoga Faaitumalo ma e mafai ona tofia Resitara Lagolago i so o se Vaega o le Faamasinoga.

(3) E i ai i le Ofisa Sili o Pulega le pule faataga na te umia ai le tofi o le Resitara, pe afai ua leai se tagata faigaluega o galuega a le Malo ua tofia i lea tofi i le taimi nei.

(4) Afai e le o umia le tofi Resitara e le Ofisa Sili o Pulega, e tali atu le Resitara i le Ofisa Sili o Pulega ma le Minisita mo le faagaoioiga lelei o le Faamasinoga Faaitumalo, ma le faatinoina o leni Tulafono.

(5) E noatia Resitara Lagolago taitoatasi i le faatonuga ma le faafoega a le Resitara, ma i le noatia ma le fai fuafua i lea faatonuga ma le faafoega, o itu uma nei e faaogā i se Resitara Lagolago:

- (a) e ia te ia malosiaga tutusa ma faamanuiaina i tulaga aloaia lava ia e pei o se Resitara;
- (b) e ia te ia le pule faataga e faatino ai tiute tauave tutusa e pei o le Resitara; ma
- (c) e noatia o ia i aiaiga ma faasalaga tutusa ia e faapei ai o ia o se Resitara.

(6) The Registrar and Assistant Registrars are accountable to all Judges in the performance of their duties, and must comply with all directions given by a Judge so as to ensure the efficient operation and administration of the District Courts in accordance with this Act.

(7) Nothing in this section affects or detracts from the authority of a Registrar or Assistant Registrar in relation to the performance of any function or the exercise of any power prescribed by any law or by the Rules of Court.

(8) Without limiting the generality of subsection (7), the Registrar has authority to do all of the following:

- (a) to adjourn proceedings if a Judge is unable to attend the sitting;
- (b) to issue any process out of Court, subject to the authority of a Judge to recall or cancel any such process;
- (c) to administer an oath;
- (d) to endorse a warrant of arrest; and
- (e) to extend the bail of a person attending Court on a day on which criminal proceedings are listed before the Court.

(9) Whenever exercising any lawful power, a Registrar or Assistant Registrar is entitled to the same immunities and privileges as a Judge.

15. Duties in relation to court records-(1) The Registrar must keep all necessary records in relation to the proceedings of all District Courts.

(2) The Registrar and Assistant Registrars have authority to do all of the following:

- (a) to make any entry in the court's records, as directed by a Judge or Fa'amasino Fesoasoani, or as required by the Rules;

(6) O le Resitara ma Resitara Lagolago e mafai ona tali atu i Faamasino uma i le faatinoga o o latou tiute tauave, ma e ao ona tausisia faatonuga uma ua tuuina atu e se Faamasino ina ia faapea ona faamautinoa ai le faagaoioiga lelei ma le lelei faafoe o Faamasinoga Faaitumalo ina ia tusa ai ma lenei Tulafono.

(7) E leai se mea o i lenei fuaiupu e aafia pe faaititia ai le pule faataga a se Resitara po o se Resitara Lagolago e faasino i le faatinoga o so o se galuega tauave po o le faataunuuina o so o se malosiaga ua faatonuina e ala i so o se tulafono po o e ala i Tulafono Faafoe o le Faamasinoga.

(8) E aunoa ma le faatapulaaina o le tulaga lautele o le faafuiauupu (7), e i ai i le Resitara le pule faataga e faia ai tulaga uma nei:

- (a) e tolopo tualumaga faa-faamasinoga pe afai ua lē mafai ona auai le Faamasino i se tualumaga;
- (b) e tuuina atu so o se faagasologa i fafo atu o le Faamasinoga, i le noatia ma le fai fuafua i le pule faataga a se Faamasino e toe taloina ai po o le faalēaogāina o so o sea faagasologa;
- (c) e faafoeina se tautoga;
- (d) e faamaonia se tusi faamaonia o le pueina faapagota; ma
- (e) e faaopoopo atu le vaitaimi o puipuiga e tatala ai i tua se tagata o auai i se Faamasinoga, i se aso lea e faatulaga ai tualumaga tau solitulafono i luma o le Faamasinoga.

(9) I so o se taimi lava e faataunuuina ai so o se malosiaga faaletulafono, e agavaa le Resitara po o le Resitara Lagolago i tuusaunoaga ma tulaga aloaia tutusa e pei o se Faamasino.

15. Tiute tauave e faasino i faamaumaga a le faamasinoga-(1) E ao i le Resitara ona tausisia faamaumaga talafeagai uma e faasino i tualumaga o Faamasinoga Faaitumalo uma.

(2) E i ai i le Resitara ma Resitara Lagolago le pule faataga e faia ai tulaga uma nei:

- (a) e faia so o se mea e tusia i faamaumaga a le faamasinoga, e pei ona faatonuina e se Faamasino po o le Faamasino Fesoasoani, po o e pei ona manaomia e Tulafono Faafoe;

(b) to authorise a copy or extract of any such entry; and

(c) to affix the seal of the Court to any court document, and to otherwise sign and certify a court record as being a true copy or correct extract of the record.

(3) A certified record or extract is to be admitted in all Courts, and accepted by all other persons, as evidence of the entry and of the relevant proceedings, and the regularity of those proceedings is to be assumed, unless a court determines the contrary.

(4) If the existence or content of a record of the Court is in dispute, the Court has authority to determine the issue, and to order that any appropriate action is taken in relation to the records of the court.

Division 3 - Bailiffs and other court officers

16. Appointment of bailiffs-(1) A public servant must be appointed as Chief Bailiff of the District Court, and appointments of other bailiffs are to be made to ensure the efficient administration and operation of the District Court.

(2) A Judge, or a Fa'amasino Fesoasoani sitting in any proceedings of the Court, may appoint a police officer or other person to act as bailiff at any Court or place.

(3) Whenever a summons, warrant or other process issued under the authority of the Court is received by any police officer for service or execution, the police officer is regarded for all legal purposes to be bailiff of the Court.

(b) e faamaonia se ata po o se oototoga o so o sea mea ua tusia; ma

(c) faapipii le faamaufaaailoga a le Faamasinoga i so o se pepa aloaia o le faamasinoga, ma ia sainia ma faamaonia i se isi faiga e ese ai se faamaumauga o le faamasinoga e avea o se ata moni po o se oototoga sao o le faamaumauga.

(3) E taliaina se faamaumauga po o se oototoga faamaonia i totonu o Faamasinoga uma, ma e faaaogāina e avea ma faamatalaga molimau e isi tagata uma, o mea ua tusia ma taualumaga e talafeagai ai, ma e faaaogāina le tulaga faifai pea o ia taualumaga seia vagana ai ua fuafuaina e le faamasinoga se isi faiga e ese ai.

(4) Afai ua aliae mai po o ua i ai se faafinauga i se faamaumauga a le Faamasinoga, e i ai i le Faamasinoga le pule faataga e fuafuaina ai le mataupu, ma poloaia ai e faapea, ua faia so o se gaoioiga talafeagai e uiga i faamaumauga a le faamasinoga.

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

16. Tofia o tagata ao sala-(1) E ao ona tofia se tagata faigaluega o galuega a le Malo e avea ma Taitai Ao Sala o le Faamasinoga Faaitumalo, ma e faia tofiga o isi tagata ao sala ina ia faamautinoa ai le faafoega ma le faagaoioiga lelei o le Faamasinoga Faaitumalo.

(2) E mafai e se Faamasino po o se Faamasino Fesoasoani o seei ai i totonu o so o se taualumaga a le Faamasinoga, ona tofia se leoleo po o isi tagata, e galulue e avea ma tagata ao sala i so o se Faamasinoga po o se nofoaga.

(3) So o se taimi e tuuina atu ai so o se tusi samania, tusi faapoloaiga, po o nisi lava faagasologa i lalo o le pule faataga a le Faamasinoga ma ua maua e so o se leoleo mo le faaooina atu po o le faataunuaina, ua faatatauina lava lea leoleo mo faamoemoega faaletulafono uma, e avea o se tagata ao sala o le Faamasinoga.

17. Powers and duties of bailiffs-(1) All of the following apply to bailiffs of the Court, and to any person who acts in that capacity under this Act:

- (a) he or she must attend each sitting of the Court to which he or she is appointed for such time as is required, unless excused by the Court;
- (b) he or she must serve all summonses and orders, and execute all warrants issued by a Court when directed to do so;
- (c) he or she must comply with all rules and regulations relating to the execution of the office; and
- (d) he or she is subject to the lawful directions of a Judge, Fa'amasino Fesoasoani or the Registrar.

(2) A bailiff has the powers of a police officer under this Act, and must take an oath of the nature required of police officers appointed under law.

18. Duties of all court officers-(1) All persons holding a position relevant to the District Courts must comply with all of the following:

- (a) any role, responsibility or duty prescribed for that office by the Rules of Court or regulations made under this Act; and
- (b) any direction given by a Judge or Fa'amasino Fesoasoani in relation to a court proceeding, or to a record relevant to a proceeding held by that Judge or Fa'amasino Fesoasoani.

(2) The requirements of this section apply to all interpreters, clerks and other administrative officers of the Court, and to any other persons who perform duties relating to the administration of the Court.

17. Malosiaga ma tiute tauave o tagata ao sala-(1) O tulaga uma ua taua i lalo e faaaogā i tagata ao sala o le Faamasinoga, ma so o se tagata o ia lea o galue i lea tulaga i lalo o lenei Tulafono:

- (a) e ao ona auai o ia i taualumaga taitasi a le Faamasinoga lea na tofia i ai o ia mo sea taimi e pei ona manaomia ai, seia vagana ai ua faatagaina lona lē auai e le Faamasinoga;
- (b) e ao ona ia faaooina atu tusi samania ma poloaiga uma, ma faataunuu le faaooina atu o tusi faapoloaiga uma na tuuina atu e se Faamasinoga i le taimi e faatonuina ai ina ia faapea ona faia;
- (c) e ao ona ia tausiona tulafono faafoe uma ma tulafono faatonutonu e faasino i le faatinoga o le tofiga; ma
- (d) e noatia o ia i faatonuga faaletulafono a se Faamasino, Faamasino Fesoasoani po o le Resitara.

(2) E i ai i le tagata ao sala malosiaga o se leoleo i lalo o lenei Tulafono, ma e ao ona faia se tautoga o le uiga moni o manaomia o se leoleo ua tofia i lalo o le tulafono.

18. Tiute tauave o tagata ofisa uma o le faamasinoga-(1) E ao i tagata uma o umia tulaga tofi i le Faamasinoga Faaitumalo, ona tausiona itu uma nei:

- (a) so o se galuega tauave, matafaioi, po o tiute ua faatonuina mo lea tofiga e Tulafono Faafoe a le Faamasinoga po o tulafono faatonutonu ua faia i lalo o lenei Tulafono; ma
- (b) so o se faatonuga ua tuuina atu e se Faamasino po o Faamasino Fesoasoani e faasino i se taualumaga faa-faamasinoga, po o e uiga i se faamaumauga e talafeagai i se taualumaga na faia e lea Faamasino po o le Faamasino Fesoasoani.

(2) E faaaogā manaoga o lenei fuaiupu i faamatalaupu uma, failautusi ma isi lava tagata ofisa tau pulega o le Faamasinoga, ma i so o se isi lava tagata o ia lea o lo o faatinoina tiute tauave e faasino i le puleaina o le Faamasinoga.

**PART III
JURISDICTION OF THE COURTS**

Division 1 - Civil Jurisdiction

19. Civil jurisdiction limits-(1) A Judge has authority to hear and determine any action founded on contract or on tort subject to both of the following limitations:

- (a) if the debt, demand or damage, or the value of the chattels claimed is not more than \$20,000; and
- (b) if the debt or demand claimed consists of a balance not exceeding \$20,000, after a set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, being a set-off admitted by the plaintiff in the particulars of his or her claim or demand.

(2) A Judge has jurisdiction to hear and determine any action for the recovery of any penalty, expenses, contribution or other like demand which is recoverable by virtue of any law, if both of the following apply:

- (a) it is not expressly provided by that or any law that the demand is only recoverable in some other Court; and
- (b) the amount claimed in the action does not exceed the sum of \$20,000.

(3) Fa'amasino Fesoasoani have authority in relation to all of the following:

- (a) to hear and determine any action founded on contract or in tort if the debt, demand or damage, or the value of the chattels, claimed does not exceed the sum of \$2,000;

**VAEGA III
PULEGA FAA-FAAMASINOGA A LE FAAMASINOGA**

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

19. Tapulaa o Puleaga faa-faamasinoga tau le va o tagata-(1) E i ai i se Faamasino le pule faataga e fofogaina ai ma fai se faaiuga o so o se tagi o lo o faavae i luga o se feagaiga po o se uiga sese ua faia i le va o tagata i le noatia ma le fai fuafua i tapulaa e lua nei:

- (a) pe afai o le aitalafu, manaoga po o mea ua faatamaia, po o le tau o meatotino e mafai ona feaveai ua talosagaina e lē silia ma le \$20,000; ma
- (b) pe afai o le aitalafu po o manaoga ua talosagaina e aofia ai se paleni e lē silia le \$20,000, i le maea ai ona totogiina o so o se aitalafu po o manaoga o se taui ua talosagaina, po o e ono mafai ona toe maua mai i lē ua tete mai lē ua tagi, e avea ma tupe totogi ua tautino e lē ua tagi i totonu o faamatalaga faapitoa o lana talosaga po o le manaoga o se taui.

(2) E i ai i se Faamasino se puleaga faa-faamasinoga e faafogaina ai ma fai se faaiuga o so o se tagi mo le toe maua mai o so o se faasalaga, tupe alu, saofaga po o se tasi lava manaoga faapena e talosagaina ai le toe maua mai e tusa ai ma so o se tulafono, pe afai e faaogaina tulaga uma nei e lua:

- (a) e le o aiaia manino i lea tulafono po o se tasi lava tulafono e faapea, o le manaoga e faatoa mafai ona toe maua mai i totonu o nisi Faamasinoga; ma
- (b) o le aofaiga o le tupe o lo o talosagaina i le tagi e lē silia ma le aofaiga e \$20,000.

(3) E i ai i le Faamasino Fesoasoani le pule faataga e faasino i tulaga uma nei:

- (a) e faafogaina ma faia se faaiuga o so o se tagi o lo o faavae i luga o se feagaiga po o se uiga sese ua faia i le va o tagata pe afai o le aitalafu ua talosagaina, manaoga, po o taui o mea ua faaleagaina, po o le tau o meatotino e mafai ona feaveai ua faatagisia e lē sili atu i le aofaiga e \$2,000;

(b) to hear and determine any action for the recovery of any expense, contribution or other demand which is recoverable by virtue of any law, if both of the following apply -

(i) it is expressly provided by law that the action may be heard and determined by a District Court;

(ii) the amount claimed in the action does not exceed the sum of \$2,000.

(4) The jurisdiction exercised by Fa'amasino Fesoasoani under this section must comply with the following:

(a) any applicable written instructions issued by the Chief Justice;

(b) or if no such instructions apply, any applicable instructions issued by the Senior District Court Judge.

20. Abandonment of part of claim to give Court jurisdiction-

(1) If a plaintiff has a cause of action for more than \$20,000 relating to any matter within the Court's civil jurisdiction, the plaintiff is entitled to abandon the excess so that a Judge has jurisdiction to hear and determine the action.

(2) If any action, in which the plaintiff has abandoned part of his or her claim under subsection (1), is heard in the Court, the plaintiff is not entitled to recover an amount exceeding \$20,000 (excluding costs), and the judgment of the Court is in full discharge of all demands in respect of the cause of action, and entry of the judgment is to be made accordingly.

(3) If a plaintiff has a cause of action for more than \$20,000 relating to any matter within the jurisdiction of the Fa'amasino Fesoasoani, the plaintiff is entitled to abandon any amount which

(b) e faafogaina ma faia se faaiuga o so o se tagi mo le toe maua mai o so o se tupe alu, saofaga po o se tasi lava talosaga faapena e faatagisia ai se mea e ono mafai ona toe maua mai e tusa ai ma so o se tulafono, pe afai e faaogaina itu uma e lua ua taua -

(i) ua aiaia manino e le tulafono e faapea, e mafai ona fofogaina ma faia se faaiuga o le tagi e se Faamasinoga Faaitumalo;

(ii) o le aofaiga o le tupe o lo o faatagisia i le tagi e lē silia ma le aofaiga e \$2,000.

(4) O le puleaga faa-faamasinoga ua faatinoina e Faamasino Fesoasoani i lalo o lenei fuaiupu e ao ona tausisia ai itu nei:

(a) so o se faatonuga tusinga e talafeagai ai na tuuina atu e le Faamasino Sili;

(b) po o afai e leai ni faatonuga faapena e faaogā, o so o se faatonuga e talafeagai ai ua tuuina atu e le Faamasino Sinia o Faamasinoga Faaitumalo.

20. Tuueseina o se vaega o le tagi ina ia tuuina atu ai i le Faamasinoga le puleaga faa-faamasinoga-

(1) Afai ua i ai i se tasi ua tagi se mafuaaga e talosaga ai mo se aofaiga e sili atu i le \$20,000 e faasino i so o se mataupu i totonu o le puleaga faa-faamasinoga tau le va o tagata a se Faamasinoga, e agavaa lē ua tagi e tuueseina le faasiliga ina ia faapea ona i ai i le Faamasino le pulega faa-faamasinoga na te faafogaina ai ma faia se faaiuga o le tagi.

(2) Afai ua fofogaina so o se tagi, lea ua faalēaogaina mai ai e lē ua tagi se vaega o lana talosaga i lalo o le faafuaiupu (1), ma ua fofogaina i totonu o le Faamasinoga, e lē agavaa lē ua tagi e toe maua mai se aofaiga e sili atu i le aofaiga e \$20,000 (e lē aofia ai totogi o le faamasinoga), ma o le faaiuga a le Faamasinoga ua faamamaina atoatoa ai manaoga uma ua faatagisia ai se tupe totogi e tusa ai o le mafuaaga o le tagi, ma e ao ona faapena ona tusia le faaiuga.

(3) Afai ua i ai i se tagata ua tagi se mafuaaga ua talosaga ai mo se aofaiga e sili atu i lo le \$20,000 e faasino i so o se mataupu i le puleaga faa-faamasinoga a le Faamasino Fesoasoani, e agavaa le

exceeds the limit of the Fa'amasino Fesoasoani so that a Fa'amasino Fesoasoani has jurisdiction to hear and determine the action.

(4) If any action, in which the plaintiff has abandoned part of his or her claim under subsection (3) and is heard by a Fa'amasino Fesoasoani, the plaintiff is not entitled to recover an amount exceeding \$2,000 (excluding costs), and the judgment of the Court in the action is in full discharge of all demands in respect of the cause of action, and entry of the judgment is to be made accordingly.

21. Agreement of the parties for an action to proceed - Without limiting the effect of section 31, if a Judge or Fa'amasino Fesoasoani would have had jurisdiction to hear any civil proceeding, but for the amount of the claim, the parties to the proceeding are entitled to consent to a Judge or Fa'amasino Fesoasoani (as the case may be) proceeding to hear and determine the proceedings, and in any such case, the Court has authority to make an order in excess of the limits applied under this Part.

22. Division of cause of action not allowed - A cause of action may not be divided for the purpose of bringing more than one (1) action or making any counterclaim within the jurisdictional limits prescribed by this Part.

23. Ancillary civil jurisdiction - When exercising their civil jurisdiction, District Courts have authority to do any of the following:

- (a) to grant such relief, redress, or remedy (or combination of remedies), either absolute or conditional;

tagata ua tagi e faalēaogāina so o se aofaiga o tupe ia ua sili atu i le tapulaa a le Faamasino Fesoasoani ina ia i ai i le Faamasino Fesoasoani le puleaga faa-faamasinoga e fofogaina ai ma fai se faaiuga o le tagi.

(4) Afai ua faia so o se tagi, lea ua faalēaogāina mai ai e lē ua tagi se vaega o lana tagi i lalo o le faafuaiupu (3) ma ua fofogaina e se Faamasino Fesoasoani, e lē agavaa lē ua tagi e toe maua mai se aofaiga e sili atu i le \$2,000 (e lē aofia ai totogi o le faamasinoga), ma o le faaiuga a le Faamasinoga i le tagi ua faamamaina atoatoa ai le manaoga uma ua faatagisia ai tupe totogi e tusa ai ma le mafuaaga o le tagi ma e ao ona faia faapena le faaiuga.

