

CONSTITUTION AMENDMENT BILL (No. 2) 2015

SAMOA

Arrangement of Provisions

1. Short title and commencement
2. Article 41 amended
3. Article 41A inserted
4. Article 83 amended
5. Transition and saving

2015, No.

A BILL INTITULED

AN ACT to amend the Constitution.

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

1. Short title and commencement-(1) This Act may be cited as the Constitution Amendment Act (No. 2) 2015.

(2) This Act commences on a date nominated by the Prime Minister.

TULAFONO TAU FAAOFI O TEUTEUGA O LE FAAVAE (Nu. 2) 2015

SAMOA

Faatulagaina o Aiaiga

1. Igoa puupuu ma le amataga
2. Ua teuteuina le Mataupu 41
3. Ua faaofiina le Mataupu 41A
4. Ua teuteuina le Mataupu 83
5. Aiaiga tau soloaiga ma aiaiga faasaoina

2015, Nu.

O SE TULAFONO TAU FAAOFI UA TAU

O SE TULAFONO e teuteu ai le Faavae.

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

1. Igoa puupuu ma le amataga-(1) E mafai ona taua leni Tulafono o le Tulafono o Teuteuga o le Faavae (Nu. 2) 2015.

(2) O leni Tulafono e amata faamamaluina i le aso ua filifilia e le Palemia.

2. Article 41 amended - In Article 41 of the Constitution:

- (a) for clause (2) omit “and shall have power, exercisable in his discretion, to institute, conduct or discontinue any proceedings for an offence alleged to have been committed”;
- (b) for clause (3) after “tribunal” add “on any proceedings other than criminal proceedings”.

3. Article 41A inserted - After Article 41 of the Constitution insert:

“41A. Director of Public Prosecutions-(1) The Head of State may, acting on the advice of the Prime Minister, appoint a person for a term of six (6) years who is qualified to be appointed as a judge of the Supreme Court as the Director of Public Prosecutions (“Director”).

(2) The terms and conditions of appointment are to be provided by Act.

(3) The Director:

(a) may -

- (i) institute and conduct criminal proceedings;
- (ii) take over criminal proceedings that have been instituted by another person or authority;
- (iii) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or conducted by the Director or another person or authority;

2. Ua teuteuina le Mataupu 41 - I totonu o le Mataupu 41 o le Faavae:

- (a) mo le fuaiupu (2), ia aveese upu “ma o le a i ai le pule, e faaaogāina i lana faitalia, ia faatuina, taitai po o le faagataina o so o se tualumaga mo se soligatulafono sa faapea ua uma ona faia”;
- (b) mo le fuaiupu (3), i le tuanai o le upu “suega” ia faaopoopo i ai upu “i luga o so o se tualumaga e ese mai i tualumaga tau solitulafono”.

3. Ua faaofiina le Mataupu 41A - I le tuanai ai o le Mataupu 41 o le Faavae, ia faaofi e faapea:

“41A. Faatonu e Faafoeina Moliaga Faaletulafono a le Atunuu-(1) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Palemia, ona tofia se tagata mo se vaitaimi e ono (6) tausaga, o ia lea ua agavaa ina ia tofia e avea o se faamasino o le Faamasinoga Sili e avea ma Faatonu e Faafoeina Moliaga Faaletulafono a le Atunuu (“Faatonu”).

(2) O aiaiga ma tuutuuga o le tofiga e ao ona aiaia e le Tulafono.

(3) O le Faatonu:

(a) e mafai ona -

- (i) faatuina ma taitai tualumaga tau solitulafono;
- (ii) tauaveina tualumaga tau solitulafono lea sa faatuina e se isi lava tagata po o se pulega;
- (iii) faagataina, i so o se laasaga a o lumanai ai le faaooina atu o le faaiuga, o tualumaga tau solitulafono sa faatuina po o sa taitaina e le Faatonu po o se isi tagata po o se pulega;

(b) is not subject to direction or control by any other person or authority when the Director is carrying out the powers under sub-clause (a); and

(c) shall have a right of audience in, and shall take precedence over any other person appearing before, any Court or tribunal in relation to criminal proceedings;

(d) has other functions, duties and powers conferred by Act.

(4) The powers of the Director may be exercised by the Director in person or by officers subordinate to the Director, acting under and in accordance with the Director's general or special instructions.

(5) In this Article, "criminal proceedings" includes any proceedings or matter before a Court for an offence alleged to have been committed and includes any ancillary proceedings, an appeal, case stated or question of law."

4. Article 83 amended - For Article 83, after sub-clause (g) insert:

"(ga) Director of Public Prosecutions and other prosecutors and officers and employees of an office of prosecutions established by Act;"

5. Transition and saving-(1) Any criminal proceedings instituted or conducted by or on behalf of the Attorney General before the commencement of this Act continue as if they were

(b) e lē noatia i se faatonuga po o se faafoega e so o se isi lava tagata po o se pulega pe a oo ina faatinoia e le Faatonu malosiaga o i lalo o le faafuaiupu (a); ma

(c) o le a i ai se aia tatau e faalogologo ai i, ma o le a tatau ona maua e ia le avanoa muamua i so o se isi lava tagata e oo atu i luma o so o se Faamasinoga po o se suega e faasino i tualumaga tau solitulafono;

(d) e i ai isi galuega tauave, tiute ma malosiaga ua faaee atu e le Tulafono.

(4) O malosiaga o le Faatonu e mafai ona faatinoia e ia lava po o e tagata ofisa i ona lalo ifo o lo o galulue i lalo ma ua tusa ai ma ana faatonuga aoao po o faatonuga faapitoa.

(5) I totonu o lenei Mataupu "taualumaga tau solitulafono" e aofia ai so o se tualumaga po o se mataupu ua i luma o se Faamasinoga mo se soligatulafono sa faapea ua uma ona faia ma e aofia ai so o se tualumaga faaopopo, o se talosaga tetee, mataupu ua taua po o le fesiligia o le tulafono."

4. Ua teuteuina le Mataupu 83 - Mo le Mataupu 83, i le tuanai ai o le faafuaiupu (g) ia faaofi e faapea:

"(ga) Faatonu e Faafoeina Moliaga Faaletulafono a le Atunuu ma isi tagata e faia moliaga ma tagata ofisa ma tagata faigaluega o se ofisa e faia moliaga faaletulafono ua faavaeina e le Tulafono;"

5. Aiaiga tau soloaiga ma aiaiga faasaoina-(1) So o se tualumaga tau solitulafono na faatuina po o sa taitaiina e po o i le aveai ma sui o le Loia Sili a o lumanai ai le amata

instituted or conducted by or on behalf of the Director of Public Prosecutions pursuant to Article 41A.

(2) Any current instructions issued pursuant to Article 41(4) in relation to criminal proceedings before the commencement of this Act continue as if they were issued by or on behalf of the Director of Public Prosecutions pursuant to Article 41A(4).

faamamaluina o lenei Tulafono, e faaaauau pea e faapei ai nei taualumaga sa faatuina, po o sa taitaiina e po o i le aveai ma sui o le Faatonu e Faafoeina Moliaga Faaletulafono a le Atunuu e tusa ai ma le Mataupu 41A.

(2) So o se faatonuga o i ai nei ua tuuina atu e tusa ai ma le Mataupu 41(4) e faasino i taualumaga tau salitulafono a o lumanai ai le amata faamamaluina o lenei Tulafono, e faaaauau pea e faapei ai o nei faatonuga sa tuuina atu e po o i le aveai ma sui o le Faatonu e Faafoeina Moliaga Faaletulafono a le Atunuu e tusa ai ma le Mataupu 41A(4).
