

## VILLAGE FONON AMENDMENT BILL 2015

### SAMOA

#### Explanatory Memorandum

#### Introduction

The Bill seeks to amend the Village Fono Act 1990 (Act). The object of the Bill is to strengthen our culture to ensure stability in Samoa by strengthening the role of the Village Fono and to ensure that the exercise of the powers of the Village Fono are in accordance with the Constitution.

The Bill covers the following:

- (a) the granting of a specific power to impose curfews and banishment;
- (b) the inclusion of limited jurisdiction over those living in government, lease or freehold land located within village lands;
- (c) the provision of specific power to Village Fono to make their own *faiga faavae or iugafono* and register them at the Ministry of Women, Community and Social Development in order for them to be recognized by the Court. However, the registration of *faiga faavae or iugafono* do not necessarily mean that they are consistent with the Constitution;
- (d) the requirement to consult and obtain the approval of the Village Fono before any building or activity can be undertaken - e.g. a shop or a new church. If the Alii and Faipule decline the proposed activity or building, the decision can be appealed to the Land and Titles Court under section 11 of the Act.

## TULAFONO TAU FAAOFI O TEUTEUGA O LE TULAFONO O FONON A NUU 2015

### SAMOA

#### Faamatalaga e Faamalamalama ai

#### Faatomuaga

Ua taumafai le Tulafono Tau Faaofi e teuteu le Tulafono o Fono a Nuu 1990 (Tulafono). O le sini o le Tulafono Tau Faaofi o le faamalosia lea o a tatou aganuu e mautinoa ai le tulaga mautu i totonu o Samoa e ala i le uunaia o le pitolaau a le Fono a Nuu, ma faamautinoa o lo o ogatasi le faatinoina o le pule a le Fono a Nuu ma le Faavae.

Ua aofia ai i totonu o le Tulafono Tau Faaofi itu nei:

- (a) o le faamatuuina atu o se malosiaga faapitoa e faia ai vavao ma faasalaga e faatea ai ma le nuu;
- (b) o le aofia ai o le faatapulaaina o le aloaia faaletulafono o Fono a le Nuu mo i latou o lo o alaala i fanua tau le Malo, fanua e umia faalisi po o fanua umia saoloto o lo o i totonu o le lotoifale o elele o nuu;
- (c) o le tuuina atu o le malosiaga faapitoa i Fono a Nuu e faia ai a latou lava *faiga faavae po o iugafono* ma faamauina i le Matagaluega o Tina ma Tamaitai, Atinae o Nuu ma Afioaga ma Agafesootai ina ia mafai ai ona aloaia faaletulafono ia faiga faavae po o iugafono e le Faamasinoga. Peitai, e le faapea o le faamauina o *faiga faavae po o iugafono* a nuu o le a faapea ai ua ogatasi ma le Faavae;
- (d) o le manaoga ina ia faatalatalanoa ma maua mai le faatagaga a le Fono a le Nuu a o lumanai ai le fausiaina o se fale po o se galuega - faataitaiga - o se faleoloa po o se malumalu tapuai fou. Afai e teena e Alii ma Faipule le galuega po o le fausiaina o se fale na fuafuaina, e mafai ona faia se talosaga tetee i le Faamasinoga o Fanua ma Suafa i lalo o le fuaiupu 11 o le Tulafono, e tusa ma le faaiuga.

**Clauses:**

- Clause 1:** - states that, when enacted, the Bill will be called the Village Fono Amendment Act 2015, and will commence on the date of assent by the Head of State.
- Clause 2:** - amends section 2 by amending the definition of “village misconduct” and also provides for new definitions to be incorporated in the Act.
- Clause 3:** - inserts new section 2A which provides for the objects of the Act.
- Clause 4:** - substitutes section 4 of the Act.
- Clause 5:** - amends section 5 of the Act by providing for the powers of Village Fono to make *faiga faavae* or *i’ugafono*. This amendment will replace the reference to “rules” with “*faiga fa’avae* or *i’ugafono*” in the Act.
- Clause 6:** - inserts new sections 5A to 5F which will provide for the procedures, effect and mode of registration of the *faiga faavae* or *i’ugafono* as well as provisions relating to the Register of *faiga faavae* or *i’ugafono*.
- Clause 7:** - amends section 6 of the Act by giving the power to the Village Fono to order banishment but subject to procedures to be followed. These procedures are in line with Article 9 of the Constitution.

