

NATIONAL PROSECUTION OFFICE BILL 2015

SAMOA

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SAMOA

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2015, No.

A BILL INTITULED

AN ACT to establish the National Prosecution Office and to provide for its functions, duties and powers and for related purposes.

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

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Faamatalaga

2015, Nu.

O SE TULAFONO TAU FAAOFI UA TAU

O SE TULAFONO e faavaeina ai le Ofisa e Faafoeina Moliaga Tau Solitulafono, ma ia aiaia ai mo ana galuega tauave, tiute ma malosiaiga 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:

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PART 1 PRELIMINARY

1. Short title and commencement-(1) This Act may be cited as the National Prosecution Office Act 2015.

(2) The Prime Minister may nominate a date of commencement of this Act, and may nominate different commencement dates for certain sections or Parts.

2. Interpretation - In this Act, unless the contrary intention appears:

“Assistant Director of Public Prosecutions” or “Assistant Director” means a person appointed as such under section 17;

“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;

“Director of Public Prosecutions” or “Director” means the person appointed as such under Article 41A of the Constitution, and includes the person acting as the Director;

“function of the Director” means the function of the Director under Article 41A(3) of the Constitution, and includes any function under this Act or any other enactment relating to an offence or criminal proceeding;

“National Prosecution Office” or “Office” means the Office established as such by section 4;

VAEGA 1 FAATOMUAGA

1. Igoa puupuu ma le amataga-(1) E mafai ona taua leni Tulafono, o le Tulafono o le Ofisa e Faafoeina Moliaga Tau Solitulafono 2015.

(2) E mafai e le Palemia ona filifilia se aso e amata faamamaluina ai leni Tulafono, ma e mafai foi ona ia filifilia oni aso eseese e amata faamamaluina ai nisi fuaiupu po o Vaega o le Tulafono.

2. Faamatalaina o uiga o upu - I totonu o leni Tulafono, ae vagana ai ua ese o se isi faamoemoe ua aliali mai:

“Faatonu Lagolago Faafoe Moliaga” po o le “Faatonu Lagolago” o lona uiga o se tagata ua tofia i sea tulaga tofi i lalo o le fuaiupu 17;

“taualumaga tau solitulafono” e aofia ai so o se taualumaga po o se mataupu ua i luma o se Faamasinoga mo se soligatulafono ua tuuaia e faapea sa faia ma e aofia ai so o se taualumaga faaopoopo o se talosaga tetee, mataupu ua taua po o se mataupu tau le tulafono;

“Faatonu Faafoe Moliaga” po o le “Faatonu” o lona uiga o le tagata ua tofia i sea tulaga tofi i lalo o le Mataupu 41A o le Faavae, ma e aofia ai le tagata o galue suitulaga i le Faatonu;

“galuega tauave a le Faatonu” o lona uiga o galuega tauave a le Faatonu i lalo o le Mataupu 41A(3) o le Faavae, ma e aofia ai o so o se galuega tauave i lalo o leni Tulafono po o so o se isi lava tulafono e faasino i se soligatulafono po o se taualumaga tau solitulafono;

“Ofisa e Faafoeina Moliaga Tau Solitulafono” po o le “Ofisa” o lona uiga o le Ofisa ua faapea ona faavaeina i le fuaiupu 4;

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“offence” means any act or omission for which a person can be punished under the Crimes Act 2013 or under any other enactment;

“prosecutor” means a person appointed as such under section 17(1)(a)(i), and includes the Director;

“staff” means persons engaged under this Act pursuant to section 4(2)(b) to (d).

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

PART 2 NATIONAL PROSECUTION OFFICE

4. Establishment and Minister responsible-(1) The National Prosecution Office is established.

(2) The Office comprises the following:

- (a) the Director of Public Prosecutions;
- (b) Assistant Directors of Public Prosecutions;
- (c) other legally or non-legally qualified persons as prosecutors, including legal advisers and legal consultants;

(d) administrative officers and other employees.

“soligatulafono” o lona uiga o so o se gaoioiga po o se mea ua lē faia, lea e mafai ona faasalaina ai se tagata i lalo o le Tulafono o Solitulafono 2013 po o i lalo o so o se isi lava tulafono;

“tagata faafoe moliaga” o lona uiga o se tagata ua tofia i sea tulaga tofi i lalo o le fuaiupu 17(1)(a)(i), ma e aofia ai le Faatonu;

“aufaigaluega” o lona uiga o tagata ua faafaigaluegaina i lalo o lenei Tulafono e tusa ai ma le fuaiupu 4(2)(b) e oo i le (d).

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

VAEGA 2 OFISA E FAAFOEINA MOLIAGA TAU SOLITULAFONO

4. Faavaeina o le Ofisa ma le Minisita e fitoitonu i ai-(1) Ua faavaeina nei le Ofisa e Faafoeina Moliaga Tau Solitulafono.

(2) O le Ofisa ua aofia ai i latou nei:

- (a) o le Faatonu Faafoe Moliaga;
- (b) Faatonu Lagolago Faafoe Moliaga;
- (c) o isi tagata agavaa faaletulafono po o tagata e lē agavaa faaletulafono, e aveia ma tagata faafoe moliaga, e aofia ai tagata faufautua agavaa faapitoa i mataupu faaletulafono;

(d) tagata ofisa tau pulega ma isi tagata faigaluega.

(3) The Director may determine divisions of the Office.

(4) The Prime Minister or a Minister appointed in writing by the Prime Minister is responsible for the administration of this Act.

5. Independence - The Director of Public Prosecutions and other prosecutors (including other persons authorised by the Director) are not subject to the direction of any other person when carrying out the functions under Article 41A of the Constitution (including statutory or common law function):

- (a) to institute, conduct or discontinue any proceedings for an offence alleged to have been committed; or
- (b) in relation to any matter relating to an offence or a criminal matter.

