

VILLAGE FONO AMENDMENT BILL 2015

SAMOA

Arrangement of Provisions

1. Short title and commencement
2. Section 2 amended
3. New section 2A inserted
4. Section 4 substituted
5. Section 5 amended
6. New sections 5A to 5F inserted
7. Section 6 amended
8. Section 9 substituted
9. New section 12 inserted
10. Consequential amendment and transitional

2015, No.

A BILL INTITULED

AN ACT to amend the Village Fono Act 1990 (“principal Act”).

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

TULAFONO TAU FAAOFI O TEUTEUGA O LE TULAFONO O FONO A NUU 2015

SAMOA

Faatulagaina o Aiaiga

1. Igoa puupuu ma le amataga
2. Ua teuteuina le fuaiupu 2
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2015, Nu.

O SE TULAFONO TAU FAAOFI UA TAU

O SE TULAFONO e teuteu ai le Tulafono o Fono a Nuu 1990 (“Tulafono autu”).

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

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1. Short title and commencement - This Act may be cited as the Village Fono Amendment Act 2015, and commences on the date of assent by the Head of State.

2. Section 2 amended - For section 2 of the principal Act:

- (a) in the definition of “village misconduct”, for “section 5” substitute “sections 5 and 12(4)”; and
- (b) insert the following definitions in their alphabetical positions:

“*faiga fa’avae*” or “*i’ugafono*” means village *faiga fa’avae* or *i’ugafono* made pursuant to section 5;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry;

“freehold land” has the meaning in Article 101(3) of the Constitution;

“government land” has the meaning in section 2 of the Lands, Surveys and Environment Act 1989;

“leasehold land” means land that is the subject of a lease;

“lease” has the meaning in section 2 of the Land Titles Registration Act 2008;

“Ministry” means the Ministry responsible for Internal Affairs;

“Register” means the Register kept and maintained under section 5D;

“Sui-o-le-Nuu” means the person appointed as Sui-o-le-Nuu under section 14 of the Internal Affairs Act 1995.”.

1. Igoa puupuu ma le amataga - E mafai ona taua leni Tulafono o le Tulafono o Teuteuga o le Tulafono o Fono a Nuu 2015, ma e amata faamamaluina i le aso e tuuina i ai le maliega a Le Ao o le Malo.

2. Ua teuteuina le fuaiupu 2 - Mo le fuaiupu 2 o le Tulafono autu:

- (a) i le faamatalaina o le uiga o upu “amio lē taupulea i totonu o le nuu”, mo le “fuaiupu 5” ia suia e faapea “fuaiupu 5 ma le 12(4)”; ma
- (b) ia faaofi le faamatalaina o uiga o upu i le faasologa o le pi faitau faa-Peretania:

“*faiga faavae*” po o “*iugafono*” o lona uiga o *faiga faavae* po o *iugafono* a nuu ua faia e tusa ai ma le fuaiupu 5;

“Ofisa Sili o Pulega” o lona uiga o le Ofisa Sili o Pulega o le Matagaluega;

“fanua umia saoloto” e i ai le uiga i totonu o le Mataupu 101(3) o le Faavae;

“fanua tau le Malo” e i ai le uiga i totonu o le fuaiupu 2 o le Tulafono o Eleele, Fuagafanua ma le Siosiomaga 1989;

“fanua umia faalisi” o lona uiga o se fanua ua faapea ona aveva ma mataupu autu o se lisi;

“lisi” e i ai le uiga i le fuaiupu 2 o le Tulafono o le Faamauina o Pule o Fanua 2008;

“Matagaluega” o lona uiga o le Matagaluega e fitoitonu ma Mataupu Faalotoifale;

“Tusi Resitala” o lona uiga o le Tusi Resitala ua teuina ma tausia i lalo o le fuaiupu 5D;

“Sui-o-le-Nuu” o lona uiga o le tagata ua tofia e aveva ma Sui-o-le-Nuu i lalo o le fuaiupu 14 o le Tulafono o Mataupu Tau Lotoifale 1995.”.

3. New section 2A inserted - After section 2 of the principal Act, insert:

“2A. Objects - The objects of this Act are:

- (a) to provide for the recognition and protection of Village Fono;
- (b) to confer the exercise of power and authority by Village Fono in accordance with custom and usage of their village;
- (c) to validate the past and future exercise of powers and authority by Village Fono;
- (d) to provide procedures to be followed by Village Fono when undertaking inquiries into village misconduct or imposing punishment, including banishment; and
- (e) to empower Village Fono to make *faiga fa’avae* or *i’ugafono*.”.