21. Maliega a itu faamasinoga e faagasolo se tagi - E aunoa ai ma le faatapulaaina o le tulaga aloaia o le fuaiupu 31, afai o le a i ai i se Faamasino po o Faamasino Fesoasoani le puleaga faa-faamasinoga e faafofogaina ai so o se tualumaga tau le va o tagata, ae peitai e mo le aofaiga o lo o talosagaina, e agavaa itu faamasinoga o i ai i tualumaga, e tuuina atu se maliega i se Faamasino po o Faamasino Fesoasoani (i le a lava le tulaga e mafai ai) e faafofogaina ai ma faia se faaiuga o tualumaga, ma i so o sea tulaga, e i ai i le Faamasinoga le pule faataga e faia ai se poloaiga e maualuga atu i tapulaa o lo o faaogāina i lalo o lenei Vaega.

22. E lē faatagaina le vaevaeina o mafuaaga o se tagi - E lē mafai ona vaevaeina se mafuaaga o se tagi mo le faamoemoe o ni tagi e sili atu i le tasi (1), po o le faia o so o se talosaga tetee e tali atu ai i totonu o tapulaa tau puleaga faa-faamasinoga ua faatonuina i lenei Vaega.

23. Puleaga faaopopo faa-faamasinoga tau le va o tagata - I le faataunuina o le latou puleaga faa-faamasinoga tau le va o tagata, e i ai i le Faamasinoga Faaitumalo le pule faataga e faia ai so o se tasi o tulaga nei:

- (a) e faamatuu atu faamama avega, tau, po o auala e foia ai - (po o le tuufaatasiga o auala e foia ai) a le o le tulaga atoatoa po o le faia i luga o tuutuuga;

- (b) to give effect to every ground of defence or counterclaim (equitable or legal), which the Court considers ought to be granted or given in the like case by the Supreme Court; and
- (c) to make any order or exercise any authority or jurisdiction which, if it related to an action or proceeding pending in the Supreme Court, might be made or exercised by the Supreme Court in Chambers.

24. Jurisdiction in actions relating to land-(1) A Judge has jurisdiction to hear and determine any action for the recovery of freehold land, or any interest in land, if the assessed capital value of that land or interest does not exceed \$100,000, or the annual rental for that land does not exceed \$20,000.

(2) The Court has no jurisdiction to hear or determine any action which in any way relates to or affects customary land.

25. Jurisdiction to divide chattels-(1) If chattels, not exceeding \$20,000 in value, belong to persons in undivided shares, the persons having a half interest or more than a half interest may apply to a Judge for either of the following orders:

- (a) for division of the chattels, or any of them, according to a valuation or otherwise; and
- (b) for sale of the chattels and division of the proceeds.

(2) A Judge has jurisdiction to hear and determine an application made under subsection (1), and to make such order and give such consequential directions as the Judge thinks fit.

- (b) e tuuina atu le tulaga aloaia i mafuaaga taitasi uma o le tetee po o se talosaga tetee e tali atu ai (e sao ma tonu po o le tulaga faaletulafono), lea ua manatu le Faamasinoga e tataua ona faamatuu atu po o le tuuina atu i tulaga faapena e le Faamasinoga Sili; ma
- (c) ia faia so o se poloaiga po o le faatinoga o so o se pule faataga po o se puleaga faa-faamasinoga lea, pe afai o faasino i se tagi po o taualumaga faa-faamasinoga o lo o talia i totonu o le Faamasinoga Sili, e ono mafai ona faia pe faataunuaina e le Faamasinoga Sili i totonu o Potu Faamasino.

24. Puleaga faa-faamasinoga e faia ai tagi e faasino i fanua-(1) E i ai i se Faamasino se puleaga faa-faamasinoga e fofogaina ai ma faia se faaiuga o so o se tagi mo le toe maua mai o se fanua umia saoloto, po o so o se aia i lea fanua, pe afai o le tau faavae ua fuafuaina o lea fanua po o le aia e lē silia ma le \$100,000, po o le tofogi faalisi i tausaga taitasi mo lea fanua e lē silia le \$20,000.

(2) E le o i ai i le Faamasinoga se puleaga faa-faamasinoga e faafogaina ai po o e faia ai se faaiuga o so o se tagi, lea e i se isi tulaga, e fesootai i, po o e aafia ai le fanua faaleaganuu.

25. Puleaga faa-faamasinoga e vaevaeina ai meatotino e mafai ona feaveai-(1) Afai o ni meatotino e mafai ona feaveai e lē silia ma le \$20,000 le tau, e umia e ni tagata e le i vaevaeina a latou sea, e mafai e tagata o lo o ia i latou le afa o le aia po o le sili atu i lo le afa o le aia i meatotino ona talosaga atu i se Faamasino mo le faia o so o se tasi o poloaiga nei:

- (a) mo le vaevaeina o meatotino e mafai ona feaveai po o so o se tasi o ia mea, e tusa ai ma le fuafuaga o tau aogā po o se isi lava faiga e ese ai; ma
- (b) mo le faatauina atu o meatotino e mafai ona feaveai ma le vaevaeina o tupe e maua mai ai.

(2) E i ai i le Faamasino le puleaga faa-faamasinoga e faafogaina ai ma faia se faaiuga o se talosaga ua faia i lalo o le faafuauipu (1), ma faia ai sea poloaiga ma tuuina atu ni faatonuga e ono tulai mai e pei ona manatu le Faamasino ua talafeagai ai.

26. Equity jurisdiction-(1) A Judge has jurisdiction to hear and determine any of the following proceedings:

- (a) proceedings for enforcing any charge or lien, if the amount owing in respect of the charge or lien does not exceed the sum of \$20,000;
- (b) proceedings for the specific performance, or for the rectification, delivery up or cancellation of any agreement for the sale, purchase or lease of any property, if in the case of a sale or purchase, the purchase money, or, in the case of a lease, the value of the property, does not exceed the sum of \$20,000;
- (c) proceedings for the dissolution or winding up of any partnership (whether or not the existence of the partnership is in dispute), if the whole assets of the partnership do not exceed in amount or value the sum of \$20,000;
- (d) proceedings for relief against fraud or mistake, if neither the damage sustained nor the estate or fund in respect of which relief is sought exceeds in amount or value the sum of \$20,000; and
- (e) proceedings for the recovery of any specific or pecuniary legacy or share of residue presently payable not exceeding in value or amount the sum of \$20,000.

(2) No proceeding for the dissolution or winding up of a partnership or order in that regard prevents any creditor from petitioning for an adjudication of bankruptcy against the partnership firm or any member or members of it.

26. Puleaga faa-faamasinoga e sa'o ma tonu-(1) E i ai i se Faamasino le puleaga faa-faamasinoga e faafogaina ai ma faia se faaiuga o so o se tasi o taualumaga nei ua taua i lalo:

- (a) taualumaga mo le faamalosiā o so o se moliaga po o se aia tatau e taofia ai se meatotino, pe afai o le aofaiga o le tupe e le i totogiina e tusa ai ma le moliaga po o le aia tatau e taofia ai se meatotino, e lē silia i le aofaiga e \$20,000;
- (b) taualumaga mo le faatinoga faapitoa, po o mo le faasaoina, faaooina atu, po o le faalēaogāina o so o se maliega mo le faatauina atu, faatauina mai po o le lisiina o so o se meatotino, pe afai i le itu o le faatauina atu po o le faatauina mai, o le tupe e faatau mai ai, po o i le itu i se lisi, o le tau aogā o le meatotino, e lē sili atu i le aofaiga e \$20,000;
- (c) taualumaga mo le faataapeina po o le faamutaina o so o se faiga faapaaga (tusa lava po o i ai se faafinauga i le i ai o se faiga faapaaga pe leai foi), pe afai o le aofaiga atoa o meatotino a le faiga faapaaga e lē sili atu i le aofaiga po o le tau aogā o tupe e \$20,000;
- (d) taualumaga mo faamama avega faasaga i se faiga tau faasese faasolitulafono po o se mea sese, pe afai o le tau mo se leaga ua mafatia ai po o le esetete po o le faaputugatupe e faasino i ai le faamama avega ua sailia e lē silia ma le aofaiga po o le tau aogā o tupe e \$20,000; ma
- (e) taualumaga mo le toe maua mai o so o se meaalofa faapitoa po o se tupe na tuuina mai i luga o se mavaega po o sea i le vaega o lo o totoe e mafai i le taimi nei ona totogi atu e lē sili atu i le tau aogā po o le aofaiga o tupe e \$20,000.

(2) E lē puipuia i so o se taualumaga mo le faataapeina po o le faamutaina o se faiga faapaaga, po o se poloaiga e faatatau i lea itu, se tagata o lo o nofo aitalafu ai le faiga faapaaga, mai le faia o se talosaga mo se faamasinoga e faasilasilaina ai le tulaga gaumativa faasaga i le kamupani faapaaga, po o so o se tasi po o nisi o ona sui auai.

27. Administration in simple form - During the absence or inability of a Justice of the Supreme Court to act, from whatever cause, a District Court Judge has the jurisdiction and powers of a Justice of the Supreme Court to grant administration in simple form of the estate of any deceased person leaving estate in Samoa.

28. Exercise of civil jurisdiction under other laws-(1) If any power, authority or jurisdiction is given to a Judge or Fa'amasino Fesoasoani under any other laws, the proceedings must be conducted in accordance with this Act and the applicable Rules of Court, unless some other procedure is specifically provided for or required under the other law.

(2) A Judge or Fa'amasino Fesoasoani when exercising power, authority or jurisdiction under another law has all the powers given under this Act and the Rules of Court.

(3) Nothing in this Act or the Rules derogates from or affects the provisions of the other law conferring any power, authority or jurisdiction on a Judge or Fa'amasino Fesoasoani, or on District Courts.

29. Summary relief in civil matters-(1) A Judge or Fa'amasino Fesoasoani has authority to deal summarily with any civil proceeding in accordance with any procedure prescribed by the Rules of Court.

(2) Any civil proceedings may be dealt with summarily by a Court on either of the following grounds:

- (a) by giving judgment in default if the defendant fails to file a defence or notice to that effect; and

27. Pulega i le faiga faigofie - A o faagasolo le taimi e toesea po o ua lē mafai ona galue ai se Faamasino o le Faamasinoga Sili, ona o so o se mafuaaga, e i ai i se Faamasino o le Faamasinoga Faaitumalo le puleaga faa-faamasinoga ma malosiaga o se Faamasino o le Faamasinoga Sili e faatagaina ai le pulea i se faiga faigofie o esetete a so o se tagata ua maliu a o lo o i ai ona esetete i totonu o Samoa.

28. Faataunuina o puleaga faa-faamasinoga tau le va o tagata i lalo o isi tulafono-(1) Afai ua tuuina atu so o se malosiaga, pule faataga po o se puleaga faa-faamasinoga i se Faamasino po o se Faamasino Fesoasoani i lalo o so o se isi lava tulafono, e ao ona faia tualumaga faaletulafono e tusa ai ma lenei Tulafono ma Tulafono Faafoe talafeagai a le Faamasinoga, seia vagana ai ua aiaia faapitoa nisi lava tualumaga po o manaoga i lalo o le isi lea tulafono.

(2) E i ai i se Faamasino po o se Faamasino Fesoasoani pe afai e faataunuina malosiaga, pule faataga po o se puleaga faa-faamasinoga i lalo o se isi tulafono, malosiaga uma ua tuuina atu i lalo o lenei Tulafono ma Tulafono Faafoe o le Faamasinoga.

(3) E leai se mea o i lenei Tulafono po o Tulafono Faafoe o le a aveesea mai ai po o e aafia ai aiaiga o le isi lea tulafono ua faaee atu ai so o se malosiaga, pule faataga po o le puleaga faa-faamasinoga i se Faamasino po o se Faamasino Fesoasoani, po o i Faamasinoga Faaitumalo.

29. Faamama avega e faia e aunoa ma le faatuai i mataupu tau le va o tagata-(1) E i ai i se Faamasino po o se Faamasino Fesoasoani le pule faataga e tagofia ai e aunoa ma le faatuai so o se tualumaga faa-faamasinoga tau le va o tagata, e tusa ai o so o se faagasologa ua faatonuina e Tulafono Faafoe o le Faamasinoga.

(2) E mafai ona tagofia e aunoa ma le faatali so o se tualumaga faa-faamasinoga tau le va o tagata i se Faamasinoga i luga o so o se tasi o mafuaaga nei:

- (a) e ala i le tuuina atu o se faaiuga i se tupe ua lē mafai ona totogiina pe afai ua lē mafai e lē ua tetee ona faaoo atu se talosaga tetee po o se faasilasilaga i lea tulaga; ma

- (b) by giving summary judgment in favour of a plaintiff if no defence to the proceeding is disclosed by the defendant, and the court is satisfied that the amount is due to the plaintiff from the defendant.

Division 2 - Criminal Jurisdiction

30. Criminal jurisdiction of Judges and Fa'amasino Fesoasoani-(1) A Judge has jurisdiction to hear, determine or pronounce sentence in respect of any information relating to any offence of the following natures:

- (a) an offence of any nature which is punishable only by a fine or forfeiture of an amount permitted under this Act; and
- (b) an offence of any nature which is punishable by a term of imprisonment which does not exceed seven (7) years, whether or not it is also punishable by a fine, penalty or forfeiture:

PROVIDED THAT in any proceedings in the Youth Court for any offence within the jurisdiction of that Court, the Judge may impose a sentence in excess of the limit under paragraph (b) if the maximum penalty prescribed for that offence exceeds seven (7) years except for a charge of murder.

(2) A Judge has jurisdiction to hear and determine any proceedings commenced under the Customs Act 1977.

(3) Fa'amasino Fesoasoani have jurisdiction to hear, determine and impose sentence in respect of any information which charges the accused with either of the following:

- (b) e ala i le tuuina atu o se faaiuga e aunoa ma le faatali e faamalieina ai lē ua tagi pe afai e leai se talosaga tetee i le taulumaga faa-faamasinoga ua faailoa atu e le tagata tetee, ma ua faamalieina le faamasinoga e faapea ua tatau ona totogi le aofaiga o tupe i lē ua tagi, mai le tagata tetee.

Vaevaega 2 - Puleaga Faa-Faamasinoga Tau Solitulafono

30. Puleaga faa-faamasinoga tau solitulafono a Faamasino ma Faamasino Fesoasoani-(1) E i ai i se Faamasino le puleaga faa-faamasinoga e faafogaina ai, faia se faaiuga po o le faasilasila atu se faasalaga e tusa ai o so o se tagi e faasino i so o se solitulafono e i ai uiga nei:

- (a) o se soligatulafono o so o se uiga lea e mafai ona faasalaina ai i le na o se sala tupe, po o le taofia e lē toe faafoiina o se aofaiga ua faatagaina i lalo o lenei Tulafono; ma
- (b) se soligatulafono o so o se uiga lea e mafai ona faasalaina ai i se vaitaimi e nofosala ai i le falepuipui lea e lē silia le fitu (7) tausaga, tusa pe ono mafai ona faasalaina pe leai foi, i se sala tupe, faasalaga po o le taofia o se tupe e lē toe faafoiina i lē ua nofosala:

AE VAGANA AI ua aiaia i totonu o so o se taulumaga o le Faamasinoga o Tupulaga Talavou mo so o se soligatulafono i totonu o le puleaga faa-faamasinoga a lea Faamasinoga, e mafai e le Faamasino ona faaee atu se faasalaga e maualuga atu i le tapulaa o lo o i lalo o le parakalafa (b) pe afai o le faasalaga aupito maualuga ua faatonuina mo lea soligatulafono, e sili atu i le fitu (7) tausaga ae vagana ai o se moliaga o le fasioti tagata faamoemoeina.

(2) E i ai i se Faamasino se puleaga faa-faamasinoga e faafogaina ai ma faia se faaiuga o so o se taulumaga ua amataina i lalo o le Tulafono o le Ofisa o Tiute 1977.

(3) E i ai i Faamasino Fesoasoani puleaga faa-faamasinoga e fofogaina ai, fuafuaina se faaiuga ma faaee atu se faasalaga e tusa ai o so o se tagi lea ua molia ai lē ua tuuaia i se tasi o itu nei:

(a) an offence the maximum penalty for which does not exceed a one (1) year imprisonment term, or a fine not exceeding 5 penalty units, or both; or

(b) the crime of theft, provided the value of the property stolen does not exceed the sum of \$500.

(4) Fa'amasino Fesoasoani have authority to impose terms of imprisonment not exceeding 12 months in default of payment of any fine imposed by the Court.

(5) A Judge or Fa'amasino Fesoasoani has authority to order the transfer of any criminal proceeding which is not within the limits of jurisdiction prescribed by this section, to a court which has jurisdiction to hear and determine the proceeding.

(6) If an offender faces multiple charges in the District Court, and one (1) or more of them is outside the jurisdiction stated in subsection (1), the Judge has authority to do either of the following:

(a) to order that all charges be transferred to the Supreme Court; or

(b) to transfer to the Supreme Court only those charges that are outside of the Court's jurisdiction, and to proceed to hear the charges that are within the Court's jurisdiction.

(7) If an order is made under subsection (6)(a) the matters transferred are to be all heard and determined by the Supreme Court.

(8) A Fa'amasino Fesoasoani must order the transfer of any criminal proceeding which is not within the limits of jurisdiction prescribed by this section, to be heard and determined by a Judge.

(a) o se soligatulafono o lona faasalaga aupito maualuga e lē sili atu i le tasi (1) le tausaga e nofosala ai i le falepuipui, po o se sala tupe e lē sili atu i le 5 iunite tau faasalaga, po o faasalaga uma e lua; po o

(b) le solitulafono o le gaioi, o aiaia ai le tau aogā o meatotino na gaioia e lē sili atu i le aofaiga e \$500.

(4) E i ai i le Faamasino Fesoasoani le pule faataga e faaee atu ai tuutuuga o le vaitaimi e nofosala ai i le falepuipui e lē silia le 12 masina, ina ua lē mafai ona totogi tupe o so o se sala tupe ua faaee atu e le Faamasinoga.

(5) E i ai i se Faamasino po o se Faamasino Fesoasoani le pule faataga e poloaia ai le faaliliuina atu o so o se taualumaga tau solitulafono lea e le o i ai i totonu o tapulaa o puleaga faa-faamasinoga ua faatonuina e lenei fuaiupu, i se faamasinoga lea e i ai le puleaga faa-faamasinoga e fofogaina ai ma faia se faaiuga o taualumaga faa-faamasinoga.

(6) Afai ua feagai se tagata solitulafono ma ni moliaga e tele i totonu o le Faamasinoga Faaitumalo, ma o le tasi (1) po o le sili atu o ia moliaga e i fafo atu o le puleaga faa-faamasinoga ua taua i le faafuiauupu (1), e i ai i le Faamasino le pule faataga e faia ai so o se tasi o itu nei:

(a) ia poloaia e faapea, ia faaliliuina atu o moliaga uma i le Faamasinoga Sili; po o

(b) ia faaliliuina atu i le Faamasinoga Sili na o moliaga ia e i fafo atu o le puleaga faa-faamasinoga a le Faamasinoga, ma ia faagasolo ona fofogaina moliaga ia o lo o i ai i totonu o le puleaga faa-faamasinoga a le Faamasinoga.

(7) Afai ua faia se poloaiga i lalo o le faafuiauupu (6)(a), o mataupu uma ua faaliliuina atu e ao ona fofogaina ma faia se faaiuga e le Faamasinoga Sili.

(8) E ao i Faamasino Fesoasoani ona poloaia le faaliliuina atu o so o se taualumaga tau solitulafono lea e le o i ai i totonu o tapulaa o puleaga faa-faamasinoga ua faatonuina e lenei fuaiupu, ina ia fofogaina ma faia i ai se faaiuga e se Faamasino.

(9) Written notice of any decision made to transfer proceedings under this section must be given by the Registrar to the Prosecution and the defendant, as soon as the order is made to transfer proceedings.