6. Functions - Without limiting Article 41A(3) of the Constitution, the Office has the following functions:

- (a) to institute and conduct prosecution of offences in any court;
- (b) to institute and conduct (including to conduct as respondent) any appeals relating to prosecution of offences;
- (c) to review and advise on criminal matters;
- (d) to advise the Attorney General on matters relating to application for parole by prisoners under the Prisons Parole Board established under the Prisons Parole Board Act 1977;
- (e) to institute and conduct proceedings relating to proceeds of crime matters under the Proceeds of Crime Act 2007 or any other enactment;

(3) E mafai e le Faatonu ona faatulagaina ni vaega o le Ofisa.

(4) O le Palemia po o se Minisita ua tofia i se faiga tusinga e le Palemia e nafa ma le faafoeina o lenei Tulafono.

5. Tulaga tumaoti - O le Faatonu Faafoe Moliaga ma isi tagata faafoe moliaga (e aofia ai isi tagata ua faatagaina e le Faatonu) e lē noatia i le faatonuga a so o se isi lava tagata, i le taimi e faatinoina ai galuega tauave i lalo o le Mataupu 41A o le Faavae (e aofia ai galuega tauave faaletulafono po o galuega tauave i lalo o tulafono e faaogāina faalauaitele):

- (a) e faatuina, taitai po o le faagataina o so o se tualumaga mo se soligatulafono ua tuuaia e faapea ua uma ona faia; po o
- (b) e faasino i so o se mataupu e faatatau i se soligatulafono po o se mataupu tau solitulafono.

6. Galuega tauave - E aunoa ma le faatapulaaina o le Mataupu 41A(3) o le Faavae, o galuega tauave nei a le Ofisa:

- (a) ia faatuina, ma taitaia moliaga tau solitulafono o soligatulafono i so o se faamasinoga;
- (b) ia faatuina ma taitaia (e aofia ai le taitai e avea o se tagata tetee) i so o se talosaga tetee e faasino i se moliaga o soligatulafono;
- (c) ia toe iloilo ma tuuina atu fautuaga i mataupu tau solitulafono;
- (d) ia fautuaina le Loia Sili i mataupu e faasino i talosaga mo le parola o pagota i lalo o le Komiti Faatino o le Parola Tau Falepuipui ua faavaeina i lalo o le Tulafono o le Parola Tau Falepuipui 1977;
- (e) ia faatuina ma taitaia tualumaga e faasino i tupe maua o mataupu tau solitulafono i lalo o le Tulafono o Tupe Maua Mai i Soligatulafono 2007 po o so o se isi lava tulafono;

- (f) to institute and conduct any ancillary proceedings, including case stated relating to criminal proceedings or the functions of the Office under this Act or any other enactment;
- (g) to assist the coroner in any coronial inquiries or inquests;
- (h) to carry out other functions conferred under this Act or any other enactment or as are prescribed by regulations.

7. Duty of prosecutors - When undertaking any prosecution or proceeding relating to the functions of the Office or of the Director, a prosecutor must:

- (a) be fair, independent and objective;
- (b) act without fear or favour; and
- (c) not be influenced by any personal opinion or view about race, gender, religion or politics.

8. Directions-(1) The Director may give written directions to:

- (a) the police or any other person who institutes or conducts prosecution; or
 - (b) the police or any other person on matters relating to the investigation or for the further investigation of an offence.
- (2) The police or the person must comply with the directive.

- (f) ia faatuina, ma taitaia so o se taualumaga lagolago e aofia ai mataupu ua taua e faasino i taualumaga tau solitulafono po o galuega tauave a le Ofisa i lalo o lenei Tulafono po o so o se isi lava tulafono;
- (g) ia fesoasoani i le tagata e suesueina mafuaaga lilo o maliu i so o se suesuega tau maliu po o ni suesuega faa-faamasinoga i mataupu tau maliu;
- (h) ia faatinoina o isi galuega tauave ua faaeeina atu i lalo o lenei Tulafono po o so o se isi lava tulafono po o e pei ona faatonuina e tulafono faatonutonu.

7. Tiute o tagata faafoe moliaga - I taimi e faatinoina ai o so o se moliaga faaletulafono po o se taualumaga e faasino i galuega tauave a le Ofisa po o le Faatonu, e ao i le tagata faafoe moliaga ona:

- (a) lē faaituau, tutoatasi ma ia agai tonu i le mataupu;
- (b) galue e aunoa ma le fefe po o le manatu faapito; ma
- (c) ia lē aafia i so o se fautuaga po o se manatu e patino i se tagata, e uiga i lanu, tulaga o alii po o tamaitai, tapuaiga po o faiga faapolokiki.

8. Faatonuga-(1) E mafai e le Faatonu ona tuuina atu faatonuga tusitusia i:

- (a) se leoleo po o so o se isi lava tagata o ia lea o lo o faatuina po o taitaia se moliaga faaletulafono; po o
 - (b) se leoleo po o so o se isi lava tagata i mataupu e faasino i le suesuega po o mo se isi suesuega o se soligatulafono.
- (2) E ao i le leoleo po o le tagata ona usitaia le faatonuga.

**PART 3
DIRECTOR OF PUBLIC PROSECUTIONS**

9. Functions, powers and independence-(1) 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) at any stage before judgment is delivered or sentence is imposed after the trial of an offence, discontinue criminal proceedings instituted or conducted by the Director or another person or authority;
- (b) is not subject to direction or control by any other person or authority when the Director is carrying out the powers under paragraph (a); and
- (c) must carry out the functions of the Office, including -
 - (i) advising other prosecutors on matters relating to offences and criminal proceedings;
 - (ii) issuing of code of conduct for prosecutors;
 - (iii) assisting the Attorney General on matters relating to extradition and mutual assistance in criminal matters;
- (d) has other functions, duties and powers conferred under any enactment.