4. Section 4 substituted - For section 4 of the principal Act, substitute:

“4. Evidence of village misconduct and punishment-

(1) A Village Fono may keep written record of its inquiry into any allegation of village misconduct or of any punishment imposed.

(2) A person who is found by a Village Fono to have been guilty of village misconduct is not, by reason only of that fact, to be treated as guilty of a crime or offence under any enactment.

3. Faaofiina o le fuaiupu 2A fou - I le tuanai ai o le fuaiupu 2 o le Tulafono autu, ia faaofi e faapea:

“2A. Sini autu - O sini autu o lenei Tulafono e faapea:

- (a) ia aiaia ai le amanaiaina ma le malupuipua o Fono a Nuu;
- (b) ia faaee atu ai le faatinoina o le malosiaga ma le pule faataga e Fono a Nuu e tusa ai ma tulaga faaleaganuu ma le agaifanua a o latou nuu;
- (c) ia aloaia ai le faatinoina i aso ua mavae ma le lumanai o malosiaga ma le pule faataga o Fono a Nuu;
- (d) ia aiaia ai tualumaga e ao ona mulimulitai i ai Fono a Nuu pe afai e faatinoina suesuega i mataupu e faatatau i amio lē taupulea i totonu o le nuu po o le faaee atu o faasalaga e aofia ai le faateaeseina mai le nuu; ma
- (e) ia tuuina atu ai malosiaga i le Fono a Nuu e faia ai *faiga faavae* po o *iugafono*.”.

4. Ua suia le fuaiupu 4 - Mo le fuaiupu 4 o le Tulafono autu, ia suia e faapea:

“4. Faamatalaga molimau o amio lē taupulea i totonu o le nuu ma faasalaga-(1) E mafai e le Fono a le Nuu ona tausia faamaumauga tusitusia o ana suesuega e uiga i so o se tuuaiga ua faia i se amio lē taupulea i totonu o le nuu po o so o se faasalaga ua faaee atu i ai.

(2) O se tagata, o ia lea ua faamaonia i se Fono a le Nuu ua faapea ona tausialaina i se amio lē taupulea i totonu o le nuu, e ao ona lē faatatauina ua nofosala i se solitulafono po o se soligatulafono i lalo o so o se isi tulafono, e ala i se mafuaaga na o lea lava itu.

(3) Any evidence relating to the decision of a Village Fono or of any punishment imposed by it against a person may be given as evidence in Court with the consent of that person.”.

5. Section 5 amended - In section 5 of the principal Act:

- (a) for the section heading, substitute “**Powers of Village Fono**”; and
- (b) for references to “rules” substitute “*faiga fa’avae*” or “*i’ugafono*” wherever it appears;
- (c) in subsection (2), substitute:

“(2) A Village Fono may make *faiga fa’avae* or *i’ugafono* for application in its village in relation to the following:

- (a) hygiene and sanitation;
- (b) development and use of village land for the economic betterment of the village;
- (c) harmony;
- (d) improvement of living standards;
- (e) enquiring any person to do any work for the purposes of paragraphs (a) to (d);
- (f) imposing a curfew within any village or village land in accordance with village customs and practices (including the power to exempt any person during a curfew if necessary in an emergency situation or to enforce the curfew);
- (g) promoting social cohesion and harmony;

(3) So o se faamatalaga molimau e faasino i le faaiuga fai o se Fono a le Nuu, po o so o se faasalaga ua faaee atu e faasaga i se tagata, e mafai ona tuuina atu e avea ma faamatalaga molimau i le Faamasinoga i le i ai faatasi ma le maliega a lea tagata.”.