PART IV TRANSFER OF PROCEEDINGS

31. Transfer of civil proceedings when limit is exceeded-(1) A Judge has authority to order the transfer of civil proceedings which have been commenced in the District Court to be heard and determined in the Supreme Court only if all of the following circumstances apply:

- (a) it becomes apparent that the claim or value of the property claimed, exceeds the monetary limit prescribed for a Judge under Part III;
- (b) the plaintiff does not agree to abandon the part of his or her claim which exceeds the limit;
- (c) the parties do not agree that the Judge should proceed to hear and determine the matter.

(2) In addition to the grounds for transfer under subsection (1), a Judge has authority to order that proceedings commenced in the District Court be transferred for hearing and determination in the Supreme Court if it becomes apparent that any aspect of the claim, or any issue relevant to it, is outside the jurisdiction of the District Court for any reason that is not related to the monetary limits imposed under Part III.

(3) If it appears to a Judge that the plaintiff or one of the plaintiffs knew or ought to have known that the Court had no jurisdiction in the proceedings, the Judge has authority to order that the proceedings be struck out, and in such event the Judge has

(9) E ao ona tuuina atu e le Resitara se faasilasilaga tusitusia o so o se faaiuga ua faia e faaliliuina atu ai taualumaga faa-faamasinoga i lalo o lenei fuaiupu, i le Vaega e Faia Moliaga ma le tagata tetee, i se taimi vave lava e faia ai se poloaiga e faaliliuina atu ai taualumaga faa-faamasinoga.

VAEGA IV FAALILIUINA ATU O TAUALUMAGA

31. Faaliliuina atu o taualumaga tau le va o tagata pe afai ua maualuga atu i le tapulaa-(1) E faatoa i ai le pule faataga a se Faamasino e poloaia ai le faaliliuina atu o taualumaga tau le va o tagata ia ua amatalia i le Faamasinoga Faaitumalo ina ia fofogaina ma faia le faaiuga e le Faamasinoga Sili pe afai e faaogā uma tulaga aliae mai nei:

- (a) ua manino mai e faapea o le talosaga ma tau aogā o le meatotino ua talosagaina, ua sili atu i le tapulaa tau tupe ua faatonuina mo se Faamasino i lalo o le Vaega III;
- (b) e le o malie lē ua tagi e tuueseina le vaega o lana talosaga lea e sili atu i le tapulaa;
- (c) e le o malilie itu faamasinoga e faapea o le a tatau i le Faamasino ona faagasolo le faafogaina ma faia le faaiuga o le mataupu.

(2) I le faaopoopo atu i mafuaaga mo le faaliliuina atu i lalo o le faafuaiupu (1), e i ai i se Faamasino le pule faataga e poloaia ai e faapea, o taualumaga ua amatalia i le Faamasinoga Faaitumalo o le a faaliliuina atu i le Faamasinoga Sili mo le faafogaina ma faia se faaiuga, pe afai ua manino mai e faapea o so o se tasi o itu o le talosaga, po o so o se mataupu e talafeagai i ai, o lo o i fafo atu o le pulega faa-faamasinoga a le Faamasinoga Faaitumalo mo so o se mafuaaga lea e lē fesootai i tapulaa tau tupe ua faaee atu i lalo o le Vaega III.

(3) Afai ua aliali atu i se Faamasino e faapea na silafia po o ua tatau ona silafia e lē ua tagi po o se tasi o ē ua tagi e faapea e le o i ai i le Faamasinoga se pulega faa-faamasinoga i taualumaga, e i ai i le Faamasino le pule faataga e poloaiina ai e faapea ua tatau ona soloia

authority to award costs to the same extent and recoverable in the same manner as if the Court had jurisdiction and the claim had not been established.

(4) Written notice of any decision made to transfer proceedings under this section must be given by the Registrar to any party who is not present or represented in court at the time that the order is made, or if the order is made in the absence of the parties.

32. Transfer of proceedings by Fa’amasino Fesoasoani-(1) A Fa’amasino Fesoasoani has authority to order the transfer of civil proceedings to be heard and determined by a Judge only if all of the following circumstances apply:

- (a) it becomes apparent that the claim or value of the property claimed, exceeds the monetary limit prescribed for a Fa’amasino Fesoasoani under Part III;
- (b) the plaintiff does not agree to abandon the part of his or her claim which exceeds the limit; and
- (c) the parties do not agree that the Fa’amasino Fesoasoani should proceed to hear and determine the matter.

(2) In addition to the grounds for transfer under subsection (1), a Fa’amasino Fesoasoani has authority to order that proceeding be transferred for hearing and determination by a Judge if it becomes apparent that any aspect of the claim, or any issue relevant to it, is outside the jurisdiction of the Fa’amasino Fesoasoani for any reason, not related to the monetary limits imposed under Part III.

(3) If it appears to a Fa’amasino Fesoasoani that the plaintiff or one of the plaintiffs knew or ought to have known that the Fa’amasino Fesoasoani or the District Court had no jurisdiction in the proceedings, the Fa’amasino Fesoasoani has authority to order

ia tualumaga ma afai e aliae mai sea tulaga, e i ai i le Faamasino le pule faataga e tuuina atu ai le totogi o le faamasinoga i lea lava tulaga tutusa ma e mafai ona toe maua mai ia totogi i lea lava faiga e tasi e faapei ai na i ai i le Faamasinoga le pulega faa-faamasinoga ma sa le i faamautuina le talosaga.

(4) E ao ona tuuina atu e le Resitara se faasilasilaga tusitusia o so o se faaiuga ua faia e faaliliuina atu ai tualumaga, i lalo o lenei fuaiupu, i so o se itu faamasinoga o ia lea e lē auai po o e leai sē o suia i totonu o le faamasinoga i le taimi na faia ai le poloaiga, po o pe afai na faia le poloaiga i le lē auai ai o itu faamasinoga.

32. Faaliliuina atu o tualumaga e Faamasino Fesoasoani-(1) E faatoa i ai i le Faamasino Fesoasoani le pule faataga e poloai ai le faaliliuina atu o tualumaga tau le va o tagata ina ia fofogaina ma fai i ai se faaiuga e se Faamasino pe afai e faaogā uma tulaga aliae mai nei:

- (a) ua foliga manino mai e faapea o le talosaga po o le tau aogā o le meatotino ua faatagisia, e sili atu i le tapulaa tau tupe ua faatonuina mo se Faamasino Fesoasoani i lalo o le Vaega III;
- (b) e le o malie lē ua tagi ina ia tuueseina le vaega o lana talosaga lea e sili atu i le tapulaa; ma
- (c) e le o malilie i ai itu faamasinoga i le tulaga e faapea, e tatau i le Faamasino Fesoasoani ona ia faagasolo le fofogaina ma le faia o se faaiuga o le mataupu.

(2) E faaopoopo atu i ai i mafuaaga mo le faaliliuina atu ua faia i lalo o le faafuaiupu (1), e i ai i le Faamasino Fesoasoani le pule faataga e poloai ai e faapea, ia faaliliu atu tualumaga mo le fofogaina ma faia i ai se faaiuga e se Faamasino, pe afai ua foliga manino mai e faapea, o lo o i fafo atu o le pulega faa-faamasinoga a le Faamasino Fesoasoani se vaega o le talosaga, po o so o se mataupu e talafeagai i ai, mo so o se mafuaaga, e lē fesootai i tapulaa tau tupe ua faaee atu i lalo o le Vaega III.

(3) Afai ua tulai mai i se Faamasino Fesoasoani e faapea na silafia po o ua tatau ona silafia e lē ua tagi po o se tasi o ē ua tagi e faapea e le o i ai i le Faamasino Fesoasoani po o le Faamasinoga Faaitumalo se pulega faa-faamasinoga i tualumaga, e i ai i le

that the proceedings be struck out, and in such event the Fa'amasino Fesoasoani has authority to award costs to the same extent and recoverable in the same manner as if the Court had jurisdiction and the claim had not been established.

(4) Written notice of any decision made to transfer proceedings under this section must be given by the Registrar to any party who is not present or represented in court at the time that the order is made, or if the order is made in the absence of the parties.

33. Transfer of proceedings where there is a counterclaim-(1)

If a counterclaim, or set-off and counterclaim, involves a matter beyond the jurisdiction of the District Court, a Judge has authority to make any of the following orders:

- (a) that the whole proceedings be transferred to the Supreme Court;
- (b) that the whole proceedings be heard and determined in the District Court, if the defendant abandons the part of the counterclaim or set off which exceeds the limits of the Court's jurisdiction, or the parties agree to the matter being heard and determined by the District Court; and
- (c) that the proceedings on the counterclaim or set-off and counterclaim be transferred to the Supreme Court and that the proceedings on the plaintiff's claim be heard and determined in the District Court.

(2) If an order is made under subsection (1)(c), and judgment on the claim is given for the plaintiff, execution on that judgment is stayed until the proceedings transferred to the Supreme Court have

Faamasino Fesoasoani le pule faataga e poloai ai e faapea, ua tatau ona soloia ese ia taualumaga, ma i sea tulaga, e i ai i le Faamasino Fesoasoani le pule faataga e tuuina atu ai se faaiuga e uiga i totogi o le faamasinoga i le tulaga lava lea ma e mafai ona toe maua mai ia totogi i le faiga lava e tasi e faapei ai na i ai i le Faamasinoga le puleaga faa-faamasinoga ma e le i faamautuina le talosaga.

(4) E ao ona tuuina atu e le Resitara se faasilasilaga tusitusia o so o se faaiuga ua faia e faaliliuina atu ai taualumaga i lalo o lenei fuaiupu, i so o se itu faamasinoga e le o auai po o, e le o i ai sona sui i le faamasinoga i le taimi na faia ai le poloaiga, po o pe afai na faia le poloaiga e le o auai ia itu faamasinoga.

33. Faaliliuina atu o taualumaga pe afai o lo o i ai se talosaga tetee e tali atu ai-(1) Afai o se talosaga tetee, po o se faaititiga o aitalafu ma se talosaga tetee, o lo o aafia ai se mataupu e lē oo i ai le malosiaga o le puleaga faa-faamasinoga a le Faamasinoga Faaitumalo, e i ai i se Faamasino le pule faataga e faia ai so o se tasi o poloaiga nei:

- (a) ia faaliliu atu taualumaga atoa i le Faamasinoga Sili;
- (b) ia fofogaina taualumaga atoa ma faia le faaiuga i totonu o le Faamasinoga Faaitumalo, pe afai e tuueseina e lē ua tetee le vaega o le talosaga tetee e tali atu ai po o le faaititiga o aitalafu lea e sili atu ma tapulaa o le puleaga faa-faamasinoga a le Faamasinoga, po o ua malilie i ai itu faamasinoga ina ia fofogaina ma faia le faaiuga o le mataupu e le Faamasinoga Faaitumalo; ma
- (c) ia faaliliu atu taualumaga e faatatau i le talosaga tetee e tali atu ai po o le faaititiga o aitalafu ma se talosaga tetee e tali atu ai i le Faamasinoga Sili, ma ia fofogaina ma faia le faaiuga o taualumaga e faatatau i le tagi a lē ua talosaga i le Faamasinoga Faaitumalo.

(2) Afai ua faia se poloaiga i lalo o le faafuaiupu (1)(c), ma ua tuuina atu le faaiuga e faatatau i le talosaga mo lē ua tagi, e tatau ona faataatia le faataunuuna o lea faaiuga seia oo ina faia se faaiuga

been determined, unless the Supreme Court makes an order that execution can proceed.

(3) If no order is made under this section and a counterclaim or set off exceeds the monetary limits of the District Court during the hearing and determination of the proceedings the defendant is deemed to have abandoned the amount which exceeds the limit.

(4) If the Supreme Court makes any order under this section, the Registrar of the Supreme Court must send to the Registrar of the District Court a copy of the order.

34. Transfer of proceedings from Supreme Court to District Court-(1) If civil proceedings have been commenced in the Supreme Court which concern a subject-matter that is within the jurisdiction of the District Courts, the Supreme Court has authority to order that the proceedings be transferred to the District Court.

(2) If proceedings are ordered to be transferred under subsection (1), a sealed order to that effect must be sent to the Registrar of the District Court, together with all documents filed in the Supreme Court relating to the proceedings.

(3) When the requirements of subsection (2) are complied with, the proceedings are to be regarded as if they had been originally commenced in the District Court which has jurisdiction to deal with the proceedings.

(4) The transfer of proceedings under this section does not affect any right of appeal against the order directing the transfer, or the right to enforce in the Supreme Court any judgment signed or order made in the Supreme Court before the transfer.

i tualumaga ua faaliliuina atu i le Faamasinoga Sili, ae vagana ai ua faia e le Faamasinoga Sili se poloaiga lea e mafai ai ona faagasolo le faataunuina.

(3) Afai e le i faia se poloaiga i lalo o lenei fuaiupu ma ua sili atu ma tapulaa tau tupe a le Faamasinoga Faaitumalo se talosaga tetee e tali atu ai po o le aofai o aitalafu ua tuueseina a o faagasolo le fofogaina ma le faia o le faaiuga o tualumaga, ua faatauina, ua faataatiaese e le tagata ua tetee le aofai lea ua sili atu ma le tapulaa.

(4) Afai ua faia e le Faamasinoga Sili so o se poloaiga i lalo o lenei fuaiupu, e ao i le Resitara o le Faamasinoga Sili ona auina atu i le Resitara o le Faamasinoga Faaitumalo se ata o le poloaiga.

34. Faaliliuina atu o tualumaga faa-faamasinoga mai le Faamasinoga Sili i le Faamasinoga Faaitumalo-(1) Afai ua amataina ni tualumaga faa-faamasinoga tau le va o tagata i totonu o le Faamasinoga Sili, lea e aofia ai se mataupu autu lea e i totonu o se puleaga faa-faamasinoga a le Faamasinoga Faaitumalo, e i ai i le Faamasinoga Sili le pule faataga e poloai ai e faapea, ia faaliliuina atu tualumaga i le Faamasinoga Faaitumalo.

(2) Afai ua poloai tualumaga faa-faamasinoga ina ia faaliliu atu i lalo o le faafuuiupu (1), e ao ona auina atu se poloaiga ua faamaufailogaina e tusa ai o lea tulaga, i le Resitara o le Faamasinoga Faaitumalo, faatasi ai ma pepa aloaia uma ua faaoo atu i le Faamasinoga Sili e faasino i tualumaga faa-faamasinoga.

(3) Afai ua tausisia manaoga o le faafuuiupu (2), ua faatatauina tualumaga faa-faamasinoga e faapei ai sa amataina muamua i totonu o le Faamasinoga Faaitumalo lea e i ai puleaga faa-faamasinoga e tagofia ai tualumaga faa-faamasinoga.

(4) O le faaliliuina atu o tualumaga i lalo o lenei fuaiupu o le a lē aafia ai so o se aia tatau e talosaga tetee ai e faasaga i le poloaiga o lo o faatonuina ai le faaliliuina atu, po o le aia tatau e faamalosi ai i totonu o le Faamasinoga Sili, so o se faaiuga ua sainia po o se poloaiga na faia i totonu o le Faamasinoga Sili a o lumanai ai le faaliliuina atu.

35. Costs in transferred cases-(1) Subject to subsection (2), if a matter is ordered to be transferred pursuant to this Part, the costs of the whole proceedings (both before and after the transfer) are to be determined by the Court to which the proceedings are transferred, subject to any order made by the Court which ordered the transfer.

(2) The costs associated with any part of the proceedings in an action transferred from the Supreme Court to the District Court which have taken place in the Supreme Court before the transfer, are subject to the Rules of the Supreme Court, and to the relevant scale of costs in the Supreme Court, unless the Supreme Court orders otherwise.

PART V CIVIL PROCEDURE

Division 1 - Parties

36. Capacity of parties to sue and be sued in the District Court - All of the following have full legal capacity to sue and be sued in proceedings taken in the District Court:

- (a) any legal person with legal capacity;
- (b) any duly appointed trustee, executor or administrator may sue and be sued in the Court as if he or she were a party in his or her own right, without joining any of the beneficiaries of the trust or estate, and in such proceedings the trustee, executor or administrator is deemed to be representative of the beneficiaries in the action;

35. Totogi a le faamasinoga i mataupu ua faaliliu atu-(1) I le noatia ma le fai fuafua i le faafuaiupu (2), afai ua poloai se mataupu ina ia faaliliuina atu e tusa ai o lenei Vaega, o totogi o tualumaga atoa, (i vaitaimi uma e lua a o lumanai ai ma ina ua tuanai ai le faaliliu atu), e faia le faaiuga e le Faamasinoga lea ua faaliliu atu i ai tualumaga faa-faamasinoga, i le noatia ma le fai fuafua i so o se poloaiga na faia e le Faamasinoga lea na poloai ai le faaliliu atu.

(2) O totogi a le faamasinoga ua aofia ai ma so o se vaega, o tualumaga faa-faamasinoga o se tagi na faaliliu atu mai le Faamasinoga Sili i le Faamasinoga Faaitumalo, lea na faia i totonu o le Faamasinoga Sili a o luamanai ai le faaliliuina atu, e noatia i Tulafono Faafoe o le Faamasinoga Sili, ma i fua faasolo talafeagai o tupe totogi o le Faamasinoga Sili, ae vagana ai ua poloaia e le Faamasinoga Sili i se isi faiga e ese ai.

VAEGA V TAUALUMAGA FAA-FAAMASINOGA TAU LE VA O TAGATA

Vaevaega 1 - Itu Faamasinoga

36. Tulaga agavaa o itu faamasinoga latou te molia ai ma molia ai foi i latou i totonu o le Faamasinoga Faaitumalo - O i latou uma ua taua e i ai tulaga agavaa atoatoa faaletulafono e faia ai moliaga ma e molia ai foi i latou i tualumaga faa-faamasinoga ua faia i totonu o le Faamasinoga Faaitumalo:

- (a) so o se loia e i ai lona tulaga agavaa faaletulafono;
- (b) e mafai e so o se tausi mavaega ua tofia aloaia tagata e faafoea, po o lē e pulea ona ia molia ma e molia foi o ia i le Faamasinoga e faapei ai o ia o se itu faamasinoga i lana lava aia tatau, e aunoa ma le soofaatasi ma so o se tasi o ē ua faamanuiaina i se mea o lo o tausia po o se esetete, ma i totonu o ia tualumaga, ua faatatauina le tausi mavaega, tagata e faafoea po o lē e pulea e aveva o se sui o ē ua faamanuiaina i le tagi;

- (c) any beneficiary of a trust or estate who is ordered by a Judge to be a party in any relevant proceedings;
- (d) a child who is suing for wages or piecework, or for work as an employee;
- (e) a child who is seeking to enforce any other legal right in respect of which he or she has legal capacity to enjoy or enforce;
- (f) a next friend or guardian *ad litem* of any person who is prevented from taking action in his or her own name and right by reason of any legal disability;
- (g) the duly appointed legal representative of any person suffering from mental incapacity, in accordance with any applicable law; and
- (h) a person entitled by law to take or defend an action on behalf of a person who has been declared to be bankrupt or insolvent.

37. Persons jointly liable-(1) If a plaintiff has a claim recoverable under this Act against two (2) or more persons who are jointly liable, it is sufficient to serve any of those persons with the proceedings, and judgment can be obtained and execution issued against any person so served, even if the other persons who are jointly liable have not been served or sued, or may not be within the jurisdiction of the Court.

(2) If judgment is obtained against any person in accordance with subsection (1) and is satisfied either in part or for the whole amount by that person, he or she is entitled to take proceedings taken in the District Court to recover contribution from any other person who is jointly liable.

- (c) so o sē e faamanuiaina i se mea o lo o tausia po o se esetete, o ia lea ua faatonuina e se Faamasino ina ia avea o se itu faamasinoga i totonu o so o se taualumaga talafeagai;
- (d) o se tamaitiiti o ia lea ua faia se moliaga mo ni totogiaso po o se galuega togipau, po o mo galuega a o avea ai o se tagata faigaluega;
- (e) o se tamaitiiti o ia lea o lo o taumafai e faamalosia so o se isi lava aia tatau faaletulafono e tusa ai ma le tulaga agavaa faaletulafono lea e ia te ia e faamanuiaina ai po o le faamalosia;
- (f) o se uo e sosoo ai po o se tagata e vaavaaia *i lona lava loto malie* so o se tagata o ia lea ua taofia mai le faia o se tagi i lona lava igoa ma aia tatau e ala i se mafuaaga o so o se tulaga lē gafatia faaletulafono;
- (g) o le sui faaletulafono ua tofia aloaia, o so o se tagata o mafatia mai tulaga lē lelei o le mafaufau, e tusa ai ma so o se tulafono e talafeagai i ai; ma
- (h) se tagata ua agavaa e ala i le tulafono e tali atu po o e tetee atu i se tagi, i le avea ai ma sui o se tagata o ia lea ua faaalua manino le tulaga gaumativa po o ua lē mafai ona totogiina aitalafu.