**VAEGA 3
FAATONU FAAFOE MOLIAGA**

9. Galuega tauave, malosiaga ma le tulaga tumaoti-(1) O le Faatonu:

- (a) e mafai ona -
 - (i) faatuina ma taitaia taualumaga tau solitulafono;
 - (ii) tauavea taualumaga tau solitulafono sa faatuina e se isi tagata po o se pulega;
 - (iii) faagataina o taualumaga tau solitulafono na faatuina pe sa taitaia e le Faatonu po o se isi tagata po o le pulega, i so o se laasaga a o lumanai ai le tuuina mai o le faaiuga po o le faaeeina atu o se faasalaga i le maea ai o le faamasinoga o se soligatulafono;
- (b) e lē noatia i se faatonuga po o i le vaavaaiga a so o se isi lava tagata po o se pulega i taimi e faatinoina ai e le Faatonu malosiaga i lalo o le parakalafa (a); ma
- (c) e tatau ona tauaveina o galuega tauave a le Ofisa, e aofia ai -
 - (i) le fautuaina o isi tagata faafoe moliaga i mataupu e faasino i soligatulafono ma taualumaga tau solitulafono;
 - (ii) le tuuina atu o le tulafono laitiiti o amioga pulea mo tagata faafoe moliaga;
 - (iii) fesoasoani i le Loia Sili i mataupu e faasino i le auina ese atu i fafo o tagata solitulafono ma fesoasoani soofaatasi i mataupu tau solitulafono;
- (d) e i ai isi galuega tauave, tiute ma malosiaga ua faaeeina atu i ai i lalo o so o se tulafono.

(2) The powers of the Director may be exercised by him or her in person or by officers subordinate to him or her, acting under and pursuant to his or her general or special instructions.

10. Terms-(1) The Director:

- (a) is eligible for re-appointment;
- (b) is entitled to remuneration fixed pursuant to the Remuneration Tribunal Act 2003;
- (c) on expiry of term, continues in office until re-appointed or a successor is appointed; and
- (d) may, in writing to the Prime Minister, resign from office.

(2) The salary, allowances and other benefits of the Director are not to be reduced during the term of office of the Director, unless as part of a general reduction of salaries applied proportionately to all persons whose salaries, allowances and other benefits are determined under the Remuneration Tribunal Act 2003.

11. Removal and suspension-(1) The Head of State may, acting on the advice of the Prime Minister given pursuant to subsection (3), remove the Director only in accordance with this section and only under any of the grounds set out under subsection (2).

(2) The Director may only be removed if the Director:

- (a) has been convicted of an offence;
- (b) has become bankrupt or commits an act of bankruptcy under an Act regulating bankruptcy;
- (c) has become, by reason of physical or mental disability, incapable of performing the functions of the Director;

(2) O malosiaga o le Faatonu e mafai ona faatinoina e ia lava po o tagata ofisa e i lalo ifo tulaga tofi, o lo o galulue i lalo ma e tusa ai o ana faatonuga lautele po o ni faatonuga faapitoa.

10. Tuutuuga-(1) O le Faatonu:

- (a) e agavaa mo le toe tofiaina;
- (b) e agavaa i le totogi ua faatulagaina e tusa ai ma le Tulafono o le Komiti Faufautua mo Totogi 2003;
- (c) i le muta ai o le vaitaimi i le tofi, e faaauau pea i le tofiga seia toe tofia o ia po o ua tofia sona sui e soloai ane i ai; ma
- (d) e mafai, i se faiga tusitusia i le Palemia, ona faamavae mai i le tofi.

(2) O le totogi, alauni ma isi faamanuiaga o le Faatonu, o le a lē faaitiitia a o faagasolo le vaitaimi i le tofi o le Faatonu, seia vagana ai ua avea o se vaega o se faaitiitiga lautele o totogi, o lo o faapea ona faatino i se fuafuaga talafeagai i tagata uma, o latou totogi, alauni ma isi faamanuiaga o lo o fuafuaina i lalo o le Tulafono o le Komiti Faufautua mo Totogi 2003.

11. Aveesea ma le faamalolo lē tumau-(1) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Palemia ua tuuina atu, e tusa ai o le faafuaiupu (3), ona faatoa aveesea le Faatonu, e tusa ai ma lenei fuaiupu ma e faatoa faia foi i lalo o so o se mafuaaga ua faatulagaina atu i lalo o le faafuaiupu (2).

(2) E faatoa mafai lava ona aveesea le Faatonu, pe afai o le Faatonu:

- (a) ua faamaonia se moliaga o se soligatulafono;
- (b) ua faapea ona i ai i se tulaga o le gaumativa po o ua na faia o se gaoioiga o le gaumativa i lalo o se Tulafono o faatonutonuina ai faaetulafono le gaumativa;
- (c) ua na lē mafaia ona faatinoina o galuega tauave a le Faatonu, ona o mafuaaga o le lē atoatoa o le malosi i le tino po o le mafaufau;

(d) has, without any lawful or reasonable justification, failed to discharge any function of the Director;

(e) has engaged in any conduct which places the Director in conflict with the performance of the functions of the Director.

(3) The Prime Minister must act on the recommendation of a tribunal appointed under subsection (4) when advising the Head of State under subsection (1).

(4) The Head of State may, acting on the advice of the Prime Minister, appoint a tribunal comprising a chairperson and two (2) other members.

(5) A person is eligible to be appointed as chairperson if the person holds or has held office of a Judge of the Supreme Court in Samoa or a similar superior court in a Commonwealth country that has a legal system similar to that existing in Samoa.

(6) The tribunal:

(a) must enquire into the matter, subject to the rules of natural justice; and

(b) must provide a written report to the Prime Minister setting out the following -

(i) the facts of the matter; and

(ii) the recommendations of the tribunal on whether or not the Director should be removed from office; and

(c) may regulate its own procedures.