5. Ua teuteuina le fuaiupu 5 - I totonu o le fuaiupu 5 o le Tulafono autu:

- (a) mo le ulutala o le fuaiupu, ia suia upu “**Pule o le Fono a le Nuu**”; ma
- (b) mo faasinomaga agai i “tulafono” ia suia i “*faiga faavae*” po o “*i’ugafono*” po o fea lava e aliali mai ai;
- (c) i totonu o le faafuaiupu (2), ia suia e faapea:

“(2) E mafai e se Fono a le Nuu ona faia *faiga faavae* po o *iugafono* mo le faaaogāina i lea nuu e faasino i itu nei:

- (a) tausisia o le soifua maloloina ma le tumama;
- (b) atinaeina ma le faaaogāina o fanua o le nuu mo le faaleleia o tulaga tau tamaoaiga o le nuu;
- (c) nonofo fealofani;
- (d) faaleleia o le tulaga o le soifuaga;
- (e) manaomia so o se tagata e faia so o se galuega mo faamoemoega o le parakalafa (a) i le (d);
- (f) faaee atu se vavao i totonu o so o se nuu po o elelee o nuu ina ia tusa ai ma tulaga faaleaganuu a nuu ma faiga masani (e aofia ai le malosiaga e tuusaunoa ai so o se tagata a o faagasolo se vavao pe afai e talafeagai ai i se tulaga o faalavelave tutupu faafuasei po o le faamallosia o le vavao);
- (g) uunaia le galulue felagolagomai ma le feoeoeai o tagata;

- (h) classifying village misconducts and penalties;
- (i) protecting Samoan customs and traditions;
- (j) safeguarding village traditions, norms and protocols;
- (k) protecting natural resources and the environment;
- (l) promoting natural justice and fairness principles in decision making processes and procedures;
- (m) recording of minutes or discussions during Village Fono meeting;
- (n) any other matter to give effect to or to promote wellbeing, development and maintenance of harmony and good order of the village and its inhabitants.”;

(d) after subsection (3), insert:

“(4) The powers to make *faiga fa’avae* or *i’ugafono* under subsection (2) includes the power to amend, suspend, revoke or replace *faiga fa’avae* or *i’ugafono*.”.

6. New sections 5A to 5F inserted - After section 5 of the principal Act, insert:

“5A. Registration of *faiga fa’avae* or *i’ugafono*-(1) A Sui-o-le-Nuu (or any authorised representative of the Sui-o-le-Nuu) may send their original of the *faiga fa’avae* or *i’ugafono* to the Chief Executive Officer for registration in the Register of *faiga fa’avae* or *i’ugafono*.

- (h) faavasegaina o amioga lē taupulea ma faasalaga i totonu o le nuu;
- (i) puipuiga o tu ma agaifanua a Samoa;
- (j) puipugamalu o agaifanua, faiga masani ma feagaiga aloaia;
- (k) puipuiga o punaoa faalenatura ma le siosiomaga;
- (l) uunaia o faiga amiotonu masani ma taiala faavae sagatonu i le faagasologa o faaiuga fai ma taualumaga;
- (m) faamauina o minute o fonotaga po o faatalatalanoaga a o faagasolo fonotaga o le Fono a le Nuu;
- (n) so o se isi lava mataupu e mafai ona aloaia ai, po o e uunaia ai le soifua lelei, atiaeina ma le faatumauina o le nofo fealofani ma le sologa lelei o nuu ma ē o lo o nonofo ai.”;

(d) i le tuanai ai o le faafuaiupu (3), ia faaofi e faapea:

“(4) O malosiaga e faia ai *faiga faavae* po o *iugafono* i lalo o le faafuaiupu (2), e aofia ai le malosiaga e teuteu ai, faataatiaese lē tumau, faalēaogā po o le toe sua o *faiga faavae* po o *iugafono*.”.

6. Ua faaofiina fuaiupu 5A fou e oo i le 5F - I le tuanai ai o le fuaiupu 5 o le Tulafono autu, ia faaofi e faapea:

“5A. Faamauina o *faiga faavae* po o *iugafono*-(1) E mafai e se Sui-o-le-Nuu (po o so o se isi lava tagata faatagaina o lo o aveva ma sui o le Sui-o-le-Nuu) ona faaoo atu a latou uluai faamaumauga o *faiga faavae* po o *iugafono* i le Ofisa Sili o Pulega mo le faamauina i le Tusi Resitala o *faiga faavae* po o *iugafono*.

(2) The original *faiga fa'avae* or *i'ugafono* must state:

- (a) the date of approval of the *faiga fa'avae* or *i'ugafono* by the Village Fono; and
- (b) the commencement date of the *faiga fa'avae* or *i'ugafono*.