37. O tagata ua noatia i tulaga soofaatasi-(1) Afai ua faatagisia e se tagata ua tagi se mea e ono mafai ona toe maua mai i lalo o lenei Tulafono e faasaga i ni tagata se toalua (2) po o le sili atu o i latou ia e mafai ona noatia i le tulaga soofaatasi, ua lava atoatoa le faaooina atu i so o se tasi o ia tagata taualumaga faa-faamasinoga, ma e mafai ona maua mai se faaiuga ma faataga le faataunuina faasaga i so o se tagata ua faapea ona faaoo atu i ai sea faaiuga, tusa lava pe afai e le i faaooina atu sea faaiuga i isi tagata e mafai ona noatia ai i le tulaga soofaatasi, po o le molia, po o e lē ono aofia ai i le pulega faa-faamasinoga a le Faamasinoga.

(2) Afai ua maua mai se faaiuga faasaga i so o se tagata e tusa ai ma le faafuaiupu (1) ma ua faamalievina se vaega ua totoi po o mo le aofaiga atoa o le tupe e lea tagata, ua agavaa o ia e auai i taualumaga ua faia i totonu o le Faamasinoga Faaitumalo, ina ia toe maua mai ai se saofaga mai so o se tasi o tagata o ia lea o lo o noatia i le tulaga soofaatasi.

38. Proceedings against absent defendant - The Court has authority to hear and determine any civil proceedings against a defendant who is absent from Samoa if it is satisfied of either of the following:

- (a) that service has been effected on the defendant in accordance with the Rules; or
- (b) that the defendant has a duly appointed agent in Samoa authorised to sue and be sued on his or her behalf, and service has been effected on the agent in accordance with the Rules.

Division 2 - General matters of procedure

39. Right of appearance-(1) Unless otherwise provided by any other law, a party to any civil proceedings may appear and act personally or be represented by a barrister or solicitor of the Supreme Court of Samoa.

(2) In special circumstances the Court has authority to permit any party to appear by an agent authorised in writing by the party, or by any person holding a power of attorney from the party authorising such person to sue and be sued for and in the name of the party.

(3) A person who is permitted to represent a party under subsection (2) is not entitled to receive any fee or payment for so appearing or acting, unless he or she is a barrister or solicitor.

(4) A corporation is entitled to appear and be represented by any officer of the corporation, or by a duly appointed attorney or agent of the corporation.

38. Taulumaga e faia faasaga i le toesea ai o lē ua tetee - E i ai i le Faamasinoga le pule faataga e suesue ai ma faia se faaiuga o so o se taulumaga tau le va o tagata e faasaga i se tagata ua tetee o lo o toesea mai Samoa pe afai ua faamalieina o ia i so o se tasi o itu nei:

- (a) e faapea ua uma ona faaooina atu o sea tulaga i lē ua tetee e tusa ai ma Tulafono Faaofe; po o
- (b) e faapea e i ai se sui sooupu tofia a lē ua tetee i totonu o Samoa, ua faatagaina na te faia se moliaga ma e mafai foi ona molia o ia avea ma ona sui, ma ua uma ona faaooina atu sea tulaga i le sui sooupu e tusa ai ma Tulafono Faafoe.

Vaevaega 2 - Mataupu Eeseese o Taulumaga

39. Aia tatau e tulai ai i luma o le faamasinoga-(1) Ae vagana ai ua aiaia i se isi faiga e ese ai e so o se isi lava tulafono, e mafai e se itu faamasinoga i so o se taulumaga faa-faamasinoga tau le va o tagata ona auai ma faatino e ia lava, po o, le avea ma ona sui se loia i totonu o le faamasinoga po o se loia faufautua o le Faamasinoga Sili a Samoa.

(2) I tulaga faapitoa e aliae mai, e i ai i le Faamasinoga le pule faataga e faataga ai so o se itu faamasinoga e auai, e ala i sona sui sooupu ua faatagaina i se faiga tusitusia e le itu faamasinoga, po o e ala i so o se tagata o umia se malosiaga faa-loia, mai le itu faamasinoga ua faatagaina sea tagata na te moliaina ai ma molia ai foi o ia mo ma i le igoa o le itu faamasinoga.

(3) E lē agavaa se tagata o ia lea ua faatagaina e avea ma sui o se itu faamasinoga i lalo o le faafuaiupu (2), e mauaina so o se totofiguapauina po o se tupe totofigi mo le faapea ona tulai ai po o le galue ai, seia vagana ai o ia o se loia i totonu o faamasinoga po o se loia faufautua.

(4) E agavaa se faalapotopotoga e auai ma avea ma ona sui so o se tagata ofisa o le faalapotopotoga, po o e ala i se loia agavaa ua tofia aloaia po o se sui sooupu o le faalapotopotoga.

(5) Nothing in this section prevents a Judge or Fa'amasino Fesoasoani from permitting any person to appear before the Court on behalf of a party on an *amicus curiae* basis, if the interests of justice are served by the appearance.

40. Compelling witnesses-(1) A person who is summoned as a witness in a Court in any civil proceedings and who does either of the following:

- (a) refuses or neglects, without sufficient cause, to appear or to produce any document or thing required by the summons to be produced; or
- (b) refuses to be sworn or to give evidence,

commits an offence and is liable to a fine not exceeding 100 penalty units.

(2) A witness who is summoned must be given sufficient money at the time of service, or at any time prior to the date of hearing, to enable that person to meet the expense of travelling to the court.

(3) A witness who has been summoned as a witness and who refuses or neglects to appear, is to be regarded as having had sufficient cause if he or she establishes to the satisfaction of the Court that no money was given or tendered as required by subsection (2).

(4) A person present in Court who is called upon to give evidence but refuses to be sworn or give evidence, whether or not he or she has been summoned or paid or tendered expenses, commits an offence and is liable to a fine not exceeding 500 penalty units, or to a term of imprisonment of up to three (3) months, or both.

(5) E leai se mea o i lenei fuaiupu e taofia ai se Faamasino po o se Faamasino Fesoasoani mai le faatagaina o so o se tagata ina ia tulai i luma o le Faamasinoga e avea ai ma sui o se itu faamasinoga i luga o se tulaga o se *tagata faufautua* a le faamasinoga, pe afai o lona tulai ai ua faia ai le amiotonu a le faamasinoga.

40. Faamalosia o tagata molimau-(1) O se tagata o ia lea ua samania e avea ma molimau i totonu o se Faamasinoga i so o se taualumaga faa-faamasinoga tau le va o tagata ma ua ia faia so o se tasi o tulaga nei:

- (a) ua musu po o ua faatamala e aunoa ma se mafuaaga tataua e auai po o le tuuina mai o so o se pepa aloaia po o se mea e manaomia e le tusi samania ina ia tuuina mai; po o
- (b) ua musu e faatautoina o ia po o ua musu e tuuina mai ni faamatalaga molimau,

ua faia e ia se soligatulafono ma e noatia i se sala tupe e lē silia le 100 iunite tau faasalaga.

(2) O se tagata molimau o ia lea ua samania e ao ona tuuina atu i ai se tupe e lava atoatoa i le taimi na faaoo atu ai le tusi samania po o i so o se isi lava taimi a o lumanai ai le aso o le fofogaina o le mataupu, ina ia mafai ai e lea tagata ona totogi le malaga atu i le faamasinoga.

(3) O se tagata molimau o ia lea na samania e avea o se tagata molimau ma ua musu o ia po o ua faatamala e auai, e ao ona faatautuina e i ai mafuaaga tataua, pe afai ua na faamautuina e tusa ma le maliaga a le Faamasinoga e faapea, e leai se tupe na tuuina atu pe na totogi atu e pei ona manaomia e le faafuuiupu (2).

(4) So o se tagata o lo o auai i totonu o le Faamasinoga, o ia lea ua valaauina na te tuuina mai se faamatalaga molimau ae ua musu e faatautoina po o ua musu e tuuina mai ni faamatalaga molimau, tusa lava pe na valaauina pe sa le i valaauina o ia pe na totogi atu pe na tuuina atu i ai ni tupe na ia faaluina, ua faia e ia se soligatulafono ma e noatia i se sala tupe e lē silia le 500 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e oo atu i le tolu (3) masina, po o faasalaga uma e lua.

(5) The payment of a fine imposed under subsection (4), or the undergoing of a term of imprisonment for non-payment of such fine, does not exempt a person from any action for disobeying a summons or refusing to be sworn or give evidence.

41. Witness expenses-(1) In any civil proceedings, a witness attending a Court upon a witness summons, and any other person giving evidence in the course of the proceedings, is entitled to have his or her expenses paid by the party for whom the evidence is given.

(2) The amount of expenses to be paid to a witness is to be assessed in accordance with any applicable scale, or as otherwise determined as being reasonable by the Court.

(3) The Court may disallow the whole or any part of such sum.

42. Evidence by affidavit or affirmation-(1) An affidavit or affirmation to be used in a Court may be sworn or made before any District Court Judge or Fa'amasino Fesoasoani or before any person authorised by law, but must not be a solicitor engaged in the proceedings.

(2) The Rules of Court may provide for the admission of an affidavit or affirmation sworn or made out of Samoa before any person authorised in the Rules.

43. Evidence of witness out of Court-(1) On application of a party, the Court has authority to make an order for the taking of the evidence on oath, before any officer of the Court or any other person or persons, and at any place either in or out of Samoa, of any witness, if it appears necessary in the interests of justice.

(5) O le totogiina o se sala tupe ua faaee atu i lalo o le faafuaiupu (4), po o le faataunuuna o se vaitaimi e nofosala ai i le falepuipui mo le lē totogiina o sea sala tupe, e lē tuusaunoaina ai se tagata mai so o se tagi mo le lē usitaia o se tusi samania po o ona o le musu e faatautoina o ia po o le tuuina mai o ni faamatalaga molimau.

41. Tupe alu e totogi ai tagata molimau-(1) I totonu o so o se taualumaga tau le va o tagata, e agavaa se tagata molimau o lo o auai atu i se Faamasinoga i luga o se tusi samania, ma so o se isi tagata o lo o tuuina atu faamatalaga molimau a o faagasolo taualumaga, e totogi e le itu faamasinoga lea e tuuina atu ai a latou faamatalaga molimau.

(2) O le aofaiga o tupe e totogi i se tagata molimau e ao ona fuafuaina ina ia tusa ai ma so o se fua faatatau talafeagai, po o ua fuafuaina e le Faamasinoga e talafeagai i se isi faiga e ese ai.

(3) E mafai e le Faamasinoga ona ia lē faatagaina le aofaiga atoa po o so o se vaega o sea aofaiga o tupe.

42. O faamatalaga molimau e ala i faamatalaga tauto po o faamaoniga aloaia-(1) E mafai ona faatautoina po o e faia i luma o so o se Faamasino o le Faamasinoga Faaitumalo po o se Faamasino Fesoasoani, se faamatalaga tauto po o se faamaoniga aloaia e faaaogāina i totonu o se Faamasinoga, po o luma o so o se tagata ua faatagaina e le tulafono, ae peitai e le o se loia faufautua o lo o galue ai i taualumaga.

(2) E mafai ona aiaia i Tulafono Faafoe o le Faamasinoga le taliaina o se faamatalaga tauto po o se faamaoniga aloaia ua faatautoina po o na faia i fafo atu o Samoa a o lumanai ai le faatagaina o so o se tagata i Tulafono Faafoe.

43. Faamatalaga molimau a tagata molimau i fafo atu o le Faamasinoga-(1) I luga o le talosaga a se itu faamasinoga, e i ai i le Faamasinoga le pule faataga e faia ai se poloaiga mo le faaaogāina o faamatalaga molimau i luga o tautoga i luma o so o se tagata ofisa o le Faamasinoga, po o so o se isi lava tagata po o tagata, ma i so o se nofoaga a le o totonu po o fafo atu o Samoa, o so o se tagata molimau pe afai e foliga mai e talafeagai ai ina ia faia ai le amiotonu o le faamasinoga.

(2) A Court may order any deposition taken in accordance with subsection (1) to be filed in the Court, and has authority to empower any party to the proceeding to give such deposition in evidence at the proceeding, on such terms as the Court directs.

44. Other matters of civil procedure - Regulations made under this Act, or the Rules of Court, may make provision in relation to all or any of the following:

- (a) summons to witnesses, and any other matter relevant to compelling witnesses or the production of documents;
- (b) giving evidence by way of affidavit in any circumstances, and in relation to any stage or aspect of civil proceedings;
- (c) interpleader proceedings;
- (d) referring any matter, or any issue arising in any civil proceedings to an arbitrator or referee;
- (e) referring any aspect of an action to the Registrar or a referee for inquiry, if it concerns matters relating to the examination of documents, land or chattels or any scientific or local investigation, or the assessment of financial accounts or records;
- (f) the removal of judgments between the District Court and the Supreme Court;

(2) E mafai e se Faamasinoga ona poloaia so o se tautinoga na maua e tusa ai ma le faafuaiupu (1) ina ia faatoai atu i le Faamasinoga, ma e i ai lana pule faataga e tuuina atu ai le malosiaga i so o se itu faamasinoga o le tualumaga ina ia tuuina atu sea tautinoga e avea ma faamatalaga molimau i tualumaga, i luga o ia tuutuuga e pei ona faatonuina e le Faamasinoga.

44. O isi mataupu o tualumaga tau le va o tagata - O Tulafono Faatonutonu ua faia i lalo o lenei Tulafono, po o Tulafono Faafoe o le Faamasinoga, e mafai ona faia ai aiaiga e faasino i tulaga uma po o so o se tulaga ua taua i lalo:

- (a) o tusi samania i tagata molimau, ma so o se isi lava mataupu e talafeagai i tagata molimau ua faamalosi po o le tuuina atu o pepa aloaia;
- (b) o le tuuina atu o faamatalaga molimau e ala i faamatalaga tauto i so o se tulaga e aliae mai, ma e faasino i so o se laasaga po o vaega o tualumaga faa-faamasinoga tau le va o tagata;
- (c) o tualumaga faa-faamasinoga o se tagi e faia i le va o ni itu faamasinoga se lua e maua ai se faaiuga o se mataupu e faalagolago i ai le tagi a le lona tolu o itu faamasinoga;
- (d) o le faaseeina atu o so o se mataupu, po o so o se mataupu ua tulai mai i so o se tualumaga faa-faamasinoga tau le va o tagata i se sui lautogia e faia faaiuga po o se tagata e tofia e le faamasinoga e suesueina se mataupu;
- (e) o le faaseeina atu o so o se vaega o se tagi i le Resitara po o se tagata e tofia e le faamasinoga e suesueina le mataupu mo suesuega, pe afai o aafia ai mataupu e fesootai ma le suesuega o pepa aloaia, fanua po o meatotino e mafai ona feaveai po o so e suesuega tau tomai faasaenisi po ole faalotoifale, po o le iloiloina o tala o tupe po o faamaumauga;
- (f) o le aveeseina o pepa aloaia o faaiuga i le va o le Faamasinoga Faaitumalo ma le Faamasinoga Sili;

- (g) the authority of the Court to set aside a judgment or order made by a Judge, Fa'amasino Fesoasoani or Registrar;
- (h) the re-hearing of any proceeding if a judgment or order is set aside;
- (i) the authority of a Judge to set aside proceedings of Fa'amasino Fesoasoani;
- (j) the authority of a Judge to set aside an order or decision of a Registrar; or
- (k) any other matters of civil procedure that are not inconsistent with this Act.

Division 3 - Judgments and orders

45. Effect of judgments and orders-(1) A judgment or order of a District Court is final and conclusive between the parties, unless it is modified or set aside in accordance with the law.

(2) A judgment or order relating to a sum of money may be for the total sum payable, or require payment in instalments, and may require the payment to be made immediately, or at any other time that the Court determines.

(3) Unless an order is made under subsection (2) for payment to be made on specific terms, a judgment or order for the payment of a sum of money is deemed to be an order for the immediate payment of the whole amount payable under the judgment or order.

46. Enforcement of judgments-(1) A judgment or order of a Judge or Fa'amasino Fesoasoani for the payment of a sum of money may be enforced by any one (1) or more of the following types of proceedings:

- (a) execution against the goods and chattels of the judgment debtor under a warrant of distress;

- (g) o le pule faataga a le Faamasinoga e faataatia ese ai se faaiuga po o se poloaiga ua faia e se Faamasino, Faamasino Fesoasoani po o le Resitara;
- (h) o le toe fofogaina o so o se tualumaga pe afai ua faataatia ese se faaiuga po o se poloaiga;
- (i) o le pule faataga a se Faamasino e faataatia ese ai tualumaga faa-faamasinoga a Faamasino Fesoasoani;
- (j) o le pule faataga a se Faamasino e faataatia ese ai se poloaiga po o se faaiuga a se Resitara; po o
- (k) isi lava mataupu o tualumaga tau le va o tagata ia e lē feteenai ma lenei Tulafono.

Vaevaega 3 - Faaiuga ma poloaiga

45. Aloaia o faaiuga ma poloaiga-(1) E mausali ma le mafesiligia se faaiuga po o se poloaiga a se Faamasinoga Faaitumalo i le va o itu faamasinoga, vagana ai ua suia po o ua faataatia ese ina ia tusa ai ma le tulafono.

(2) O se faaiuga po o se poloaiga e faasino i se tinoitupe atoa e mafai ona faapea, e mo le aofaiga atoa o tinoitupe e totogi, po o le manaomia o tupe e totogi auuauai, ma e mafai ona manaomia le totogiina o tupe i le taimi lava lea, po o i so o se isi lava taimi lea ua fuafuaina e le Faamasinoga.

(3) Ae vagana ai ua faia se poloaiga i lalo o le faafuuiupu (2) mo le totogiina o tupe i luga o tuutuuga faapitoa, ua faatatauina se faaiuga po o se poloaiga mo le totogiina o se aofai o tupe, o se poloaiga mo tupe e totogi i le taimi lava lea o le aofaiga atoa e tatau ona totogi i lalo o le faaiuga po o le poloaiga.

46. Faamalositia o faaiuga-(1) E ono mafai ona faamalositia se faaiuga po o se poloaiga a se Faamasino po o Faamasino Fesoasoani mo le totogiina o se aofaiga o tupe, e se tasi (1) po o le sili atu o ituaiga tualumaga nei:

- (a) o le faatinoga e faia faasaga i oloa ma meatotino e mafai ona feaveai a le tagata e totogiina le tupe i le isi tagata e ala i le faaiuga i lalo o se poloaiga e faataga ai le faoa faamalosi o meatotino;

- (b) garnishee proceedings for the attachment of money due to the judgment debtor;
- (c) proceedings under the Judgment Summonses Act 1965, or any other applicable law; or
- (d) any other type of proceedings prescribed by Regulations or the Rules of Court.

(2) If any judgment or order of a Judge or Fa'amasino Fesoasoani requires a party to do or refrain from doing any act (other than the payment of a sum of money, or relating to the recovery of land or for the delivery of specific chattels), the judgment or order may be enforced by a warrant of commitment to prison signed by a Judge for a term not exceeding three (3) months.

(3) A judgment or order for the recovery of land may be enforced under a warrant for the recovery of the land.

(4) A judgment or order for the delivery of specific chattels may be enforced, by order of a Judge, either under a warrant for the recovery of the chattels or by a warrant of commitment to prison signed by a Judge for a term not exceeding three (3) months.

(5) Except by leave of a Judge, no proceedings for the enforcement of a judgment or order are to be commenced in any Court until after the expiry of 48 hours from the time of the giving of the judgment or the making of the order.

(6) If the judgment or order is one which may be appealed against without the leave of the Court, a Judge or Fa'amasino Fesoasoani has authority to order a stay of any enforcement proceedings until the time allowed for giving a notice of appeal has expired.