(7) The Head of State may, acting on the advice of the Prime Minister suspend the Director if:

(a) the Director is being investigated for an offence punishable by imprisonment for at least 12 months; or

(d) ua na lē mafaia, ona faataunuuina o so o se galuega tauave a le Faatonu, e aunoa ma so o se mafuaaga faaletulafono ua tatau ai po o ni mafuaaga tatau talafeagai;

(e) ua auai i so o se amioga e faatulai mai ai se tulaga i le Faatonu na feteenai ma le faatinoga o galuega tauave o le tofi Faatonu.

(3) E ao i le Palemia ona galue e tusa ma fautuaga a le komisi suesue ua tofia i lalo o le faafuaiupu (4), pe a fautuaina Le Ao o le Malo i lalo o le faafuaiupu (1).

(4) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Palemia, ona tofia se komisi suesue, e aofia ai se taitaifono ma nisi sui auai se toalua (2).

(5) E agavaa se tagata ina ia tofia e avea ma taitaifono pe afai o lo o umia e le tagata pe sa ia umia le tofi o se Faamasino o le Faamasinoga Sili i Samoa po o se faamasinoga e maualuga atu faapena i totonu o se atunuu o Malo o le Taupulega o lo o i ai o se faiga faaletulafono e tutusa ma le faiga o lo o i ai nei i totonu o Samoa.

(6) O le komisi faamasino:

(a) e ao ona tuufesili i le mataupu, i le noatia ma fai fuafua i tulafono faafoe o le faatinoga o le amiotonu; ma

(b) e ao ona tuuina atu o se lipoti tusitusia i le Palemia, o lo o faatulagaina atu ai o itu nei -

(i) o mea moni o le mataupu; ma

(ii) fautuaga a le komisi faamasino pe ua tatau ona aveesea le Faatonu pe leai, mai le tofi; ma

(c) e mafai ona faatonutonu faaletulafono o ana lava tualumaga.

(7) E mafai e Le Ao o le Malo, i luga o le fautuaga a le Palemia, ona faamalolo lē tumau le Faatonu pe afai:

(a) ua suesueina le Faatonu mo se soligatulafono e mafai ona faasalaina i le nofosala i le falepuipui mo se vaitaimi a itiiti mai o le 12 masina; po o

(b) if a tribunal is appointed under subsection (4).

(8) Until a final decision for removal is made, the Director is deemed to be suspended from office from the earlier of either of the following dates:

- (a) a date determined by the Prime Minister; or
- (b) the date the tribunal is appointed.

12. Acting Director - The Director may, in writing, designate an Assistant Director to act as Director if the Director is unable to carry out his or her functions, duties and powers under this Act or any other enactment or law because of illness, absence on leave or from Samoa or for any other reason.

13. Delegation-(1) The Director may delegate any functions, duties and powers of the Office or Director under this Act or any other enactment to any officer subordinate to the Director.

(2) The delegation:

- (a) does not include delegating the power under this section;
- (b) may be given with or without terms and conditions;
- (c) may be varied, suspended or revoked;
- (d) does not prevent the Office or the Director from carrying out any power or duty so delegated.

14. Consultation with Attorney General-(1) The Director may, if requested by the Attorney General, consult with the Attorney General on matters relating to the functions, duties and powers of the Director and the Office.

(b) pe afai ua tofia se komisi faamasino i lalo o le faafuuiupu (4).

(8) Ae vagana ai ua faia o se faaiuga mautu mo le aveesea, ua faatatauina le Faatonu e faapea, ua faamalolo lē tumau mai le tofi, mai se tasi o aso nei e muamua mai:

- (a) o se aso ua fuafuaina e le Palemia; po o
- (b) le aso na tofia ai le komisi faamasino.

12. Sui Faatonu - E mafai e le Faatonu, i se faiga tusitusia, ona tofia se Faatonu Lagolago e galue sui tulaga i le Faatonu, pe afai ua lē mafai e le Faatonu ona tauaveina ana galuega tauave, tiute ma malosiaga i lalo o lenei Tulafono po o so o se isi lava tulafono, po o tulafono, ona ua gasegase, toesea ona o aso malolo po o toesea mai Samoa po o mo so o se isi lava mafuaaga.

13. Tuuina atu o malosiaga-(1) E mafai e le Faatonu ona tuuina atu o so o se galuega tauave, tiute ma malosiaga o le Ofisa po o le Faatonu i lalo o lenei Tulafono po o so o se isi lava tulafono i so o se tagata ofisa e i lalo ifo lona tulaga tofi i le Faatonu.

(2) O le tuuina atu o malosiaga:

- (a) e lē aofia ai le tuuina atu o le malosiaga i lalo o lenei fuaiupu;
- (b) e mafai ona tuuina atu i le i ai faatasi pe leai foi o ni tuutuuga ma ni aiaiga;
- (c) e mafai ona suia, faataatia ese, po o le faalēaogāina;
- (d) e lē taofia ai le Ofisa po o le Faatonu mai le tauaveina o so o se malosiaga po o se tiute ua faapea ona tuuina atu.

14. Feutagaiga ma le Loia Sili-(1) E mafai e le Faatonu, pe afai e talosagaina e le Loia Sili, ona feutagai ma le Loia Sili i mataupu e faasino i galuega tauave, tiute ma malosiaga o le Faatonu ma le Ofisa.

(2) The Attorney General may, if requested by the Director, consult with the Director on matters relating to the functions, duties and powers of the Attorney General.

**PART 4
ADMINISTRATION AND FINANCE**

15. Values, principles and code of conduct-(1) Part IV of the Public Service Act 2004 applies, with necessary adaptations, to this Act.

(2) A breach of Part IV of the Public Service Act 2004 is to be dealt with pursuant to this Act.

16. Responsibilities of Director - The Director:

- (a) is also the Chief Executive Officer of the National Prosecution Office; and
- (b) manages and administers the Office and the staff.