(3) When the Chief Executive Officer receives the *faiga fa'avae* or *i'ugafono*, the Chief Executive Officer must:

- (a) stamp (including the date of stamping) the *faiga fa'avae* or *i'ugafono*; and
- (b) retain the original *faiga fa'avae* or *i'ugafono*; and
- (c) make and certify four (4) copies of the registered *faiga fa'avae* or *i'ugafono* and send a certified true copy to each of the following for their records -
 - (i) the Sui-o-le-Nuu (or any authorised representative of the Sui-o-le-Nuu) who sent the *faiga fa'avae* or *i'ugafono* under subsection (1); and
 - (ii) the Registrar of Land and Titles Court; and
 - (iii) the Attorney General; and
 - (iv) the Clerk of the Legislative Assembly.

5B. Mode of registration - The registration of *faiga fa'avae* or *i'ugafono* is effected by entering the following in the Register:

- (a) the name of the Village Fono that makes *faiga fa'avae* or *i'ugafono* and the name of the village where the *faiga fa'avae* or *i'ugafono* will apply;

(2) E ao ona faaalua mai i uluai faamaumauga o *faiga faavae* po o *iugafono* itu nei:

- (a) o le aso na faamaonia ai e le Fono a Nuu *faiga faavae* po o *iugafono*; ma
- (b) le aso na amata faamamaluina ai ia *faiga faavae* po o *iugafono*.

(3) Afai ua taulimaina e le Ofisa Sili o Pulega *faiga faavae* po o *iugafono*, e ao i le Ofisa Sili o Pulega ona:

- (a) tuuina i ai le faailoga (e aofia ai le aso na faailoga ai) le *faiga faavae* po o le *iugafono*; ma
- (b) taofi le uluai *faiga faavae* po o *iugafono*; ma
- (c) faia ma faamaonia ata e fa (4) o *faiga faavae* po o *iugafono* ua faamauina ma tuuina atu se ata moni ua faamaonia i sui taitasi o le a taua, mo a latou faamaumauga -
 - (i) Sui-o-le-Nuu (po o so o se sui o le Sui-o-le-Nuu ua faatagaina) o ia lea na ia faaoo atu le *faiga faavae* po o *iugafono* i lalo o le faafuuiupu (1); ma
 - (ii) le Resitara o le Faamasinoga o Fanua ma Suafa; ma
 - (iii) le Loia Sili; ma
 - (iv) le Failautusi o le Fono Aoao Faitulafono.

5B. Faiga o le faamauina - Ua aloaia le faamauina o *faiga faavae* po o *iugafono* e ala i le tusia i totonu o le Tusi Resitara o vaega nei:

- (a) o le igoa o le Fono a le Nuu na faia *faiga faavae* po o *iugafono* ma le igoa o le nuu o le a faapea ona faaogaina i ai ia *faiga faavae* po o *iugafono*;

- (b) the name or title and the commencement date of the registered *faiga fa'avae* or *i'ugafono*;
- (c) the date of stamping of the *faiga fa'avae* or *i'ugafono* under section 5A(3)(a);
- (d) any other information determined by the Chief Executive Officer.

5C. Effect of registration-(1) The registration of *faiga fa'avae* or *i'ugafono* under section 5A must not be taken as if the whole or part of the *faiga fa'avae* or *i'ugafono* are consistent with the Constitution.

(2) The non-registration of any *faiga fa'avae* or *i'ugafono* under section 5A does not invalidate or affect the operation of the *faiga fa'avae* or *i'ugafono* in the applicable village.

5D. Register of *faiga fa'avae* or *i'ugafono* - The Chief Executive Officer must keep and maintain a Register of Village Fono *faiga fa'avae* or *i'ugafono*.

5E. Search of Register - The Register is open to search and inspection by the public.

5F. Delegation by the Chief Executive Officer-(1) The Chief Executive Officer may delegate to an officer of the Ministry (“delegate”) all or any of the powers of the Chief Executive Officer under this Act except the power of delegation in this section.

(2) The delegate:

- (a) may exercise delegated power in the same manner and with the same effect as if the power had been conferred on the delegate directly by this section and not by delegation; and

- (b) o le igoa po o le suafa ma le aso na amata faamamaluina ai le faamauina o le *faiga faavae* po o le *iugafono*;
- (c) o le aso na tuuina i ai le faailoga i le *faiga faavae* po o *iugafono* i lalo o le fuaiupu 5A(3)(a);
- (d) so o se isi lava faamatalaga ua fuafuaina e le Ofisa Sili o Pulega.

5C. Tulaga aloaia o le faamauina-(1) O le faamauina o *faiga faavae* po o *iugafono* i lalo o le fuaiupu 5A, e lē tatau ona faatatauina e faapei ai o le atoaga po o se vaega o le *faiga faavae* po o *iugafono* o lo o ogatasi ma le Faavae.