(7) Two (2) or more proceedings for the enforcement of a judgment or order may be taken concurrently, but the judgment creditor is not entitled to recover a greater sum than the amount

- (b) taualumaga e toesea mai ai le aitalafu mai le tofogi o le tagata;
- (c) o taualumaga i lalo le Tulafono o Tusi Samania o Faaiuga 1965, po o luga o so o se isi lava tulafono talafeagai; po o
- (d) so o se isi lava ituaiga taualumaga ua faatonuina i Tulafono Faatonutonu po o Tulafono Faafoe o le Faamasinoga.

(2) Afai e manaomia i so o se faaiuga po o poloaiga a se Faamasino po o Faamasino Fesoasoani se itu faamasinoga ina ia faia po o le aloese mai le faia o so o se gaoioiga (e ese ai na i lo le tofogiina o se aofaiga atoa o tupe, po o e faasino i le toe mauaina mai o fanua po o, mo le faaooina atu o meatotino faapitoa e mafai ona feaveai), e ono mafai ona faamalosia le faaiuga po o poloaiga e ala i se tusi faapoloaiga e tuuina atu ai i le falepuipui, e sainia e se Faamasino mo se vaitaimi e lē silia le tolu (3) masina.

(3) E ono mafai ona faamalosia se faaiuga po o se poloaiga mo le toe maua mai o fanua i lalo o se tusi faapoloaiga mo le toe maua mai o fanua.

(4) E ono mafai ona faamalosia se faaiuga po o se poloaiga mo le faaooina atu o meatotino faapitoa e mafai ona feaveai, e ala i se poloaiga a se Faamasino, a lē ala i lalo o se tusi poloaiga mo le toe mauaina mai o meatotino e mafai ona feaveai, po o e ala i se tusi faapoloaiga e tuuina atu ai i le falepuipui e sainia e se Faamasino mo se vaitaimi e lē silia le tolu (3) masina.

(5) Ae vagana ai o se faatagaga a se Faamasino, e lē amataina ni taualumaga mo le faamalosia o se faaiuga po o poloaiga, i so o se Faamasinoga seia vagana ua maea ona muta le aogā o le 48 itula mai le taimi na tuuina atu ai le faaiuga po o le faia ai o le poloaiga.

(6) Afai o le faaiuga po o le poloaiga o se ituaiga lea e ono mafai ai ona faia se talosaga tetee e aunoa ma le faatagaga a le Faamasinoga, e i ai i se Faamasino po o Faamasino Fesoasoani le pule faataga e poloaia ai le taofia o so o se taualumaga faamalosia seia oo ina muta le taimi ua faatagaina mo le tuuina atu o se faasilasilaga o le talosaga tetee.

(7) E mafai ona faatino faatasi ni taualumaga se lua (2) po o le sili atu mo le faamalosia o se faaiuga po o se poloaiga, peitai e lē agavaa lē e tofogi atu i ai le aitalafu e toe maua mai se aofaiga e tele

owing under the judgment or order, and the costs and fees of any proceedings for enforcement.

(8) If a Judge is satisfied that any person committed to prison pursuant to this section ought to be discharged for any reason, the Judge has authority to order the person's discharge upon such terms (including liability to re-arrest if the terms are not complied with) as the Judge determines.

(9) Regulations or Rules of Court may make provision in relation to any power or process relevant to the enforcement of judgments and orders, including any matter related to any of the following:

- (a) any procedure, process or requirement related to a warrant of distress;
- (b) the powers of a bailiff in relation to bills of exchange and other financial securities;
- (c) the recovery of money secured by bills of exchange and other financial securities, or of goods secured under a bill of sale;
- (d) penalty for any unlawful interference or dealing with goods seized under a warrant of distress;
- (e) any procedure, power or requirement relating to the sale of goods seized in execution of a judgment or order;
- (f) any legal protection or immunity for bailiff's and other persons lawfully acting in relation to the execution of a judgment or order;
- (g) the priority of execution procedures applied under Supreme Court and District Court judgements and orders;

atu na i lo le aofai o lo o aitalafu ai i lalo o le faaiuga po o le poloaiga, ma tau ma totagifuapauina o so o se taualumaga mo le faamalosia.

(8) Afai ua faamalieina se Faamasino e faapea e ao ona tatala i tua so o se tagata ua tuuina atu i le falepuipui e tusa ai ma lenei fuaiupu, mo so o se mafuaaga e i ai i le Faamasino le pule faataga e poloaia ai le tatalaina i tua o le tagata i luga o ia tuutuuga (e aofia ai noataga e toe pueina faapagota ai pe afai e lē tausisia tuutuuga) e pei ona fuafuaina e le Faamasino.

(9) O Tulafono Faatonotonu po o Tulafono Faafae o le Faamasinoga e mafai ona faia ai aiaiga e faasino i so o se malosiaga po o faagasologa e talafeagai ma le faamalosia o faaiuga ma poloaiga, e aofia ai so o se mataupu e uiga i so o se tasi o tulaga nei:

- (a) so o se taualumaga, faagasologa po o manaoga e faasino i se tusi faapoloaiga e faoa ai meatotino;
- (b) o malosiaga o se tagata ao sala e faasino i faagasologa o tusi faapoloaiga e totogi ai tupe ma isi faamalumaluga tau tupe;
- (c) o le toe faaolaina mai o tupe ua faamaonia e ala i poloaiga tusia e totogi ai tupe ma isi faamalumaluga tau tupe, po o, o oloa ua faamaonia i lalo o se pepa aloaia faaetulafono o meatotino ua faatauina atu;
- (d) faasalaga mo so o se tulaga e faalavelaveina ai e lē tusa ma le tulafono po o le tagofia ai o oloa ua faoa faamalosi i lalo o se tusi faapoloaiga e faataga ai ona faoa faamalosi;
- (e) so o se taualumaga, malosiaga po o manaoga e faasino i le faatauina atu o oloa na faoa faamalosi i le faatinoga o se faaiuga po o se poloaiga;
- (f) so o se puipuiga faaetulafono po o puipuiga mausali mo tagata ao sala ma isi tagata o lo o galulue e tusa ai ma le tulafono e faasino i le faatinoga o se faaiuga po o se poloaiga;
- (g) o le tulaga faamuamua o le faatinoga o taualumaga e faaogāina i lalo o faaiuga ma poloaiga a le Faamasinoga Sili ma le Faamasinoga Faaitumalo;

- (h) procedures where competing claims are made to seized goods, including interpleader proceedings;
- (i) any procedure, process or requirement related to garnishee proceedings;
- (j) any procedure, process or requirement related to proceedings for the recovery of land;
- (k) issues relevant to irregularities in the execution of warrants for the recovery of land, and liability arising from any illegal use of such a warrant;
- (l) any procedure, process or requirement related to the recovery of chattels, and the right to take further proceedings if chattels are not recovered under a warrant;
- (m) dealing with absconding defendants; or
- (n) entitlements to compensation arising from execution process.

47. Time limit for enforcement of judgments-(1) No proceedings for the enforcement of a judgment or order of the Court which is more than six (6) years old can be issued, except with the leave of the Court, or unless some payment has been made by or on behalf of the party liable to make payment, within the 12 months immediately before the issue of the proceedings for enforcement.

(2) The Court has authority to give leave under subsection (1) on an *ex parte* application.

48. Enforcement of order for payment by instalments-(1) If the Court has made an order for the payment of any sum of money by instalments, proceedings for the enforcement of the

- (h) taualumaga pe afai ua faia ni tagi faafinau e uiga i oloa ua faoa faamalosi, e aofia ai taualumaga e faia i le va o ni itu faamasinoga se lua e maua ai se tonu o se mataupu e faalagolago i ai le tagi lona tolu o itu faamasinoga;
- (i) so o se taualumaga, faagasologa po o manaoga e fesootai ma taualumaga e toesea mai ai le aitalafu mai le totogi o se tagata;
- (j) so o se taualumaga, faagasologa po o manaoga e fesootai ma taualumaga mo le toe maua mai o fanua;
- (k) o mataupu e talafeagai ma tulaga faaletonu i le faatinoga o tusi faapoloaiga mo le toe maua mai o fanua, ma noataga e tulai mai so o se faaaogāina faasolitulafono o sea tusi faapoloaiga;
- (l) so o se taualumaga, faagasologa po o manaoga e faasino i le toe maua mai o meatotino e mafai ona feaveai, ma le aia tatau e faia ai nisi taualumaga pe afai e lē toe maua mai meatotino e mafai ona feaveai i lalo o se tusi faapoloaiga;
- (m) o le faafoega o tagata tetee sosola ese; po o
- (n) faamanuiaga i tau e tulai mai i faagasologa tau faatinoga.

47. Taimi faatapulaaina mo le faamalosiā o faaiuga-(1) E lē mafai ona faatagaina ni taualumaga mo le faamalosiā o se faaiuga po o poloaiga a le Faamasinoga lea e sili atu i le ono (6) tausaga le umi, vagana ai o se faatagaga a le Faamasinoga, po o seia vagana ai ua maea ona totogiina ni tupe e, po o e aveā ai ma sui o le itu faamasinoga ua noatia e totogiina tupe, i totonu o le 12 masina i le lava taimi lea, a o lumanai ai le faatagaina o taualumaga mo le faamalosiā.

(2) E i ai le pule faataga a le Faamasinoga e tuuina atu ai le faatagaga i lalo o le faafuaiupu (1) i luga o se talosaga e *faia pito tasi*.

48. Faamalosiā o poloaiga mo le totogiina o tupe e ala i le totogi auauai-(1) Afai ua maea ona faia se poloaiga a le Faamasinoga mo le totogiina o so o se aofaiga o tupe e ala i totogi

order must not be taken or issued until after default in the payment of an instalment due under the order.

(2) On any such default, proceedings or successive proceedings may be taken or issued for the whole of the said sum of money and costs then remaining unpaid, unless the Court on the application of the party liable orders otherwise.

49. Proceedings on cross-judgments-(1) If there are cross-judgments between the parties, proceedings for enforcement may be taken out only by that party who has obtained judgment for the larger sum, and only for so much as remains after deducting the smaller sum.

(2) Satisfaction for the remainder must be entered as well as satisfaction on the judgment for the smaller sum, and if both sums are equal, satisfaction must be entered upon both.

50. Power to stay proceedings for enforcement-(1) If it appears to a Judge or Fa'amasino Fesoasoani that a party is unable to pay a sum recoverable against him or her (whether by way of satisfaction of the claim or counterclaim in the proceedings or by way of costs or otherwise), or any instalment which has been ordered to be paid, the Judge or Fa'amasino Fesoasoani has authority to do either of the following:

- (a) to vary the judgment or order so as to provide for payment by instalments; or
- (b) to suspend or stay the proceedings for such time and on such terms as the Court determines.

(2) The powers under subsection (1) can be exercised from time to time until it appears that the party is able to make payment.

auauai, e lē mafai ona faia pe faatagaina taulumaga mo le faamalosia o le poloaiga seia vagana ua totogi le tupe ua tatau ona totogi i lalo o le poloaiga.

(2) I luga o so o sea faaletonu, e ono mafai ona faia pe faatagaina taulumaga po o taulumaga sosoo mo le aofai atoa po o le tupe ua taua ma tau o lo o totoe e le i totogiina, vagana ai ua poloaia i se isi faiga e ese ai e le Faamasinoga i luga o le talosaga a le itu faamasinoga ua noatia ai.

49. Taulumaga i luga o faaiuga fetauiai-(1) Afai o i ai ni faaiuga fetauiai, e faatoa mafai ona faia taulumaga mo le faamalosia e lea itu faamasinoga lea na latou maua le faaiuga mo le aofaiga tele o le tupe, ma e mo na o sea aofaiga o totoe e maua i le maea ai ona toesea le aofaiga laitiiti.

(2) O le totogi faaiu atoa mo le aofaiga o totoe e ao ona tusia ma faapena foi e avea o se totogi faaiu atoa o le faaiuga mo le aofaiga laitiiti, ma afai e tutusa lelei aofaiga e totogi e itu faamasinoga e lua, e ao ona totogiina faatasi e itu uma e lua.

50. Malosiaga e taofia ai taulumaga mo le faamalosia-(1) Afai e foliga mai i se Faamasino po o Faamasino Fesoasoani e faapea ua lē mafai e se itu faamasinoga ona totogi se aofaiga o tupe e tatau ona ia faaolaina mai (tusa lava pe ala i le totogi faaiu atoa o le tupe o le talosaga po o le talosaga e tali atu ai le taulumaga po o e ala i tau e totogi po o se isi faiga e ese ai), po o so o se totogi auauai lea na poloaia ina ia totogiina, e i ai le pule i le Faamasino po o Faamasino Fesoasoani e faia ai so o se tasi o itu nei:

- (a) ia suia le faaiuga po o poloaiga ina ia aiaia ai mo tupe e totogi auauai; po o
- (b) ia taofia lē tumau po o le taofia o taulumaga mo sea taimi ma luga o ia tuutuuga e pei ona fuafuaina e le Faamasinoga.

(2) E mafai ona faatino malosiaga i lalo o le faafuaiupu (1) mai lea taimi i lea taimi seia tulai mai ua mafai e le itu faamasinoga ona totogiina tupe.

Division 4 - Appeals

51. Right to appeal-(1) A party to any civil proceedings may appeal to the Supreme Court against any non-suit or final determination or direction of the District Court:

- (a) without the leave of the District Court if the amount of the claim or the value of the property or relief claimed or in issue exceeds \$2,000, or if the title to any freehold land has come in question; and
- (b) with the leave of the District Court if the amount of the claim or the value of the property or relief claimed or in issue does not exceed \$2,000.

(2) No right of appeal will apply under this section if the parties agreed in writing, before the determination or direction, that the judgment of the Court would be final and conclusive.

52. Notice of appeal-(1) Every appeal to the Supreme Court must be brought by notice of appeal lodged with the Registrar of the Supreme Court.

(2) The notice of appeal may specify that the appeal relates to the whole or any specified part of the non-suit or final determination or direction.

(3) A copy of the notice of appeal must be served on all parties directly affected by the appeal, either before or immediately after the notice of motion is lodged in the Supreme Court, and it is not necessary to serve a party who is not affected by the appeal.

Vaevaega 4 - Talosaga Tete

51. Aia tatau e talosaga tete ai-(1) E mafai e se itu faamasinoga i so o se tualumaga tau le va o tagata ona talosaga tete i le Faamasinoga Sili e faasaga i so o se faauiga ua faalēaogāina e le faamasino po o le faaiuga mausali po o se faatonuga a le Faamasinoga Faaitumalo:

- (a) e aunoa ma le faatagaga a le Faamasinoga Faaitumalo pe afai o le aofaiga o tupe o le talosaga po o le tau aogā o le meatotino po o le faamama avega ua talosagaina po o, ua finauina e silia i le \$2,000, po o pe afai ua fesiligia le igoa o so o se fanua umia saoloto; ma
- (b) faatasi ai ma le faatagaga a le Faamasinoga Faaitumalo pe afai o le aofaiga ua talosagaina po o le tau aogā o le meatotino po o le faamama avega ua talosagaina po o ua finauina, e lē silia le \$2,000.

(2) O le a lē faaaogāina se aia tatau e talosaga tete ai i lalo o lenei fuaiupu pe afai ua i ai le maliega tusitusia a itu faamasinoga, a o lumanai ai tuuina mai le faaiuga po o le faatonuga, e faapea o le a mausali ma maumaututu le faaiuga a le Faamasinoga.

52. Faasilasilaga o talosaga tete-(1) E ao i talosaga tete taitasi e faia i le Faamasinoga Sili ona tuuina mai e ala i faasilasilaga o talosaga tete e faatoai atu i le Resitara o le Faamasinoga Sili.

(2) O le faasilasilaga o le talosaga tete e mafai ona faamaoti ai e faapea o le talosaga tete e faasino i le vaega atoa po o so o se vaega maoti o le faaiuga ua faalēaogāina po o le faaiuga po o le faatonuga mausali.

(3) E ao ona faaoo atu se ata o le faasilasilaga o le talosaga tete i itu faamasinoga uma ua aafia tuusao i le talosaga tete, a le o le lumanai ai po o i le taimi lava lea i le tuanai ai ona faatoai atu le faasilasilaga o le talosaga i le Faamasinoga Sili, ma e lē talafeagai ona faaoo atu i se itu faamasinoga o i latou ia e le o aafia i le talosaga tete.

(4) The Supreme Court has authority to direct that the notice of appeal be served on all or any parties to the proceedings, or upon any person who is not a party, and may adjourn the hearing of the appeal on such terms as the Court determines for service to be effected.

(5) A person who is served with a notice of appeal less than 14 clear days before the date of the hearing of the appeal has a right to apply for an adjournment on that ground.

(6) A copy of the notice of appeal must be lodged with the Registrar of the District Court either before or immediately after the notice of motion is lodged in the Supreme Court.

53. Time for appeal - An appeal must commence within 21 days from the day on which the non-suit or final determination or direction was given or made, or within such further time as the Supreme Court allows, on application made not later than one month after the expiration of the said 21 days.

54. Security for appeals-(1) An appellant must lodge security with the Registrar of the District Court.

(2) The amount of security is to be set under the Rules of Court, which may exempt appellants who are on legal aid, or on any other grounds, from the payment of the security.

(3) If the required security is not lodged within seven (7) days of the service of the notice of appeal, or within such further time as in special cases the Registrar of the District Court may permit, that Registrar must notify the Registrar of the Supreme Court of the failure, and the notice of appeal is then deemed to be abandoned.

(4) E i ai i le Faamasinoga Sili le pule faataga e faatonuina ai e faapea, ia faaoo atu le faasilasilaga o le talosaga tetee i itu faamasinoga uma po o so o se itu faamasinoga o taualumaga, po o i so o se tagata o ia lea e le o se itu faamasinoga, ma e mafai ona tolopo le fofogaina o le talosaga tetee i luga o ia tuutuuga e pei ona fuafuaina e le Faamasinoga mo le aloaia ai o le faaooina atu.

(5) E i ai i se tagata o ia lea ua faaoo atu i ai se faasilasilaga o talosaga tetee a itiiti ifo e 14 aso a o lumanai ai le aso o le fofogaina o le talosaga tetee, se aia tatau e talosaga ai mo le tolopoina i luga o lea mafuaaga.

(6) E ao ona faatoai atu se ata o le faasilasilaga o le talosaga tetee i le Resitara o le Faamasinoga Faaitumalo, a le o le lumanai ai po o le taimi lava lea i le tuanai ai ona faatoai atu le faasilasilaga o le talosaga i le Faamasinoga Sili.

53. Taimi mo talosaga tetee - E ao ona amataina se talosaga tetee i totonu o le 21 aso mai le aso lea na tuuina atu ai pe na faia ai le faaiuga e taofia ai le mataupu po o se faaiuga mausali, po o se faatonuga po o i totonu o sea taimi faaopoopo e pei ona faatagaina e le Faamasinoga Sili, i luga o le talosaga e faia ia le itiiti ifo i le tasi (1) le masina i le maea ai ona muta le aogā o le 21 aso ua taua.

54. Faamalumaluga mo talosaga tetee-(1) E ao i se tagata talosaga tetee ona faatoai atu faamalumaluga i le Resitara o le Faamasinoga Faaitumalo.

(2) E ao ona faatulaga atu le aofaiga o le faamalumaluga i lalo o Tulafono Faafoe o le Faamasinoga, lea e mafai ai ona tuusaunoa tagata talosaga tetee o i latou ia o lo o i lalo o fesoasoani faaletulafono, po o so o se isi mafuaaga, mai le totogiina o le faamalumaluga.

(3) Afai e le i faatoai atu le faamalumaluga manaomia i totonu o le fitu (7) aso talu ona faaooina atu le faasilasilaga o le talosaga tetee, po o i totonu o sea taimi faaopoopo e pei ona i ai i mataupu faapitoa e mafai ona faatagaina e le Resitara o le Faamasinoga Faaitumalo, e faapea e ao i le Resitara ona logoina le Resitara o le Faamasinoga Sili o le lē mafai ai, ma ua faatatauina i lea taimi, ua lē faaogāina le faasilasilaga o le talosaga tetee.

(4) As soon as security is lodged, the Registrar of the District Court must forward to the Registrar of the Supreme Court all of the following:

- (a) a copy of the pleadings;
- (b) a copy, signed by the District Court Judge, of the Judge's Notes; and
- (c) any affidavits and exhibits in the Registrar's custody.