17. Appointments of staff and secondment-(1) The Director may:

- (a) appoint persons under section 4(2)(b) to (d) pursuant to the appointment guidelines as -
 - (i) Assistant Directors of Public Prosecutions or prosecutors; and
 - (ii) administrative officers and other employees; and
- (b) issue employment guidelines -
 - (i) setting out procedures for appointments or for appeals on disciplinary matters, demotion, suspension or termination; and
 - (ii) on other matters relating to employment under this Act.

(2) E mafai e le Loia Sili, pe afai e talosagaina e le Faatonu, ona feutagai ma le Faatonu, i mataupu e faasino i galuega tauave, tiute ma malosiaga o le Loia Sili.

**VAEGA 4
PULEGA MA TUPE**

15. Aga tausili, taiala faavae ma le tulafono laitiiti o amioga pulea-(1) E faaaogā le Vaega IV o le Tulafono o Galuega a le Malo 2004, faatasi ai ma fetuunaiga talafeagai, i lenei Tulafono.

(2) O se soliga o le Vaega IV o le Tulafono o Galuega a le Malo 2004, e ao ona tagofia e tusa ai o lenei Tulafono.

16. Matafaioi a le Faatonu - O le Faatonu:

- (a) o ia foi lea o le Ofisa Sili o Pulega o le Ofisa mo le Faafoeina o Moliaga Tau Solitulafono; ma
- (b) na te faafoeina ma pulea le Ofisa ma le aufaigaluega.

17. Tofiaina o le aufaigaluega ma le auina atu o le aufaigaluega e galulue i isi galuega-(1) E mafai e le Faatonu ona:

- (a) tofia tagata i lalo o le fuaiupu 4(2)(b) e oo i le (d), e tusa ai ma taiala o tofiga e pei o -
 - (i) Faatonu Lagolago Faafoe Moliaga po o tagata faafoe moliaga; ma
 - (ii) tagata ofisa tau le pulega ma isi tagata faigaluega; ma
- (b) tuuina atu taiala o galuega -
 - (i) ua faatulaga atu ai tualumaga mo le tofiaina po o mo talosaga tetee i mataupu tau le amio pulea, faaitiitia le tulaga i galuega, faamalolo lē tumau po o le faamutaina; ma
 - (ii) isi lava mataupu e faasino i galuega i lalo o lenei Tulafono.

(2) If there are no guidelines issued under subsection (1)(b), the Director may apply the employment practices and rules for the Public Service.

(3) The Director:

- (a) may employ persons under this Act under contracts of employment or pursuant to employment guidelines; and
- (b) must take into account the budget of the Office when appointing persons for the purpose of this Act.

(4) The staff members are responsible to the Director when carrying out the functions, duties and powers under this Act.

(5) For purposes of this Act, the Director may, subject to terms and conditions of secondment:

- (a) request to second an officer or employee, from any ministry, statutory body, public body or government agency, in Samoa or overseas, to the Office; or
- (b) request to second an officer or employee of the Office, to any ministry, statutory body, public body or government agency, in Samoa or overseas.

(6) In this Part:

“appoint” includes the power to confirm, promote, demote, transfer, second, re-grade, discipline, suspend or terminate or re-appoint staff;

“public body” has the meaning in the Public Finance Management Act 2001.

(2) Afai e leai ni taiala na tuuina atu i lalo o le faafuiaiupu (1)(b), e mafai e le Faatonu ona faaaogā o faiga masani tau le galuega ma tulafono faafoe mo Galuega a le Malo.

(3) O le Faatonu:

- (a) e mafai ona ia faafaigaluegaina tagata i lalo o lenei Tulafono i konekarate o galuega po o e tusa ai ma taiala o galuega; ma
- (b) e ao ona amanaia le tala faatatau o le tupe a le Ofisa pe afai e tofia tagata mo le faamoemoe o lenei Tulafono.

(4) O le afaigaluega e tali atu i le Faatonu i taimi e faatinoina ai o galuega tauave, tiute ma malosiaga i lalo o lenei Tulafono.

(5) Mo faamoemoega o lenei Tulafono, e mafai e le Faatonu, i le noatia ma fai fuafua i tuutuuga ma aiaiga o le auina atu e galue i se isi galuega:

- (a) ona talosaga ina ia faamatuu mai se tagata ofisa po o se tagata faigaluega, mai so o se matagaluega, faalapotopotoga tumaoti, faalapotopotoga a le Malo po o se lala sooupu a le Malo, i totonu o Samoa po o atunuu i fafo, e galue i le Ofisa; po o
- (b) le talosaga ina ia faamatuu atu se tagata ofisa po o se tagata faigaluega o le Ofisa, i so o se matagaluega, faalapotopotoga tumaoti, faalapotopotoga a le Malo, po o se lala sooupu o le Malo i totonu o Samoa po o atunuu i fafo.

(6) I totonu o lenei Vaega:

“tofia” e aofia ai le malosiaga e faamaonia ai, siitia le tulaga tofi, faaitiitia le tulaga i le galuega, siitia, faamatuu atu i se isi galuega, toe siitia le tulaga i le tofogi, faatonuina o le amio, faamalolo lē tumau, po o le faamutaina po o le toe tofia o le tagata faigaluega;

“faalapotopotoga a le Malo” e i ai lona uiga i totonu o le Tulafono o le Pulega o Tupe a le Malo 2001.

18. Remuneration-(1) The remuneration of the staff is to be determined under the Remuneration Tribunal Act 2003.

(2) If officers in the Public Service are given general increases in salaries or allowances, the salaries or allowances of persons appointed under this Act are to be increased accordingly.

19. Corporate plan and annual reports-(1) The Director must ensure that:

- (a) a corporate plan is prepared for the Office pursuant to the same requirements applying to government agencies; and
- (b) an annual report is prepared setting out the operations of the Office in a year.

(2) The Director must send the annual report to the Minister who must, as soon as practicable, present the report to the Legislative Assembly pursuant to its Standing Orders.