**Fuaiupu:**

- Fuaiupu 1:** - ua taua ai e faapea, afai e pasia, o le a taua loa le Tulafono Tau Faaofi, o le Tulafono o Teuteuga o le Tulafono o Fono a Nuu 2015, ma o le a amata faamamaluina i le aso e tuuina i ai le maliega a Le Ao o le Malo.
- Fuaiupu 2:** - ua teuteu ai le fuaiupu 2 e ala i le teuteuina o le faamatalaina o uiga o upu “amio lē taupulea i totonu o le nuu” ma ua faapea foi ona aiaia ai le faamatalaga fou e ao ona tuufaatasia ai i totonu o le Tulafono.
- Fuaiupu 3:** - ua faaofi ai le fuaiupu 2A fou lea ua aiaia ai sini autu o le Tulafono.
- Fuaiupu 4:** - ua suia ai le fuaiupu 4 o le Tulafono.
- Fuaiupu 5:** - ua teuteuina ai le fuaiupu 5 o le Tulafono e ala i le aiaia ai o malosiaga o Fono a Nuu e faia ai *faiga faavae* po o *iugafono*. O lenei teuteuga o le a suia ai faasinomaga i “tulafono” faatasi ai ma “*faiga faavae* po o *iugafono*” i totonu o le Tulafono.
- Fuaiupu 6:** - ua faaofi ai fuaiupu 5A fou e oo i le 5F lea o le a aiaia ai mo taualumaga, tulaga aloaia ma le faiga o le faamauina o *faiga faavae* po o *iugafono*, faapea foi ma aiaiga e faasino i le Tusi Resitala o *faiga faavae* po o *iugafono*.
- Fuaiupu 7:** - ua teuteuina ai le fuaiupu 6 o le Tulafono e ala i le tuuina atu o le malosiaga i Fono a Nuu, e poloaia ai faasalaga e faatea ai, peitai e noatia ma fai fuafua i taualumaga e ao ona mulumulitaia. O nei taualumaga e ogatasi ma le Mataupu 9 o le Faavae.

- Clause 8:** - substitutes section 9 of the Act so that a Village Fono will have some control over those who are living on the government land, freehold land or leasehold land within the village who disrupts or likely to disrupt the harmony within the village.
- Clause 9:** - inserts new section 12 which requires a person who proposes the construction of a building or structure of any kind or undertake an activity for community purpose in a village to consult with the Village Fono for their approval before such work is undertaken. The Village Fono must comply with factors provided before a decision is made under this new section.
- Clause 10:** - provides for consequential amendment and transitional provisions.

- Fuaiupu 8:** - ua suia ai le fuaiupu 9 o le Tulafono ina ia faapea ona oo atu le pule a Fono a Nuu ia i latou o lo o alaala i fanua tau le Malo, fanua umia saoloto po o fanua e umia faalisi o lo o i totonu o lotoifale o nuu, o i latou ia ua lē maua ai se nofo fealofani, po o e ono lē maua ai se nofo fealofani i totonu o nuu.
- Fuaiupu 9:** - ua faaofi ai le fuaiupu 12 fou, lea e manaomia ai se tagata, o ia lea ua fuafuaina le fausiaina o se fale po o se fausaga o so o se ituaiga po o le faatinoina o se galuega mo le faamoemoe o se faalapotopotoga i totonu o se nuu, ina ia faatalatalanoa ma le Fono a Nuu mo se faatagaga a o lumanai ai le faatinoina o sea ituaiga galuega. E ao ona tausisia e le Fono a Nuu vaega taua ua aiaia a o lumanai ai le faia o se faaiuga i lalo o lenei fuaiupu fou.
- Fuaiupu 10:** - ua aiaia ai mo teuteuga faatupulaia ma aiaiga tau soloaiga.

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 (Hon TOLOFUAIVALELEI Falemoe Leiataua)  
**MINISTER FOR WOMEN, COMMUNITY  
 AND SOCIAL DEVELOPMENT**

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 (Hon TOLOFUAIVALELEI Falemoe Leiataua)  
**MINISITA O TINA MA TAMAITAI, ATINAE  
 O NUU MA AFIOAGA MA AGAFESOOTA**