55. Cross-appeals-(1) It is not necessary for a respondent to give notice of cross-appeal, but if a respondent intends to contend that the decision of the Court below should be varied, the respondent must give notice of his or her intention to all parties to the appeal.

(2) The omission to give notice within a reasonable time does not affect the authority of the Supreme Court, but the Court may adjourn the appeal for the notice of cross-appeal to be served, and may make an order as to costs.

56. Procedure where appeal not prosecuted-(1) If the appellant does not prosecute the appeal with due diligence, the respondent has the right to apply to the Supreme Court to dismiss the appeal.

(2) If the appellant does not appear at the time appointed for hearing the appeal the Supreme Court has authority to dismiss the appeal.

(3) In any case to which this section applies, the Supreme Court has authority to order that costs determined by the Court be paid by the appellant to the respondent.

57. Procedure on hearing of appeal-(1) All appeals are to proceed by way of a rehearing.

(2) If any question of fact is involved in an appeal, the evidence taken in the District Court bearing on the question must, subject to any special order, be brought before the Supreme Court as follows:

(4) I le taimi lava e faatoai atu ai le faamalumaluga, e ao i le Resitara o le Faamasinoga Faaitumalo ona tuuina atu i le Resitara o le Faamasinoga Sili mea uma nei:

- (a) se ata o talosaga;
- (b) se ata, ua sainia e le Faamasino o le Faamasinoga Faaitumalo, o Faamatalaga Tusia a le Faamasino; ma
- (c) so o se faamatalaga tauto ma molimau tino mai e teuina e le Resitara.

55. Talosaga tetee e tali ai-(1) E lē talafeagai i se tagata tetee ona tuuina atu se faasilasilaga o se talosaga tetee e tali ai se talosaga, peitai afai ua faamoemoe se tagata o tetee e faafinau e faapea o le faaiuga a le Faamasinoga i lalo e tataua ona suia, e ao i le tagata tetee ona tuuina atu le faasilasilaga o lona faamoemoe i itu faamasinoga uma o le talosaga tetee.

(2) O le lē tuuina atu o faasilasilaga i totonu o le taimi talafeagai o le a lē aafia ai le pule faataga a le Faamasinoga Sili, ae peitai e mafai e le Faamasinoga ona tolopo le talosaga tetee mo le faasilasilaga o le talosaga tetee e tali atu ai, ma e mafai ona faia se poloaiga e uiga i tau e totogi o le faamasinoga.

56. Taulumaga pe afai e le i suesueina se talosaga tetee-(1) Afai e le i suesueina maeaea po o ua tataua ai le talosaga tetee, e i ai le aia tataua a le tagata tetee e talosagaina ai le Faamasinoga Sili e faalēaogā le talosaga tetee.

(2) Afai e lē tulai le tagata talosaga tetee i le taimi ua atofaina mo le fofogaina o le talosaga tetee, e i ai le pule faataga a le Faamasinoga Sili e faalēaogā ai le talosaga tetee.

(3) I so o se mataupu lea e faasino i ai lenei fuaiupu, e i ai le pule faataga a le Faamasinoga Sili e poloaia ai e faapea, o tau o le Faamasinoga ua fuafuaina, e ao ona totogi e le tagata talosaga tetee i le tagata ua tetee.

57. Taulumaga i le fofogaina o le talosaga tetee-(1) O talosaga tetee uma e amatalia e ala i le toe fofogaina o mataupu.

(2) Afai o aofia ai so o se tulaga e fesiligia ai mea moni i se talosaga tetee, e ao i faamatalaga molimau na faaogaina i le Faamasinoga Faaitumalo e fesootai ma le fesili, i le noatia ma le fai fuafua i so o se poloaiga faapitoa, ona tuuina atu i luma o le Faamasinoga Sili e faapea:

(a) as to any evidence given orally - by the production of a copy of the District Court Judge's notes, or such other materials as the Supreme Court requires; and

(b) as to any evidence taken by affidavit and as to any exhibits - by the production of the affidavits and exhibits.

(3) Despite subsection (2), the Supreme Court may in its discretion rehear the whole or any part of the evidence.

(4) The Supreme Court has full discretionary power to receive further evidence upon questions of fact, either by oral evidence or by affidavit, or by evidence taken in accordance with the rules of the Supreme Court.

58. Further powers of Supreme Court on hearing of appeal-(1) On the hearing of an appeal the Supreme Court has authority in relation to all of the following:

(a) to order a rehearing of the case in the District Court upon such terms as it thinks fit;

(b) to order that judgment be entered in the District Court for either party;

(c) to make a final or other order on such terms as it thinks proper, to ensure the determination on the merits of the real questions in dispute between the parties; and

(d) to make such order as to costs as it thinks proper.

(2) The Supreme Court has authority to make the orders under subsection (1) even if the notice of appeal specifies that part only of the determination or direction be reversed or varied, and such powers

(a) afai o so o se faamatalaga molimau ua tuufofoga atu, ia tuuina atu e ala i se ata o faamatalaga tusia a le Faamasino o le Faamasinoga Faaitumalo, po o so o sea faamatalaga e pei ona manaomia e le Faamasinoga Sili; ma

(b) afai o le itu i so o se faamatalaga molimau ua faaaogāina e ala i faamatalaga tauto ma e uiga i so o se molimau tino mai - ia tuuina atu faamatalaga tauto ma molimau tino mai.

(3) E ui lava i le faafuaiupu (2), e mafai e le Faamasinoga Sili i lana pule faitalia ona toe fofogaina faamatalaga molimau atoa po o so o sona vaega.

(4) O le Faamasinoga Sili e i ai le malosiaga atoatoa o le pule faitalia e taliaina ai nisi faamatalaga molimau i luga o fesili e uiga i mea moni, a le o le ala i faamatalaga molimau tuufofoga po o e ala i faamatalaga tauto, po o e ala i faamatalaga molimau ua faaaogāina e tusa ai ma tulafono faafoe o le Faamasinoga Sili.

58. O isi malosiaga o le Faamasinoga Sili i le fofogaina o talosaga tetee-(1) I le fofogaina ai o se talosaga tetee, e i ai i le Faamasinoga Sili le pule faataga e faasino i tulaga uma nei:

(a) ia poloaia le toe fofogaina o le mataupu i le Faamasinoga Faaitumalo i luga o ia tuutuuga e pei ona manatu o ia ua talafeagai ai;

(b) ia poloaia e faapea ia faamauina le faaiuga i le Faamasinoga Faaitumalo mo so o se tasi o itu faamasinoga;

(c) ia faia se poloaiga mausali po o se isi poloaiga i luga o ia tuutuuga e pei ona manatu o ia ua sagatonu, e mautinoa ai le faaiuga e faia i itu taualoa o fesili moni o lo o faafinauina i le va o itu faamasinoga; ma

(d) ia faia sea poloaiga e uiga i tau o le faamasinoga e totogi e pei ona manatu o ia ua talafeagai ai.

(2) O le Faamasinoga Sili e i ai le pule faataga e faia ai poloaiga i lalo o le faafuaiupu (1) e tusa lava pe o faamaoti mai i le faasilasilaga o le talosaga tetee e faapea, e faalēaogā po o e suia e na

may be exercised in favour of all or any of the respondents or parties, although those respondents or parties may not have appealed from or complained of the determination or direction.

59. Court appealed from to be advised of determination-(1)

The Registrar of the Supreme Court must transmit to the Registrar of the District Court a memorandum of the determination of the Supreme Court, and the determination is to be regarded for the purposes of this Act as if it had been given by the District Court.

(2) The Registrar of the Supreme Court must also return to the Registrar of the District Court all affidavits and exhibits provided for the purposes of the appeal.

60. Stay of proceedings on appeal - A notice of appeal does not operate as a stay of proceedings under the judgment or order appealed from unless any of the following apply:

- (a) a District Court Judge orders a stay of proceedings;
- (b) the amount of the judgment or order appealed from and its costs is deposited with the Registrar of the District Court; or
- (c) security is given to the satisfaction of Registrar of the District Court for that amount.

**PART VI
EXERCISE OF THE JUDICIAL POWERS**

61. Trials by Judges or Fa'amasino Fesoasoani-(1) A Judge or Fa'amasino Fesoasoani acts as the sole arbiters in any proceedings brought in a District Court, and have all necessary authority to determine any questions of fact or law.

o se vaega o le faaiuga po o le faatonuga, ma o ia malosiaga e mafai ona faatinoina mo le lelei o tagata tetee po o itu faamasinoga uma po o so o se tagata tetee po o se itu faamasinoga e ui lava ina faapea e le i mafai e ia tagata tetee po o itu faamasinoga ona talosaga tetee mai, po o na faasea i le faaiuga po o le faatonuga.

59. E ao ona fautuaina le Faamasinoga na talosaga tetee mai ai, e uiga i le faaiuga-(1) E ao i le Resitara o le Faamasinoga Sili ona tuuina atu i le Resitara o le Faamasinoga Faaitumalo se tusi aloaia faaletulafono o le faaiuga a le Faamasinoga Sili, ma e faatatauina le faaiuga mo faamoemoega o lenei Tulafono e faapei ai na tuuina atu e le Faamasinoga Faaitumalo.

(2) E ao foi i le Resitara o le Faamasinoga Sili ona faafoi atu i le Resitara o le Faamasinoga Faaitumalo faamatalaga tauto uma ma molimau tino mai ua aiaia mo faamoemoega o le talosaga tetee.

60. Taofia o taualumaga i luga o talosaga tetee - E lē faagaoioia se faasilasilaga o talosaga tetee e avea o se taofiga o taualumaga i lalo o le faaiuga po o poloaiga ua talosaga tetee mai ai, seia vagana ai ua faaogāina se tasi o tulaga nei:

- (a) ua poloaia e se Faamasino o le Faamasinoga Faaitumalo le taofia o taualumaga;
- (b) le aofai o tupe totogi i le faaiuga po o le poloaiga ua talosaga tetee mai ai, ma tau o le faamasinoga e totogi i le Resitara o le Faamasinoga Faaitumalo; po o
- (c) faamalumaluga ua tuuina atu e faamalieina ai le Resitara o le Faamasinoga Faaitumalo mo lea aofaiga.

**VAEGA VI
FAATINOVA O MALOSIAGA FAA-FAAMASINOVA**

61. Faamasinoga e faia e Faamasino po o Faamasino Fesoasoani-(1) E galue se Faamasino po o Faamasino Fesoasoani e avea ma pule aupito maualuga i so o se taualumaga ua tuuina atu i le Faamasinoga Faaitumalo, ma e i ai pule faataga talafeagai uma e faia ai se faaiuga o so o se tulaga ua fesiligia ai le mea moni po o le tulafono.

(2) Nothing in this section affects the power to make Rules authorising the Registrar or other officer of the court to exercise jurisdiction and powers conferred on the Court by this or any other Act.

62. Fa'amasino Fesoasoani may sit with a Judge-(1) Without limiting the effect of section 61, a Judge has authority to elect to preside over any proceeding with one (1) or more Fa'amasino Fesoasoani.

(2) Any Fa'amasino Fesoasoani who sits with a Judge under subsection (1) only has authority to advise on any matter involving Samoan custom, or to advise as to penalty.

63. Judge and Fa'amasino Fesoasoani to take notes-(1) In any proceedings in relation to which there is a right of appeal without leave, the presiding Judge or Fa'amasino Fesoasoani must, unless the parties have agreed not to appeal, make or cause to be made, notes relating to all of the following matters:

- (a) the facts in evidence;
- (b) any question of law or equity raised at the hearing; and
- (c) of the decision and any other order or determination in relation to the proceedings.

(2) A party is entitled to a copy of the notes taken under subsection (1) (whether notice of appeal has been served or not) if the prescribed fee is paid.

64. No action lies unless act is in excess of or without jurisdiction-(1) No party or person is entitled to take action against any Judge or Fa'amasino Fesoasoani in relation to any judicial act, unless the Judge or Fa'amasino Fesoasoani has exceeded his or her jurisdiction, or has acted without jurisdiction.

(2) E le o i ai se mea i totonu o lenei fuaiupu e aafia ai le malosiaga e faia ai Tulafono Faafae e faatagaina ai le Resitara po o isi tagata ofisa o le faamasinoga e faatino ai le puleaga faa-faamasinoga ma malosiaga ua faaee atu i le Faamasinoga e lenei tulafono po o so o se isi lava Tulafono.

62. E mafai ona seei faatasi le Faamasino Fesoasoani ma se Faamasino-(1) E aunoa ma le faatapulaaina o le tulaga aloaia o le fuaiupu 61, e i ai le pule faataga i se Faamasino e filifili ai se toatasi (1) po o le sili atu o Faamasino Fesoasoani e seei i so o se taualumaga faa-faamasinoga.

(2) E na o se Faamasino Fesoasoani o ia lea o lo o seei faatasi ma se Faamasino i lalo o le faafuaiupu (1) e i ai le pule faataga e fautua ai e uiga i so o se mataupu e aafia ai tu ma aganuu a Samoa, po o le fautua e uiga i le faasalaga.

63. Ia faia tusitusiga ootoo e Faamasino ma Faamasino Fesoasoani-(1) I so o se taualumaga e faasino i le tulaga e faapea o lo o i ai se aia tatau e talosaga tetee ai e aunoa ma se faatagaga, e ao i le Faamasino o lo o seei po o Faamasino Fesoasoani, ae vagana ai ua malilie itu faamasinoga e aua nei talosaga tetee, ia faia po o le taulamua e faia, tusitusiga ootoo e faasino i mataupu nei:

- (a) o mea moni i faamatalaga molimau;
- (b) so o se fesili e uiga i le tulafono po o le tulaga sagatonu ua laga i le fofogaina; ma
- (c) le faaiuga ma so o se isi lava poloaiga po o faaiuga e faasino i taualumaga.

(2) E agavaa se itu faamasinoga i se ata o faamatalaga tusia na faamauiina i lalo o le faafuaiupu (1) (tusa lava pe na faaoo atu le faasilasilaga o talosaga tetee pe leai foi) pe afai ua maea ona totogiina totogifuapauina faatonuina.

64. E leai se tagi e faia seia vagana ai se gaoioiga ua sili atu i lo, po o, e aunoa ma se puleaga faa-faamasinoga-(1) E lē agavaa se itu faamasinoga po o se tagata e faia se tagi faasaga i so o se Faamasino po o Faamasino Fesoasoani e uiga i so o se gaoioiga faa-faamasinoga, vagana ai ua maualuga atu i lo le puleaga faa-faamasinoga a le Faamasino po o le Faamasino Fesoasoani pe sa ia faia po o ua faia e aunoa ma se puleaga faa-faamasinoga.

(2) If a conviction, judgment or order is entered or made by a Judge or a Fa'amasino Fesoasoani, and a warrant of any kind is granted in relation to the conviction, judgement or order by another Judge or Fa'amasino Fesoasoani, no action lies against the Judge or Fa'amasino Fesoasoani who granted the warrant by reason of any defect in the conviction, judgment or order, or of any want of jurisdiction in the Judge or Fa'amasino Fesoasoani who entered or made it.

(3) A person claiming to have been injured by an act done by a Judge or Fa'amasino Fesoasoani in excess of jurisdiction or without jurisdiction, is not entitled to take action in that regard in the District Court.

(4) In any action brought against a Judge or Fa'amasino Fesoasoani by a person claiming to have been injured by an act done in excess of jurisdiction or without jurisdiction, the onus of proving the excess or want of jurisdiction lies upon the person alleging it.

65. Indemnity to Judges and Fa'amasino Fesoasoani-(1) A Judge or Fa'amasino Fesoasoani against whom a judgment has been entered to pay damages or costs to any person injured as a result of any act done in excess of jurisdiction or without jurisdiction, is to be indemnified by the State to the full amount of the judgment, if the Supreme Court certifies both of the following:

- (a) that the Judge or Fa'amasino Fesoasoani acted in good faith and with the belief that the matter was within the applicable jurisdiction; and
- (b) that the circumstances were such that the Judge or Fa'amasino Fesoasoani ought fairly and reasonably to be excused.

(2) Afai ua faamauina po o ua faia se moliaga ua faamaonia faaletulafono, faaiuga po o se poloaiga e se Faamasino po o se Faamasino Fesoasoani, ma ua faamatuu atu se tusi faapoloaiga o so o se ituaiga e uiga i le moliaga ua faamaonia faaletulafono, faaiuga po o le poloaiga e se isi Faamasino po o Faamasino Fesoasoani, e leai se tagi e faia faasaga i le Faamasino po o Faamasino Fesoasoani o ia lea na ia faamatuu atu le tusi faapoloaiga e ala i le mafuaaga o so o se tulaga faaletonu i le moliaga ua faamaonia faaletulafono, faaiuga po o poloaiga, po o so o se puleaga faa-faamasinoga manaomia i le Faamasino po o Faamasino Fesoasoani o ia lea na faamauina pe na ia faia.

(3) E lē agavaa se tagata ua talosaga e faapea ua faamanualia o ia e ala i se gaoioiga ua faia e se Faamasino po o Faamasino Fesoasoani, ua maualuga atu i lo le puleaga faamasinoga po o, e aunoa ma le puleaga faa-faamasinoga, e faia se tagi i lea tulaga i le Faamasinoga Faaitumalo.

(4) I so o se tagi ua faia faasaga i se Faamasino po o Faamasino Fesoasoani e se tagata o lo o talosaga mai ua faamanualia ona o se gaoioiga ua faia ua maualuga atu i lo le puleaga faa-faamasinoga po o, le aunoa ma se puleaga faa-faamasinoga, o le faamaoniga o le maualuga atu po o le manaomia o le puleaga faa-faamasinoga, e nafa ma le tagata ua ia tuuaia lea itu.

65. Puipuiamalu i Faamasino ma Faamasino Fesoasoani-(1) E puipui e le Malo se Faamasino po o Faamasino Fesoasoani ia na faia faasaga i ai se faaiuga na faamauina e totogiina mea ua faaleagaina, po o totogi o le faamasinoga, i so o se tagata ua faamanualia e mafua mai so o se gaoioiga ua faia i le maualuga atu i lo le puleaga faa-faamasinoga po o e aunoa ma se puleaga faa-faamasinoga, i le aotelega o le faaiuga, pe afai ua faamaonia e le Faamasinoga Sili mea nei e lua:

- (a) e faapea na galue le Faamasino po o le Faamasino Fesoasoani i le agaga lelei, ma le i ai faatasi ma le talitonuga e faapea, o le mataupu sa faatino lava i totonu o le puleaga faa-faamasinoga talafeagai; ma
- (b) e faapea o tulaga na aliae mai, o ni tulaga ia e ao ona tuusaunoaina ai le Faamasino po o le Faamasino Fesoasoani i ala e sao ma talafeagai ai.

(2) The provisions of subsection (1) apply if a claim against a Judge or Fa'amasino Fesoasoani is settled at any stage of the proceedings, but in such a case the Supreme Court has authority to certify that the indemnity should be for a lesser sum than the amount of the settlement.

(3) Application for a certificate under this section may be made by a Judge or Fa'amasino Fesoasoani at any time to the Supreme Court in Chambers.

(4) A copy of the application must be served by the Judge or Fa'amasino Fesoasoani on the Attorney-General, who is entitled to appear and oppose it.

66. Proceedings not to be questioned for want of form - No statement of claim, information, summons, judgment, conviction, sentence, order, bond, warrant or other document, and no process or proceedings in a Court, is to be quashed, set aside or held invalid by any Court on the grounds of any defect, irregularity, omission or want of form, unless the Court considering the question is satisfied that there has been a miscarriage of justice.

PART VII OFFICERS OF THE COURT

67. Resisting or obstructing a court officer-(1) A person who wilfully resists or obstructs, or aids, abets, counsels, procures or incites any other person to resist or obstruct, any officer of the Court in serving any process of a Court or in executing any warrant or any judgment or order of the Court, or acting otherwise in the execution of his or her duty, commits an offence, and is liable on an order made by a Judge or Fa'amasino Fesoasoani in that regard, to a fine not exceeding 100 penalty units, or imprisonment for a term of up to three (3) months, or both.