20. Funds and audit-(1) The funds of the Office comprise the following:

- (a) monies appropriated by Parliament;
- (b) monies from other sources.

(2) The Public Finance Management Act 2001 and the Audit Act 2013 apply to the funds of this section.

PART 5 MISCELLANEOUS

21. Protection from personal liability - The Director, staff or any other person required to carry out the functions, duties and powers under this Act is not personally liable for any act done in good faith when carrying out the functions, duties and powers under this Act.

18. Totogi-(1) O le totogi o le aufaigaluega o le a fuafuaina i lalo o le Tulafono o le Komiti Faufautua mo Totogi 2003.

(2) Afai e tuuina atu o siitaga faalauaitete i totogi po o alauni o tagata ofisa i Galuega a le Malo, o totogi po o alauni o tagata ua tofia i lalo o lenei Tulafono, o le a faapea lava foi ona siitia.

19. Fuafuaga autasi ma lipoti faaletausaga-(1) E ao i le Faatonu ona faamautinoa e faapea:

- (a) ua saunia se fuafuaga autasi mo le Ofisa e tusa ai ma manaoga e tutusa lelei o lo o faapea ona faaaogā i lala sooupu a le Malo; ma
- (b) ua saunia se lipoti faaletausaga o faatulagaina ai o galuega a le Ofisa i totonu o se tausaga.

(2) E ao i le Faatonu ona auina atu le lipoti faaletausaga i le Minisita, o ia lea e ao ona tuuina atu le lipoti i le Fono Aoaoo Faitulafono, i se taimi vave lava e mafai ai, e tusa ai o ana Tulafono Tumau.

20. Tupe ma le sueina o tusi-(1) O tupe a le Ofisa e aofia ai itu nei:

- (a) tupe ua faatatauina e le Palemene;
- (b) tupe mai isi alaoa.

(2) E faaaogā le Tulafono o le Pulega o Tupe a le Malo 2001 ma le Tulafono o le Sueina o Tusi 2013, i tupe ua taua i lenei fuaiupu.

VAEGA 5 AIAIGA ESEESE

21. Puipuiga mai noataga tau le tagata lava ia - O le Faatonu, aufaigaluega po o so o se isi lava tagata ua manaomia e tauaveina o galuega tauave, tiute ma malosiaga i lalo o lenei Tulafono, e lē noatia taitoatasi mo so o se gaoioiga ua faia i le agaga lelei, i le taimi e faatinoina ai o galuega tauave, tiute ma malosiaga i lalo o lenei Tulafono.

22. Manuals and guidelines - The Director may issue manuals or guidelines for prosecutions.

23. Regulations - The Head of State may, on the advice of Cabinet, make regulations to give effect to or for the purposes of this Act.

24. Consequential amendments-(1) The Acts set out in the Schedule are amended.

(2) Despite subsection (1), any other enactment relating to any consent or approval of the Attorney General relating to prosecution of an offence is amended and to be substituted as the consent or approval of the Director of Public Prosecutions.

25. Transition and savings - At the commencement of this Act:

- (a) any current criminal proceedings instituted and conducted for and on behalf of the Attorney General or the Police are to continue as if they were instituted and conducted by the Director of Public Prosecutions or the National Prosecution Office under this Act;
- (b) any current proceedings for other statutory offences or traffic offences continue to be dealt with under their respective enactments until they are transferred by Order of the Minister;
- (c) any current staff, subject to their written consent, of the Prosecution Division of the Attorney General's Office are transferred to the National Prosecution Office by written approval of the Attorney General.

22. Tusi taiala ma taiala - E mafai e le Faatonu ona tuuina atu o tusi taiala po o ni taiala mo le faafoeina o moliaga tau solitulafono.

23. Tulafono Faatonutonu - E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, ona faia o tulafono faatonutonu, ina ia faamamaluina ai o po o mo faamoemoega o lenei Tulafono.

24. Teuteuga faatupulaia-(1) Ua teuteuina Tulafono o lo o faatulagaina atu i totonu o le Faamatalaga.

(2) E ui lava i le faafuaiupu (1), o so o se isi lava tulafono e faasino i so o se maliega po o se faamaoniga a le Loia Sili e faasino i moliaga tau solitulafono o se soligatulafono, ua faapea ona teuteuina ma o le a suia e tusa o le maliega po o le faamaoniga a le Faatonu Faafoe Moliaga.

25. Aiaiga tau soloaiga ma aiaiga faasaoina - I le aso e amata faamamaluina ai o lenei Tulafono:

- (a) o so o se taualumaga tau solitulafono o i ai i le taimi nei, na faatuina, ma taitaia mo ma i le aveai ma sui o le Loia Sili po o Leoleo, o le a faaauau pea, e faapei ai sa faatuina ma taitaia ia taualumaga e le Faatonu Faafoe Moliaga po o le Ofisa e Faafoeina Moliaga Tau Solitulafono, i lalo o lenei Tulafono;
- (b) so o se taualumaga i le taimi nei mo isi soligatulafono faaletulafono, po o soligatulafono o taavale feoi, e faaauau pea ona tagofia i lalo o a latou lava tulafono eseese, seia vagana ai ua faaliliuina atu e ala i se Poloaga a le Minisita;
- (c) so o se aufaigaluega o i ai i le taimi nei, i le noatia ma fai fuafua i a latou maliega tusitusia, o le Vaega o Moliaga Tau Solitulafono i le Ofisa o le Loia Sili, e faaliliuina atu i le Ofisa e Faafoeina Moliaga Tau Solitulafono, e ala i se faamaoniga tusitusia a le Loia Sili.