(2) O le lē faamauina o so o se *faiga faavae* po o *iugafono* i lalo o le fuaiupu 5A, e lē faalēaogāina ai po o e aafia ai le faatinoga o le *faiga faavae* po o *iugafono* i le nuu e faaogā i ai.

5D. Tusi Resitala o *faiga faavae* po o *iugafono* - E ao i le Ofisa Sili o Pulega ona teuina ma tausia pea se Tusi Resitala o *faiga faavae* po o *iugafono* o Fono a Nuu.

5E. Suesueina o le Tusi Resitala - O lo o avanoa le Tusi Resitala mo suesuega ma asiasiga a tagata lautele.

5F. Malosiaga tuuina atu e le Ofisa Sili o Pulega-(1) E mafai e le Ofisa Sili o Pulega ona tuuina atu i se tagata ofisa o le Matagaluega (“tagata ua tuuina i ai le malosiaga”) ona malosiaga uma, po o so o se malosiaga i lalo o lenei Tulafono vagana ai le malosiaga e tuuina atu ai i totonu o lenei fuaiupu.

(2) O le tagata ua tuuina i ai le malosiaga:

- (a) e mafai ona ia faatinoina malosiaga tuuina atu i le faiga lava lea e tasi ma i le taunuuga lava lea, e faapei ai na faaee tuusao atu le malosiaga i le tagata na tuuina i ai malosiaga e lenei fuaiupu ae le o malosiaga tuuina atu; ma

- (b) is presumed, in the absence of proof to the contrary, to be acting pursuant to the terms of the delegation.
- (3) A delegation may be made:
 - (a) to a specified officer or class of officers; or
 - (b) to the holder or holders of a specified office or class of offices.
- (4) A delegation:
 - (a) is to be in writing and signed by the Chief Executive Officer; and
 - (b) may be subject to any special or general conditions; and
 - (c) does not prevent the exercise of any delegated power by the Chief Executive Officer; and
 - (d) is revocable at will; and
 - (e) until revoked, continues in force, even if the Chief Executive Officer who made it has ceased to hold office; and
 - (f) continues to have effect as if it were made by the successor in office of that Chief Executive Officer.”.

7. Section 6 amended - For section 6 of the principal Act:

- (a) renumber the current provision as subsection (1);
- (b) after paragraph (a), insert:
 - “(aa) subject to subsection (2), the power to order banishment;”;

- (b) ua faatatauina, i le aunoa ai o se faamaoniga e ese ai, e ao ona galue e tusa ai ma tuutuuga o malosiaga tuuina atu.
- (3) E mafai ona tuuina atu malosiaga:
 - (a) i se tagata ofisa faapitoa po o se vasega o tagata ofisa; po o
 - (b) i se tagata po o i tagata o lo o umia tofiga faapitoa po o se vasega o tofiga.
- (4) O se malosiaga tuuina atu:
 - (a) e ao ona faia i se faiga tusitusia ma sainia e le Ofisa Sili o Pulega; ma
 - (b) e mafai ona noatia ma fai fuafua i so o se tuutuuga faapitoa po o tuutuuga lautele; ma
 - (c) e lē taofia ai le faatinoga o so o se malosiaga ua tuuina atu e le Ofisa Sili o Pulega; ma
 - (d) e mafai ona faalēaogāina ma le loto i ai; ma
 - (e) ae vagana ai ua faalēaogāina, e faaauau pea ona aloaia, tusa lava pe ua faamutaina ona umia le tofi e le Ofisa Sili o Pulega, lea na ia tuuina atu malosiaga; ma
 - (f) e faaauau pea ona aloaia e faapei ai sa faia e le tagata ua soloai ane i ai i le tofi o lea Ofisa Sili o Pulega.”.