(2) E faaaogā aiaiga o le faafu'aiupu (1) pe afai ua maea ona foia se talosaga ua faia faasaga i se Faamasino po o Faamasino Fesoasoani, i so o se laasaga o taualumaga, peitai i sea mataupu, e i ai le pule faataga a le Faamasinoga Sili e faamaonia ai e faapea, o puipuiga e tatau ona mo se aofaiga o tupe e itiiti ifo mai le aofai na malilie faatasi i ai.

(3) E ono mafai ona faia se talosaga mo se tusi faamaonia i lalo o lenei fuaiupu e se Faamasino po o Faamasino Fesoasoani, i so o se taimi, i le Faamasinoga Sili i totonu o le Potu Faamasino.

(4) E ao ona faaoo atu se ata o le talosaga e le Faamasino po o Faamasino Fesoasoani i le Loia Sili, o ia lea e agavaa e tulai ma ia teena.

66. E lē fesiligia Taulumaga mo faatulagaga manaomia - E lē tatau ona faalēaogāina, faataatia ese po o ua lē faaaloaiaina se faamatalaga tusia o talosaga, faamatalaga, tusi samania, faaiuga, moliaga ua faamaonia faaetulafono, faasalaga, poloaiga, poloaiga tusia, tusi faapoloaiga po o isi pepa aloaia, ma faagasologa po o taualumaga i se Faamasinoga, i luga o mafuaaga o so o se faaletonu, mea ua sese ona faia, mea ua lē faia po o faatulagaga manaomia, seia vagana ai ua faamalieina le Faamasinoga o lo o ia iloiloaina le fesili e faapea, e le i faatinoina le amiotonu o le faamasinoga.

VAEGA VII TAGATA OFISA O LE FAAMASINOGA

67. Tetee po o le faalavelaveina o se tagata ofisa o le faamasinoga-(1) O se tagata o ia lea ua ia tetee ma lona loto i ai pe faalavelaveina, fesoasoani, lagolago, fautuaina, usui po o le tauanauina so o se isi lava tagata e tetee po o e faalavelaveina, so o se tagata ofisa o le Faamasinoga i le faagaioiga o so o se faagasologa a se Faamasinoga, po o le faatinoina o so o se tusi faapoloaiga po o so o se faaiuga po o poloaiga a le Faamasinoga, po o ua galue i se isi faiga e ese ai i le faatinoga o ona tiute tauave, ua ia faia se soligatulafono ma e noatia i luga o se poloaiga e faia e se Faamasino po o Faamasino Fesoasoani i lea tulaga, i se sala tupe e lē silia le 100 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e oo atu i le tolu (3) masina, po o faasalaga uma e lua.

(2) A bailiff or police officer may take a person who is in breach of this section into custody, with or without warrant, and bring that person before a Judge or Fa'amasino Fesoasoani.

(3) Nothing in this section prevents proceedings in respect of an assault being taken against a person in breach of this section.

68. Misconduct of officers-(1) A Judge has authority to conduct a summary inquiry if an officer of the Court is charged in relation to either of the following:

- (a) extortion or misconduct while acting in relation to any process of a Court; or
- (b) with not duly paying or accounting for any money levied or received by him or her under the authority of this Act.

(2) In an inquiry made under this section, the Judge has authority to summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses before the Court.

(3) In any such inquiry the Judge has authority to make such order as the Judge thinks just, for the repayment of any money extorted or the due payment of any money levied, and for the payment of damages and costs.

(4) In addition to any order made under subsection (3), the Judge has authority to impose a fine upon the officer, not exceeding 100 penalty units for each offence.

69. Officers of Court not to act as solicitors-(1) Except as provided by this Act or any other law, or by the Rules of Court, no officer of the Court is to be directly or indirectly engaged as solicitor or agent for any party in any proceedings in any Court.

(2) E mafai e se tagata ao sala po o se leoleo ona aveina ma taofia se tagata o ia lea ua ia le usitaia lenei fuaiupu, i le i ai faatasi po o le aunoa ai o se tusi faapoloaiga, ma tuuina atu lea tagata i luma o se Faamasino po o Faamasino Fesoasoani.

(3) E leai se mea i totonu o lenei fuaiupu e taofia ai le faia o tualumaga e tusa ai o se faaoolima ua faia faasaga i se tagata ua ia lē usitaia lenei fuaiupu.

68. Amio lē pulea a tagata ofisa-(1) E i ai i se Faamasino le pule faataga e faia ai se suesuega ootoo pe afai ua molia se tagata ofisa o le Faamasinoga e tusa ai ma se tasi o tulaga nei:

- (a) faiga faatautala po o le amio le pulea a o galue ai e tusa ma so o se faagasologa a se Faamasinoga; po o
- (b) le lē totogiina lelei po o le tali manino atu mo so o se tupe faaee atu po o ua maua e ia i lalo o le pule faataga a lenei Tulafono.

(2) I se suesuega ua faia i lalo o lenei fuaiupu, e ia i i le Faamasino le pule faataga e samania ai ma faamalosia le auai o itu faamasinoga talafeagai uma i se faiga tali tutusa e pei o le auai ai o tagata molimau i luma o le Faamasinoga.

(3) I so o se suesuega, e i ai i le Faamasino le pule faataga e faia ai sea poloaiga e manatu le Faamasino ua tonu, mo le toe totogiina o so o se tupe ua faaogāina faatautala, po o le tupe ua tataua ona totogi o so o se tupe ua faaee atu, ma mo le totogiina o mea ua faaleagaina ma tupe totogi o le faamasinoga.

(4) I le faaopoopo atu i so o se poloaiga ua faia i lalo o le faafuiau (3), e i ai le pule faataga i le Faamasino e faaee atu ai se sala tupe i le tagata ofisa, e lē silia le 100 iunite tau faasalaga mo soligatulafono taitasi.

69. E lē galulue tagata ofisa o le Faamasinoga e avea ma loia faufautua-(1) Ae vagana ai ua aiaia i lenei Tulafono po o so o se isi lava tulafono, po o e ala i Tulafono Faafae o le Faamasinoga, e lē galue tuusao po o le lē tuusao foi se tagata ofisa o le Faamasinoga e avea o se loia faufautua po o se sooupu mo so o se itu faamasinoga i so o se tualumaga i totonu o so o se Faamasinoga.

(2) A person who contravenes this section commits an offence, and is liable upon conviction to a fine not exceeding 100 penalty units.

70. Neglect by bailiffs-(1) If a bailiff of any Court, or any person acting under his or her authority, being employed to levy any execution against goods and chattels, loses the opportunity of levying the execution by reason of neglect, connivance or omission, any party aggrieved by that act or omission is entitled to complain to a Judge.

(2) On any complaint made under this section, the Judge, has authority to order the bailiff to pay damages (not exceeding the sum for which the execution was issued), if the neglect, connivance or omission is proved to the Judge's satisfaction.

71. Irregularity in executing warrants-(1) No officer of the Court in executing any warrant, and no person at whose instance any such warrant is executed, is to be regarded a trespasser by reason of any irregularity or informality in relation to either of the following:

- (a) any proceeding on the validity of which the warrant depends; or
- (b) the form of the warrant or in the mode of executing it.

(2) An action may be taken under section 73 for any irregularity referred to in subsection (1)(b).

72. Actions against bailiffs acting under warrants-(1) No action shall be commenced against a bailiff for anything done pursuant to a warrant issued under this Act, unless any or both of the following apply:

(2) O se tagata o ia lea ua ia lē usitaia lenei fuaiupu, ua ia faia se soligatulafono, ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 100 iunite tau faasalaga.

70. Faatamala o tagata ao sala-(1) Afai o se tagata ao sala o so o se Faamasinoga, po o so o se tagata o lo o galue i lalo o lana pule faataga, o lo o faafaigaluegaina ina ia faaee atu so o se faatinoga faasaga i oloa ma meatotino e mafai ona feaveai, ua ia faamaumau le avanoa o le faaeeina atu o le faatinoga e ala i le mafuaaga o le faatamala, taupulepule leaga po o ua lē faia se gaoioiga, e agavaa so o se itu faamasinoga ua mafatia i lea gaoioiga na faia pe lei foi, e faasea atu i se Faamasino.

(2) I luga o so o se faasea ua faia i lalo o lenei fuaiupu, e i ai le pule faataga a le Faamasino e poloaia ai le tagata ao sala e totogi mea ua faaleagaina (e lē silia le aofaiga lea na tuuina atu i ai i le faatinoga), pe afai ua faamaonia le faatamala, taupulepulega po o se gaoioiga e le i faia e faamalieleina ai le Faamasino.

71. Tulaga faaletonu i le faatinoga o tusi faapoloaiga-(1) E lei se tagata ofisa o le Faamasinoga i le faataunuina o so o se tusi faapoloaiga, ma e lei foi se tagata o ia lea ua ala ai ona faataunuina sea tusi faapoloaiga e ao ona faatatauina e faapea ua ia solia ona o se mafuaaga o so o se faaletonu po o se tulaga lē aloaia e faasino i so o se itu ua taua:

- (a) i so o se tualumaga e uiga i le tulaga aloaia lea o lo o faalagolago i ai le tusi faapoloaiga; po o
- (b) le faatulagaga o le tusi faapoloaiga po o, i le auala na faataunuina ai.

(2) E ono mafai ona faia se tagi i lalo o le fuaiupu 73 mo so o se tulaga faaletonu ua faasinomia i le faafuuiupu (1)(b).

72. Tagi e faia faasaga i tagata ao sala o lo o galulue i lalo o tusi faapoloaiga-(1) E lē tatau ona amatatia se talosaga e faia faasaga i se tagata ao sala mo so o se mea ua faia e tusa ai ma se tusi faapoloaiga ua tuuina atu i lalo o lenei Tulafono, vagana ai ua faaaogāina se tasi po o tulaga uma nei e lua:

- (a) a written demand for inspection of the warrant and for a copy of it, signed by the person making the demand, is made or left at the office of the Court by the party intending to bring the action, or his or her solicitor or agent;
- (b) the bailiff refuses or neglects to comply with the demand within six (6) days after it is made.

(2) If any action is commenced against a bailiff in a case where such a demand has been made and not complied with, judgment must be given for the bailiff if the warrant is produced or proved at the trial, despite any defect of jurisdiction or other irregularity in the warrant.

(3) Despite subsection (2), the officer who issued the warrant may be joined as a defendant in the action, and if the officer is so joined and judgment is given against him or her, the costs to be recovered by the plaintiff must include such costs as the plaintiff is liable to pay to the bailiff.

73. Production of warrant sufficient proof of Court's authority - In any action commenced against a person for anything done under this Act, the production of the warrant of the Court is sufficient proof of the authority of the Court up to the time of the issue of the warrant.

PART VIII ADMINISTRATION OF THE COURTS

Division 1 - Sittings

74. Place of sittings-(1) Regular sittings of the Courts for the conduct of civil or criminal can be held at any place approved under section 5(1).

- (a) o se poloaiga tusitusia faamalosi mo le suesuega o le tusi faapoloaiga ma, mo sona ata e sainia e le tagata o lo o ia faia le manaoga, ua faia po o ua tuuina i le ofisa o le Faamasinoga e le itu faamasinoga ua faamoemoe e faia le talosaga, po o le loia faufautua po o le sooupu a lea tagata;
- (b) ua teena po o ua faatalale le tagata ao sala e usitaia le poloaiga faamalosi i totonu o le ono (6) aso ina ua maea ona faia.

(2) Afai ua amatalia se tagi faasaga i se tagata ao sala o lo o faataunuuna le poloaiga faamalosi i se mataupu pe afai o sea manaoga na faia ae le i usitaia, e ao ona tuuina atu le faaiuga mo le tagata ao sala o lo o faataunuuna le tusi faapoloaiga po o ua faamaonia i le suesuega o le mataupu, e ui lava i so o se faaletonu o le puleaga faa-faamasinoga po o isi tulaga faaletonu i le tusi faapoloaiga.

(3) E ui lava i le faafuaiupu (2), e mafai e le tagata ofisa o ia lea na ia tuuina atu le tusi faapoloaiga, ona soofaatasi e avea ma tagata tetee i le talosaga, ma afai ua faapea ona soofaatasi ma le tagata ofisa ma ua tuuina atu le faaiuga faasaga ia te ia, o totogi o le faamasinoga e toe faaola mai e le itu tagi e ao ona aofia ai ia totogi o le faamasinoga e pei ona noatia ai le itu tagi e totogi atu i le tagata ao sala.

73. O le tuuina atu o tusi faapoloaiga o faamaoniga atoatoa ia o le pule faataga a le Faamasinoga - I so o se tagi e faia faasaga i se tagata mo so o se mea ua faia i lalo o lenei Tulafono, o le tuuina atu o le tusi faapoloaiga a le Faamasinoga, o faamaoniga atoatoa ia o le pule faataga a le Faamasinoga e oo atu lava i le taimi e tuuina atu ai le tusi faapoloaiga.

VAEGA VIII FAAFOEGA O FAAMASINOAGA

Vaevaega 1 - Taulumaga

74. Nofoga o taulumaga-(1) O taulumaga masani a Faamasinoga mo le faafoeina o mataupu tau le va o tagata po o taulumaga faasolutulafono, e mafai ona faia i so o se nofoaga ua faamaonia i lalo o le fuaiupu 5(1).

(2) A Judge or Fa'amasino Fesoasoani presiding over any proceedings of the Court has authority to determine that the sitting will be held at any other place.

75. Times of sittings-(1) Sittings of the Court are to be held on such days as a Judge or Fa'amasino Fesoasoani determines.

(2) The days appointed for regular sittings are subject to the approval of the Senior District Court Judge.

(3) Subject to any decision made by a Judge or Fa'amasino Fesoasoani under this section, the Registrar has authority to appoint the days and the times for the Court's sittings.

76. Adjourned sittings-(1) A Judge or Fa'amasino Fesoasoani has authority to grant or order an adjournment of any proceeding or sitting.

(2) If a sitting of the Court cannot be held on an appointed day by reason of the absence of the Judge or Fa'amasino Fesoasoani or otherwise, the Registrar has authority to adjourn the Court to a nominated date.

Division 2 - Financial Provisions

77. Payment and recovery of fees in civil proceedings-(1) All fees in any civil proceedings (other than those payable for keeping possession, or for storing, removing, or selling goods seized under a warrant) must be paid in the first instance by the party on whose behalf any proceedings are taken.

(2) No Judge, Fa'amasino Fesoasoani or officer of the Court is to do any act for which a fee is payable unless the fee is first paid; but no such act, if done, is deemed to be invalid by reason only of the non-payment of the fee.

(2) E i ai le pule faataga i se Faamasino po o Faamasino Fesoasoani o lo o seei i so o se tualumaga a le Faamasinoga, e fuafua ai e faapea, o le a faafoeina le tualumaga o le faamasinoga i so o se isi lava nofoaga.

75. Taimi o tualumaga-(1) O tualumaga a le Faamasinoga o le a faia i ia aso e pei ona fuafuaina e se Faamasino po o Faamasino Fesoasoani.

(2) O aso ua atofaina mo tualumaga masani e noatia ma fai fuafua i le faamaoniga a le Faamasino Sinia o le Faamasinoga Faaitumalo.

(3) I le noatia ma le fai fuafua i so o se faaiuga ua faia e se Faamasino po o Faamasino Fesoasoani i lalo o lenei fuaiupu, e i ai le pule faataga a le Resitara e atofaina ai aso ma taimi mo tualumaga a le Faamasinoga.

76. Tualumaga e tolopoina-(1) E i ai le pule faataga i se Faamasino po o Faamasino Fesoasoani e faatagaina ai po o le poloaia le tolopoina o so o se tualumaga po o tualumaga.

(2) Afai ua lē faataunuaina se tualumaga a le Faamasinoga i le aso na atofaina ona o se mafuaaga e faapea ua lē mafai ona auai ai le Faamasino po o Faamasino Fesoasoani po o se isi mafuaaga e ese ai, e i ai i le Resitara le malosiaga e tolopoina ai le Faamasinoga i se aso ua filifilia.

Vaevaega 2 - O Aiaiga Tau Tupe

77. Tupe totogi ma le toe faaolaina mai o totogifuapauina i tualumaga tau le va o tagata-(1) O totogifuapauina uma i so o se tualumaga faa-faamasinoga i le va o tagata (e ese mai i lo ia e totogiina mo le taofia ai o meatotino, po o mo le teuina, aveeseina, po o le faatauina atu o oloa ua faoa faamalosi i lalo o se tusi faapoloaiga), e ao ona vave totogiina muamua e le itu faamasinoga, lea ua mafua ai ona faia so o se tualumaga.

(2) E leai se Faamasino, Faamasino Fesoasoani po o se tagata ofisa o le Faamasinoga e faia so o se gaoioiga, lea e totogiina ai se totogifuapauina seia vagana ua muai totogiina le totogifuapauina, peitai, o sea gaoioiga pe afai e faia, ua faatatauina e faapea e lē aloaia ona o se mafuaaga i le lē totogiina o le totogifuapauina.

(3) In any proceedings in which the Government is a party, no fee needs to be prepaid by the Government, but the relevant fee maybe recoverable from another party with costs, if judgment is given against that party.

(4) In default of the payment of any fees, payment can be enforced by order of the Court, in the like manner as payment of any debt determined by the Court to be paid.

(5) A table of fees payable must be kept in the office of every Court, and must be made available for inspection by any person on request.

78. Fees to be paid to Public Account-(1) Subject to subsection (2), all fees payable in respect of civil proceedings in District Courts are payable in the first instance to the Registrar of the Court, or any other authorised officer of the Court, and must be paid into the Public Account as soon as is practicable.

(2) Fees relating to keeping possession, or for storing, removing or selling goods seized under a warrant, must be paid to the bailiff or person charged with the execution of the warrant, and must then be given to the Registrar for payment to the person entitled to such sums.

79. Payment and recovery of fees in criminal proceedings-(1) The provisions of section 78 apply to fees in criminal proceedings.

(2) In criminal proceedings the provisions of section 78(2) apply to any police officer or other representative of the Government in any criminal proceedings undertaken on behalf of the State.

80. Money to be payable in first instance to Registrar-(1) All fees, fines, costs, and other money payable in criminal proceedings in District Courts is payable in the first instance to the Registrar, or any other authorised officer of the Court.

(3) I so o se taulumaga faa-faamasinoga lea e avea ai le Malo ma itu faamasinoga, e lē manaomia se totogifuapauina e muai totogiina e le Malo, peitai e ono toe maua mai le totogifuapauina mai se isi itu faamasinoga, faatasi ai ma tau a le faamasinoga, pe afai ua tuuina atu le faaiuga e faasaga i lea itu faamasinoga.

(4) I se tulaga ua faaletonu le totogiina o so o se totogifuapauina, e mafai ona faamalosi lea tupe totogi e ala i le poloaiga a le Faamasinoga, i le faiga lava lea e pei ona totogiina ai so o se aitalafu ua fuafuaina e le Faamasinoga e ao ona totogi.

(5) E ao ona tausia se fua faasolo o totogifuapauina e totogi i ofisa o Faamasinoga uma, ma e ao ona faaavanoa mo asiasiga e so o se tagata e talosagaina.

78. E totogi totogifuapauina i Teugatupe a le Malo-(1) I le noatia ma le fai fuafua i le faafuaiupu (2), o totogifuapauina uma e totogi e tusa ai o taulumaga faa-faamasinoga tau le va o tagata i le Faamasinoga Faaitumalo, e totogi muamua i le Resitara o le Faamasinoga, po o so o se isi lava tagata ofisa faatagaina o le Faamasinoga, ma e ao ona totogiina atu i Teugatupe a le Malo i se taimi vave lava e mafai ai ona faatino.

(2) O totogifuapauina e faasino i le tausia o meatotino, po o mo le teuina, aveeseina po o le faatauina atu o oloa ua faoa faamalosi i lalo o se tusi faapoloaiga, e ao ona totogiina atu i le tagata ao sala po o i le tagata ua fitoitonu ma le faataunuuna o le tusi faapoloaiga, ma e ao ona tuuina atu loa i le Resitara mo le totogiina atu i le tagata ua agavaa i sea aofaiga o tupe.

79. Tupe totogi ma le toe maua mai o totogifuapauina i taulumaga faasolitulafono-(1) E faaogā aiaiga o le fuaiupu 78 i totogifuapauina o taulumaga faasolitulafono.