SCHEDULE
(section 24)

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

No.	Act amended	Section amended	amendment
	Attorney General's Office Act 2013	s5	for subsection (2), omit paragraph (b) for subsection (5), omit "Prosecution Division"
		s7	repeal subsection (2)
	Audit Act 2013	s26	For subsection (8), for "Attorney-General to prosecute or take out legal proceedings" substitute "Director of Public Prosecutions to prosecute or to the Attorney General to institute civil proceedings"

FAAMATALAGA
(fuaiupu 24)

TEUTEUGA FAATUPULAIA I ISI TULAFONO

Nu.	Tulafono ua teuteuina	Fuaiupu ua teuteuina	teuteuga
	Tulafono o le Ofisa o le Loia Sili 2013	f5	mo le faafuaiupu (2), ia aveese le parakalafa (b) mo le faafuaiupu (5), ia aveese upu "Vaega o Moliaga"
		f7	soloia le faafuaiupu (2)
	Tulafono o le Sueina o Tusi 2013	f26	Mo le faafuaiupu (8), mo upu "Loia Sili ia faia se moliaga po o le faia o taulumaga faaletulafono" ia suia i upu "Faatonu Faafoe Moliaga ia faia se moliaga po o i le Loia Sili ina ia faatuina o taulumaga i mataupu tau le va o tagata"

Chemical Weapons Act 2010	s3	For subsection (4), omit “Attorney General” and substitute “Director of Public Prosecutions” For subsection (5), omit “Attorney General’s” and substitute “Director of Public Prosecutions”
Civil Aviation Act 1998	s119	omit “Attorney General’s” and “Attorney General” and substitute “Director of Public Prosecutions” and “Director of Public Prosecutions” respectively
Cluster Munitions Prohibition Act 2012	s4	For subsection (4), omit “Attorney General” and substitute “Director of Public Prosecutions” For subsection (5), omit “Attorney General’s” and substitute “Director of Public Prosecutions”

Tulafono o Auupega Tau Vailaau Matautia 2010	f3	Mo le faafuaiupu (4), ia aveese upu “Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga” Mo le faafuaiupu (5), ia aveese upu “a le Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga”
Tulafono o Vaalele Sivili 1998	f119	aveese upu “a le Loia Sili” ma upu “Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga” ma “Faatonu Faafoe Moliaga” i lena faasologa o i ai
Tulafono mo le Faasaina o Auupega e Taape Salalau le Faaagāina 2012	f4	Mo le faafuaiupu (4), ia aveese le upu “Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga” Mo le faafuaiupu (5), ia aveese upu “a le Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga”.

Copyright Act 1998	s27	For subsection (4), omit “Attorney General” and substitute “Director of Public Prosecutions”
Coroners Ordinance 1959	s7	omit “Attorney General” and substitute “Director of Public Prosecutions” appearing three (3) times
	s24	omit “Attorney General” and substitute “Director of Public Prosecutions”
Counter Terrorism Act 2014	s60	For heading and subsection (1), omit “Attorney General” and substitute “Director of Public Prosecutions”
Crimes Act 2013	s2	For definition of “prosecutor” omit “Attorney General” and “Attorney General’s” and substitute “Director of Public Prosecutions” and “Director of Public Prosecutions, respectively”

Tulafono o Pule Tau Fatuga 1998	f27	Mo le faafuaiupu (4), ia aveese upu “Loia Sili” ma suia i upu “Faatonu Faafoe Moliaga”
Tulafono o Alii e Suesueina Mafuaaga Lilo o Maliu 1959	f7	ia aveese upu “Loia Sili” ma suia i upu “Faatonu Faafoe Moliaga” o lo o faa-tolu (3) ona aliali mai
	f24	ia aveese upu “Loia Sili” ma suia i upu “Faatonu Faafoe Moliaga”
Tulafono e Taofia ai Faiga Faaterorisi 2014	f60	Mo le ulutala ma le faafuaiupu (1), ia aveese upu “Loia Sili” ma suia i upu “Faatonu Faafoe Moliaga”
Tulafono o Solitulafono 2013	f2	Mo le faamatalaga o le upu “tagata e faia moliaga”, ia aveese upu “Loia Sili” ma upu “a le Loia Sili” ma ia suia i upu “Faatonu Faafoe Moliaga” ma upu “Faatonu Faafoe Moliaga, i lena faasologa o i ai”

		s81	For subsection (5), omit “Attorney General” and substitute “Director of Public Prosecutions”
		s82	For subsection (4) omit “Attorney General” and substitute “Director of Public Prosecutions”
		s135	For the heading and subsections (3), omit “Attorney General’s” and substitute “Director of Public Prosecutions”
		s136(3)	omit “Attorney General of Samoa” and substitute “Director of Public Prosecutions”
		s158	omit “Attorney General” and substitute “Director of Public Prosecutions”

		f81	Mo le faafuaiupu (5), ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
		f82	Mo le faafuaiupu (4), ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
		f135	Mo le ulutala ma le faafuaiupu (3), ia aveese upu “a le Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
		f136(3)	ia aveese upu “Loia Sili a Samoa” ma ia sua i upu “Faatonu Faafoe Moliaga”
		f158	ia aveese upu “Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga”

		s121	omit “Attorney General” and substitute “Director of Public Prosecutions”
Criminal Procedure Act 1972		s14	omit “Attorney General” and substitute “Director of Public Prosecutions”
		s171	omit “Attorney General” and substitute “Director of Public Prosecutions”
Excise Tax (Domestic Administration) Act 1984		s95	omit “Attorney General” and substitute “Director of Public Prosecutions”
Extradition Act 1974		whole Act	Omit “Attorney General” and substitute “Director of Public Prosecutions”
Financial Institutions Act 1996		s26	omit “Attorney General” and substitute “Director of Public Prosecutions”

		f121	ia aveese upu “Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga”
Tulafono o Tualumaga Tau Solitulafono 1972		f14	ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
		f171	ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
Tulafono o Lafoga o Oloa e Gaosia i le Atunuu (Pulega i totonu o le Atunuu) 1984		f95	ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
Tulafono o le Aumaia po o le Tuueseina atu o Tagata Solitulafono 1974		Tulafono atoa	Ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
Tulafono o Faalapotopotoga tau Tupe 1996		f26	ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”