(2) I taulumaga faasolitulafono, e faaogā aiaiga o le fuaiupu 78(2) i so o se leoleo po o isi tagata ua fai ma sui o le Malo i so o se taulumaga faasolitulafono ua faatinoina e avea ai ma sui o le Malo.

80. E totogi muamua tupe i le Resitara-(1) O totogifuapauina, sala tupe, totogi o le faamasinoga ma isi tupe uma e tataua ona totogiina mo taulumaga faasolitulafono i le Faamasinoga Faaitumalo, e totogi muamua atu i le Resitara, po o so o se isi lava tagata ofisa faatagaina o le Faamasinoga.

(2) The sums received under this section must be paid as soon as practicable to either of the following:

- (a) in any case where they are payable to any person in accordance with any law or by an order of the Court - to that person; or
- (b) in any other case - into the Public Account.

PART IX MISCELLANEOUS

81. Summonses and other documents to be under Seal-(1) All summonses issued out of the District Court must be sealed with the Seal of the Court.

(2) All summonses and other documents purporting to be sealed by the Court must be received in evidence without further proof.

82. Proof of service of documents-(1) The service of any document can be proved by any of the following means:

- (a) by affidavit made by the person who served the document, showing the fact and the time and mode of service;
- (b) by the person who served the document on oath at the hearing; or
- (c) subject to subsection (3), if service is effected by an officer of the Court or a police officer - by an endorsement on the copy of the document showing the fact and the time and mode of service.

(2) E ao ona tofogiina i se taimi vave lava e mafai ai ona faatino aofaiga o tupe ua taulimaina i lalo o lenei fuaiupu i se tasi o vaega nei:

- (a) i so o se tulaga pe afai e tofogi atu i so o se tagata e tusa ai ma so o se tulafono po o, e ala i se poloaiga a le Faamasinoga - i lea tagata; po o
- (b) i so o se isi lava mataupu - e teuina i le Teugatupe a le Malo.

VAEGA IX AIAIGA ESEESE

81. O tusi samania ma isi pepa aloaia e i lalo o le Faamaufaailoga-(1) E ao ona faamaufaailogaina i le Faamaufaailoga a le Faamasinoga tusi samania uma ua tuuina atu e le Faamasinoga Faaitumalo.

(2) E ao ona taliaina e avea ma faamatalaga molimau tusi samania uma ma isi pepa aloaia ua avea e faapea ua faamaufaailogaina e le Faamasinoga, e aunoa ma nisi faamaoniga.

82. Faamaoniga o le faaooina atu o pepa aloaia-(1) E mafai ona faamaonia le faaooina atu o so o se pepa aloaia e ala i se tasi o faiga na taua e faapea:

- (a) e ala i se faamatalaga tauto ua faia e le tagata o ia lea na faaooina atu pepa aloaia, o lo o faailoa ai le mea moni ma le taimi aemaise le faiga na faatino ai le faaooina atu;
- (b) e le tagata o ia lea na faaooina atu pepa aloaia i luga o se tautoga na faia i le taimi o le suesuega; po o
- (c) i le noatia ma le fai fuafua i le faafuuiupu (3), afai na faaooina atu e se tagata ofisa o le Faamasinoga po o se leoleo ia faatino - e ala i se faamaoniga aloaia i luga o le ata o le pepa aloaia o lo o faailoa ai le mea moni ma le taimi faapea le faiga na faatino ai le faaooina atu.

(2) Any endorsement made in accordance with subsection (1)(c) must be signed by the person who served the document or, if the service was effected by registered letter, by any officer of the Court who knows of the service.

(3) A person who wilfully endorses any false statement of the fact, time, or mode of service on a copy of any document commits an offence, and is liable upon conviction to a fine not exceeding 500 penalty units, or to imprisonment for a term not exceeding two (2) years, or both.

83. Language of court documents - If a document is served on any person who is known to the Registrar or person serving the document to be able to read and understand English, it must be written in English, but in every other case it must be written in Samoan, or accompanied by a translation into Samoan.

84. Actions on lost instruments - In any action founded on a promissory note, bill of exchange or other negotiable instrument declared on the affidavit of the plaintiff to be lost, the Court has authority to give judgment as if the document were produced, if an indemnity is given by the plaintiff to the satisfaction of the Court against the claims of any other person upon the instrument.

85. No privilege to barristers or solicitors - No privilege extends to any barrister or solicitor to exempt him or her from the jurisdiction of the Court.

86. Police officers must assist Court-(1) All police officers must offer aid and assistance to any Court, or to a Judge, Fa'amasino Fesoasoani, Registrar or Assistant Registrar in the performance of any duty or function or power provided for by this or any other Act.

(2) So o se faamaoniga aloaia ua faia ina ia tusa ai ma le faafu'aiupu (1)(c), e ao ona sainia e le tagata o ia lea na faaooina atu le pepa aloaia, pe afai na faaooina atu e ala i se meli puipuia e so o se tagata ofisa o le Faamasinoga o ia lea ua na ia iloa le faaooina atu.

(3) O se tagata o ia lea ua ia faamaonia aloaia ma le loto i ai so o se faamatalaga sese e uiga i le mea moni, le taimi po o le auala na faatino ai le auaunaga i luga o se ata o so o se pepa aloaia, ua faia se soligatulafono, ma e noatia i luga o se moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 500 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o faasalaga uma e lua.

83. Gagana o lo o faaogāina i totonu o pepa aloaia a le faamasinoga - Afai ua faaoo atu se pepa aloaia i so o se tagata, o ia lea ua silafia e le Resitara po o le tagata o lo o ia faaooina atu le pepa aloaia e mafai ona ia faitau ma malamalama i le gagana Peretania, e ao ona tusia i le gagana Peretania, peitai i isi tulaga uma, e ao ona tusia i le gagana Samoa, po o, ia tuuina atu faatasi ma sona faaliliuga i le gagana Samoa.

84. Tagi ua faia i pepa faamaonia faaletulafono ua leiloloa - Mo so o se tagi ua faia e faavae i luga o se pepa faamaonia e totogi ai aitalafu, poloaiga tusia e totogi ai tupe po o nisi pepa faamaonia e mafai ona faaliliuina i tupe, lea ua faailoaina i totonu o faamatalaga tauto a lē ua tagi e faapea ua leiloloa, e i ai i le Faamasinoga le pule faataga e tuuina atu ai lana faaiuga, e faapei ai na tuuina atu ia pepa aloaia, pe afai ua tuuina atu e lē ua tagi se puipugamalu ua faapea ona faamalieina ai le Faamasinoga, faasaga i talosaga a so o se isi lava tagata ua faia i lea pepa faaletulafono.

85. E leai ni tulaga aloaia mo loia o le faamasinoga po o loia faufautua - E leai ni tulaga aloaia e faaee atu i so o se loia o le faamasinoga po o so o se loia faufautua e tuusaunoa ai mai le puleaga faa-faamasinoga a le Faamasinoga.

86. E ao ona fesoasoani leoleo i le Faamasinoga-(1) E ao i leoleo uma ona ofoina atu le fesoasoani i so o se Faamasinoga, po o i se Faamasino, Faamasino Fesoasoani, Resitara po o le Resitara Lagolago i le faatinoga o so o se tiute po o se galuega tauave po o malosiaga ua aiaia i lenei Tulafono po o so o se isi lava tulafono.

(2) It is the duty of the officer-in-charge of every prison or lock-up, on the request of the bailiff or police officer to whom a warrant of arrest or commitment has been issued, to hold the prisoner or defendant in the custody of the bailiff or police officer until the prisoner or defendant is taken to the place of imprisonment or Court named in the warrant by the most convenient means of transport.

(3) A police officer neglects or refuses to provide aid or assistance in accordance with subsection (1), or an officer-in-charge of a prison or lock-up who breaches subsection (2), commits and is liable upon conviction to a fine not exceeding 50 penalty units, if no other penalty is provided for the breach under any law.

(4) Nothing in subsection (3) prevents a Judge or Fa'amasino Fesoasoani from taking action for contempt of court against a person who has breached this section.

87. District Court Rules-(1) The Head of State acting on the advice of the Rules Committee, may make, alter or revoke Rules regulating the practice and procedure of the District Court (or any Division of the Court), and which prescribe forms or fees relating to proceedings in the Court, or any of its Divisions.

(2) Rules made under this section may apply to the exercise of any jurisdiction conferred on District Courts, Judges or Fa'amasino Fesoasoani by any other Act.

(3) Rules of Court may relate to all matters of practice or procedure (including matters relating to or concerning the effect or operation in law of any practice or procedure), and such Rules may prescribe matters relating to all or any of the following:

(2) O le tiute tauave o le tagata ofisa o lo o vaaia falepuipui po o potu taofia taitasi, i luga o le talosaga a le tagata ao sala e fitoitonu ma tusi faapoloaiga po o le leoleo, o ia lea ua faapea ona tuuina atu i ai se tusi faapoloaiga e pue faapagota ai po o le taofia ai, ina ia taofia le pagota po o lē o tetee i lalo o le vaavaaiga a le tagata ao sala po o se leoleo, seia vagana ua tuuina atu le pagota po o lē o tetee i le nofoaga e faafalepuipui ai, po o le Faamasinoga ua taua i le tusi faapoloaiga, i se auala tau femalagaiga aupito i sili ona vave.

(3) Ua faatamala po o ua teena e le leoleo le tuuina atu o se fesoasoani po o le lagolago ina ia tusa ai ma le faafuaiupu (1), po o se tagata ofisa o lo o vaaia se falepuipui po o se potu taofia, o ia lea ua solia le faafuaiupu (2), ua faia e ia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaetulafono i se sala tupe e lē silia le 50 iunite tau faasalaga pe afai e le o aiaia se isi faasalaga mo le soliga i lalo o so o se tulafono.

(4) E leai se vaega o le faafuaiupu (3) e taofia ai se Faamasino po o se Faamasino Fesoasoani mai le faia o gaoioiga faasaga i se tagata ona o le lē migao i le faamasinoga, o ia lea ua ia lē usitaia lenei fuaiupu.

87. Tulafono Faafoe o le Faamasinoga Faaitumalo-(1) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Komiti o Tulafono Faafoe, ona faia, suia pe faalēaogāina Tulafono Faafoe o lo o faatonutonu ai faiga ma tualumaga o le Faamasinoga Faaitumalo (po o so o se Vaega o le Faamasinoga), ma lea o lo o faatonuina ai pepa faatumu po o totogifuapauina e faasino i tualumaga a le Faamasinoga, po o so o se tasi o ona Vaega.

(2) E mafai ona faaaogāina Tulafono Faafoe ua faia i lalo o lenei fuaiupu, i le faataunuuna o so o se puleaga faa-faamasinoga ua faaee atu i le Faamasinoga Faaitumalo, Faamasino po o Faamasino Fesoasoani e ala i so o se isi lava Tulafono.

(3) E mafai ona fesoatai Tulafono Faafoe o le Faamasinoga i mataupu uma tau aga masani po o tualumaga (e aofia ai mataupu e faasino i, po o e aafia ai le taunuuga po o le faatinoga i le tulafono o so o se aga masani po o tualumaga), ma o ia Tulafono Faafoe e mafai ona faatonuina ai mataupu e faasino i vaega uma po o so o se tasi o vaega nei:

- (a) the Court in which proceedings are to be commenced, and the procedure to be adopted where proceedings are commenced in one Court which should, under this or any other Act or the rules, have been commenced in another Court;
- (b) the records of the Court, and the custody of the court records;
- (c) the receipt and accounting for any money paid into or out of Court;
- (d) authorising the Registrar to hear and determine any aspect proceedings (other than conducting the trial and entering judgment), and any actions in which the defendant fails to appear at the hearing or admits the claim;
- (e) the costs and charges to be paid by one party to any other party, in addition to the money paid out-of-pocket;
- (f) the forms to be used in respect of any proceedings to which this Act applies;
- (g) procedure for the taking of evidence of witnesses at a distance or about to leave the country or of witnesses overseas (including provisions for requiring the attendance of witnesses, the answering of questions, and the production of documents); or
- (h) any other matters in respect of which Rules are contemplated or specifically authorised by this Act.

88. Regulations-(1) The Head of State, acting on the advice of Cabinet, may make regulations in relation to any matter for which regulations are contemplated under this Act, or which are necessary or expedient for giving full effect to the provisions of this Act, or for its due administration.

- (a) o le Faamasinoga, lea o le a faapea ona amatalia ai tualumaga faa-faamasinoga, ma le faiga o le a faaaogāina pe afai ua amatalia tualumaga i se isi Faamasinoga, lea e tatau, i lalo o lenei Tulafono po o so o se isi lava Tulafono, po o tulafono faafoe, ona amatalia i totonu o se isi Faamasinoga;
- (b) o faamaumauga a le Faamasinoga, ma le tausiga o ia faamaumauga faafaamasinoga;
- (c) o le taulimaina ma le faamaumuina o so o se tupe ua totogiina i, po o i fafo atu o le Faamasinoga;
- (d) e faatagaina ai le Resitara e fofogaina ma iloiloina so o se vaega o tualumaga (e ese mai i lo le faataunuina o le faamasinoga ma le faamaumuina aloaia o le faaiuga), ma so o se gaioiga, lea ua lē mafai ona tulai ai lē o tetee i le faamasinoga po o le ioeina o ona moliaga;
- (e) ia totogiina tau o le faamasinoga ma tau faaee atu e se itu faamasinoga i le isi itu, e faaopoopo atu i le tupe na totogiina e lea lava tagata;
- (f) o pepa faatumu e ao ona faaaogāina e tusa ai o so o se tualumaga, lea e faaaogāina i ai lenei Tulafono;
- (g) tualumaga mo le faia o faamatalaga molimau a tagata molimau e nonofo mamao po o, o le a tuua le atunuu po o, tagata molimau o lo o aumau i atunuu i fafo (e aofia ai aiaiga e tapa ai le auai o tagata molimau, o le taliina o fesili, ma le tuuina atu o pepa aloaia); po o
- (h) so o se isi lava mataupu e tusa ai ma le tulaga ua iloiloina po o ua mafaufauina e Tulafono Faafoe po o ua faatagaina faapitoe e lenei Tulafono.

88. Tulafono Faatonutonu-(1) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, ona faia tulafono faatonutonu e faasino i so o se mataupu lea e iloiloina ai tulafono faatonutonu i lalo o lenei Tulafono, po o ua talafeagai pe faavavevave mo le faamamaluina atoatoa ai aiaiga o lenei Tulafono, po o mo lona faatinoga lelei.

(2) Without limiting the generality of subsection (1), Regulations may be made under this Act in relation to any of the following matters:

- (a) the jurisdiction and procedures for any Division of the District Court, including the Youth Court, the Family Court and any other court or division of a court established under any enactment;
- (b) the grounds for removal from office of Judge, Fa'amasino Fesoasoani, Registrar or Assistant Registrar, and the procedures to be applied in such cases;
- (c) the entitlements to be paid or withheld in the event of a removal from office; or
- (d) any terms and conditions applicable to Judges and Fa'amasino Fesoasoani, including pension or other entitlements.
- (e) the fees to be paid in respect of any proceedings taken or for service of any summons or other process under this Act; or
- (f) fees, travelling allowances and expenses payable to persons giving evidence and to interpreters, referees, and arbitrators in any proceedings under this Act.

(3) Regulations may be made under this Act in relation to any matter for which Rules of the Court may be made, and in the event of any inconsistency between a provision of the Regulations or the Rules, the Regulations prevail.

89. Transitional and savings provisions-(1) Nothing in this Act affects any appointment made under the repealed Act, and all Judges, Fa'amasino Fesoasoani, Registrar, Assistant Registrar and other court officers holding office under the repealed Act are deemed to hold an equivalent office under this Act.

(2) E aunoa ma le faatapulaaina o le tulaga lautele o le faafu'aiupu (1), e mafai ona faia Tulafono Faatonutonu i lalo o leni Tulafono e faasino i so o se tasi o mataupu nei:

- (a) o le puleaga faa-faamasinoga ma taualumaga mo so o se Vaega o le Faamasinoga Faaitumalo, e aofia ai le Faamasinoga mo Tupulaga Talavou, Faamasinoga mo Mataupu Faatatau i Aiga ma so o se isi lava faamasinoga po o vaega o se faamasinoga ua faavaeina i lalo o so o se tulafono;
- (b) o mafuaaga mo le aveesea mai le tofi o se Faamasino, Faamasino Fesoasoani, Resitara po o le Resitara Lagolago, faapea taualumaga e ao ona faaaogāina i ia ituaiga mataupu;
- (c) o faamanuiaga tau tupe e ao ona totogi po o e taofia i le tulaga pe afai e aveeseina mai i le tofi; po o
- (d) so o se tuutuuga ma aiaiga e talafeagai i Faamasino ma Faamasino Fesoasoani, e aofia ai penisione po o isi faamanuiaga tau tupe;
- (e) o totogifuapauina e ao ona totogi e tusa ai o so o se taualumaga ua faia po o mo le faaooina atu o so o se tusi samania po o isi lava faagasologa i lalo o leni Tulafono; po o
- (f) totogifuapauina, alauni malaga ma tupe faaalu e tatau ona totogiina i tagata o lo o tuuina atu faamatalaga molimau ma tagata faamatala upu, tagata e tuuina atu faamatalaga o tomai ma sui lautogia i so o se faagasologa i lalo o leni Tulafono.

(3) E ono mafai ona faia Tulafono Faatonutonu i lalo o leni Tulafono e faasino i so o se mataupu, lea e mafai ai ona faia Tulafono Faafoe o le Faamasinoga, ma le tulaga o so o se feteenaiga i se aiaiga o Tulafono Faatonutonu po o Tulafono Faafoe, e tumau pea le mausali o Tulafono Faatonutonu.

89. Aiaiga tau soloaiga ma aiaiga faasaoina-(1) E leai se mea i totonu o leni Tulafono e aafia ai so o se tofiga na faia i lalo o le Tulafono ua soloia, ma o Faamasino, Faamasino Fesoasoani, Resitara, Resitara Lagolago ma isi tagata ofisa uma o le faamasinoga o lo o umia tofi i lalo o le Tulafono ua soloia, ua faatatauina o lo o latou umia se tofiga tulaga tutusa i lalo o leni Tulafono.

(2) Nothing in this Act affects any proceeding, judgment or order issued, taken or made under the repealed Act, and any such proceedings, judgments and orders which are still current at the time of commencement of this Act are deemed to have been taken under the authority of this Act.

(3) The District Court Rules made under the repealed Act are deemed to have been made under the authority of this Act, and are valid and of full effect until they are repealed or modified by Rules made under this Act.

90. Application of this Act in relation to other laws-(1) The provisions of this Act prevail over any provision of another law which is inconsistent with this Act.

(2) Without limiting the generality of subsection (1), any law which relates to general matters of civil or criminal procedure must be read and applied so as to be consistent with the provisions of this Act, regardless of when the other law was made or takes effect.

(2) E leai se mea i totonu o lenei Tulafono e aafia ai so o se tualumaga, faaiuga po o se poloaiga ua tuuina atu, faaaogāina po o ua faia i lalo o le Tulafono ua soloia, ma so o se tualumaga, faaiuga ma poloaiga faapea ia o lo o faaaogāina i le taimi na amata faamamaluina ai lenei Tulafono, ua faatatauina lava e faapea, na faaaogāina i lalo o le pule faataga a lenei Tulafono.

(3) Ua faatatauina Tulafono Faafoe o le Faamasinoga Faaitumalo ua faia i lalo o le Tulafono ua soloia, e faapea na faia i lalo o le pule faataga a lenei Tulafono, ma e aloaia ma atoatoa lona faamamaluina seia vagana ua soloia po o ua suia e Tulafono Faafoe ua faia i lalo o lenei Tulafono.

90. Faaaogāina o lenei Tulafono i isi tulafono-(1) O aiaiga o lenei Tulafono e mausali i luga o so o se aiaiga o se isi tulafono lea e le o ogatasi ma lenei Tulafono.

(2) E aunoa ma le faatapulaaina o le tulaga lautele o le faafuaiupu (1), so o se tulafono e fesootai i mataupu lautele o tualumaga tau le va o tagata po o tualumaga faasolitulafono, e ao ona faitauina ma faaaogāina ina ia ogatasi ai ma aiaiga o lenei Tulafono, tusa lava po o le a le taimi na pasia ai pe na faamamaluina ai le isi tulafono.