	Indecent Publications Ordinance 1960	s10	omit “Attorney General” and substitute “Director of Public Prosecutions”
	International Criminal Court Act 2007	s16	For subsections (1), (2) and (3) omit “Attorney General” and substitute “Director of Public Prosecutions” For the heading and subsections (1) and (2), omit “Attorney General’s” and “Attorney General” and substitute “Director of Public Prosecutions” and “Director of Public Prosecutions” respectively
	International Insurance Act 1988	s40	For subsection (6), omit “Attorney General” and substitute “Director of Public Prosecutions”

	Tulafono o Lomiga Faasalalau Mataga 1960	f10	Ia aveese upu “Loia Sili” ma ia suia i upu “Faatonu Faafoe Moliaga”
	Tulafono o le Faamasinoga a le Lalolagi mo Solitulafono Faava o Malo 2007	f16	Mo faafuaiupu (1), (2) ma le (3), ia aveese upu “Loia Sili” ma ia suia i upu “Faatonu Faafoe Moliaga” Mo le ulutala ma faafuaiupu (1) ma le (2), ia aveese upu “a le Loia Sili” ma upu “Loia Sili” ma ia suia i upu “Faatonu Faafoe Moliaga” ma “Faatonu Faafoe Moliaga” i lena faasologa o i ai
	Tulafono o Inisiua Faava o Malo 1988	f40	Mo le faafuaiupu (6), ia aveese upu “Loia Sili” ma ia suia i upu “Faatonu Faafoe Moliaga”

Land Titles Registration Act 2008	s91	omit “Attorney General” and substitute “Director of Public Prosecutions”
Money Laundering Prevention Act 2007	s5(1)	After paragraph (g), insert “(ga) the Director of the Public Prosecutions; and”
Mutual Assistance in Criminal Matters Act 2007	whole Act	Omit “Attorney General” and substitute “Director of Public Prosecutions”
Occupational Safety and Health Act 2002	s39	omit “Attorney General” and substitute “Director of Public Prosecutions”
Plebiscite Act 1990	s71	omit “Attorney General” and substitute “Director of Public Prosecutions”
Plumbers Act 2014	s17	For subsection (1)(e), omit “Attorney General” and substitute “Director of Public Prosecutions”

Tulafono o le Faamauina o Pule o Fanua 2008	f91	ia aveese upu “Loia Sili” ma sua i upu “Faatonu Faafoe Moliaga”
Tulafono o Puipuiga mai Tupe e Faaofi mai Faasolitulafono 2007	f5(1)	I le tuanai ai o le parakalafa (g) ia faaofi e faapea “(ga) o le Faatonu Faafoe Moliaga; ma”
Tulafono o Fesoasoani Soofaatasi i Mataupu tau Soligatulafono 2007	Tulafono atoa	Ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
Tulafono o le Saogalemu ma le Soifua Maloloina i Galuega 2002	f39	ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
Tulafono o le Pelepesite 1990	f71	ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
Tulafono o Tagata Tomai Tau Palama 2014	f17	Mo le faafuaiupu (1)(e), ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”

	Police Offences Ordinance 1961	s9	For paragraph (a), omit “Attorney General” and substitute “Director of Public Prosecutions”
	Police Service Act 2009	s68	For subsection (7), omit “Attorney General” and substitute “Director of Public Prosecutions”
	Scientific Research Organisation of Samoa Act 2008	s16	For subsection (4), omit “Attorney General” and substitute “Director of Public Prosecutions”
	Secret Commissions Act 1975	s13	For subsection (1), omit “Attorney General” and substitute “Director of Public Prosecutions”
	Tax Administration Act 2012	s9A	For subsections (1) and (3), after “Attorney General” add “or the Director of Public Prosecutions in the case of an offence”

	Tulafono o Solitulafono Tau Leoleo 1961	f9	Mo le parakalafa (a), ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
	Tulafono o Galuega tau Leoleo 2009	f68	Mo le faafuaiupu (7), ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
	Tulafono o le Faalapotopotoga o Suesuega Faasaienisi a Samoa 2008	f16	Mo le faafuaiupu (4), ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
	Tulafono o Komisi Faalilolilo 1975	f13	Mo le faafuaiupu (1), ia aveese upu “Loia Sili” ma ia sua i upu “Faatonu Faafoe Moliaga”
	Tulafono o le Faafoega o Lafoga 2012	f9A	Mo faafuaiupu (1) ma le (3), i le tuanai ai o upu “Loia Sili” ia faaopoopo upu “po o le Faatonu Faafoe Moliaga, i se mataupu o se soligatulafono”

Telecommunications Act 2005	s69	For subsection (3), after “may” add “, after consulting the Director of Public Prosecutions on matters relating, relating to prosecution)”
Waste Management Act 2010	23	For subsection (1), omit “Office of the Attorney General, police officers” and substitute “National Prosecution Office”
Water Resources Management Act 2008	40	For subsection (2), omit “Attorney General” and substitute “Director of Public Prosecutions”

Tulafono o Fesootaiga 2005	f69	Mo le faafuaiupu (3), i le tuanai ai o upu “e mafai”, ia faaopoopo i ai upu “, i le tuanai ai ona feutagai ma le Faatonu Faafoe Moliaga i mataupu e faatatau i ai, e faasino i moliaga”
Tulafono o le Faafoega o Galuega tau Otaota 2010	f23	Mo le faafuaiupu (1), ia aveese upu “Ofisa o le Loia Sili, Leoleo”, ma ia suia i upu “Ofisa e Faafoeina Moliaga Tau Solitulafono”
Tulafono o le Faafoega o le Faasoasoina Tatau o Punaoa Tau Suavai 2008	f40	Mo le faafuaiupu (2), ia aveese upu “Loia Sili” ma ia suia i upu “Faatonu Faafoe Moliaga”