7. Ua teuteuina le fuaiupu 6 - Mo le fuaiupu 6 o le Tulafono autu:

- (a) ia toe faanumera aiaiga o lo o i ai nei e avea ma faafuaiupu (1);
- (b) i le tuanai ai o le parakalafa (a), ia faaofi e faapea:
 - “(aa) i le noatia ma le fai fuafua i le faafuaiupu (2), o le malosiaga e poloaia ai le faateaseina mai le nuu;”;

(c) after the proposed subsection (1), insert:

“(2) Before exercising its power under subsection (1)(aa), the Village Fono must, as a minimum, comply with the following procedures:

- (a) inform the alleged offender of the allegations against the offender, and any evidence supporting the allegations;
- (b) give the alleged offender an opportunity to respond, either orally or in writing and within a reasonable specified time, to the allegations and any supporting evidence;
- (c) give the alleged offender the option of having a support person or persons or representative to support or represent the offender when he or she responds and makes submissions on the allegations against him or her;
- (d) if the response received under paragraph (b) confirms the allegations, give the offender an opportunity to make a submission on, what the alleged offender believes, is the appropriate penalty for the misconduct.

(3) The response made under subsection (2)(b) may either confirm or contradict the allegations and any evidence in support of the allegations against the alleged offender.

(4) The Village Fono must take into account the response and any submissions made by the alleged offender under subsection (2) before it decides to confirm or reject the allegations and any supporting evidence.

(c) i le tuanai ai o le faafuuiupu (1) ua fuafuaina, ia faaofi e faapea:

“(2) A o lumanai ai le faatinoga o ona malosiaga i lalo o le faafuuiupu (1)(aa), e ao i le Fono a Nuu, i se tapulaa aupito maualalo, ona tausisia taualumaga nei:

- (a) ia logoina le tagata solitulafono ua tuuaia i tuuaiga e faasaga ia te ia, ma so o se faamatalaga molimau e lagolago ai ia tuuaiga;
- (b) ia tuuina atu i le tagata solitulafono ua tuuaia se avanoa e tali mai ai, pe tuufofoga po o i se faiga tusitusia, ma i totonu o se taimi maoti e talafeagai ai, e uiga i tuuaiga ma so o se faamatalaga molimau e lagolago ai;
- (c) ia tuuina atu i le tagata solitulafono ua tuuaia le filifiliga e saili ai se tagata po o ni tagata po o lē e avea ma sui e lagolago pe avea ma ona sui pe afai e tali atu ma tuuina atu talosaga tusitusia e uiga i tuuaiga faasaga ia te ia;
- (d) afai o le tali ua taulimaina i lalo o le parakalafa (b) ua faamaonia ai tuuaiga, ia tuuina atu i le tagata solitulafono se avanoa e faia ai se talosaga tusitusia i luga o lona talitonuga ua talafeagai le faasalaga mo le amioga lē taupulea.

(3) O le tali ua faia i lalo o le faafuuiupu (2)(b) e mafai ona faamaonia ai, pe feetenai ma tuuaiga ma so o se faamatalaga molimau e lagolago ai tuuaiga e faasaga i le tagata solitulafono ua tuuaia.

(4) E ao i le Fono a le Nuu ona amanaia le tali atu ma so o se talosaga ua faia e le tagata solitulafono ua tuuaia i lalo o le faafuuiupu (2), a o lumanai ai ona faia lana faaiuga e faamaonia ai pe teena tuuaiga ma so o se faamatalaga molimau o lagolago ai.

(5) For the purposes of subsection (4), the Village Fono may take into account the faa-Samoa decision making process to ensure thorough discussions of the allegation and in particular where the Village Fono considers the allegation as serious.

(6) Despite subsection (2), the Village Fono may exercise its power under subsection (1)(aa) if an alleged offender does not respond to the Village Fono within a reasonable specified time pursuant to subsection (2)(b).

(7) As an exception to section 11, the person against whom the banishment order is made under subsection (1)(aa) may appeal the order to the Land and Titles Court.”

8. Section 9 substituted - For section 9 of the principal Act, substitute:

“9. Limitation of jurisdiction of Village Fono-(1) Subject to this section, the relevant Village Fono does not have jurisdiction over a person residing on Government, freehold or leasehold land located within village land where that person:

- (a) is not a Matai of that village; or
- (b) is not liable in accordance with the custom and usage of that village to render tautua to a Matai of that village.

(2) A Village Fono may, in any manner it considers appropriate, inform any person living on government land, freehold land or leasehold land within its village land about any village *faiga fa'avae* or *i'ugafono* registered under section 5A.

(5) Mo faamoemoega o le faafuaiupu (4), e mafai e le Fono a le Nuu ona amanaia le faagasologa o le faiga o iuga faa-Samoa ina ia faamautinoa ai, ua suesueina maeaea tuuaiga aemaise ai pe afai ua manatu le Fono a le Nuu ua matuia tele le tuuaiga.

(6) E ui lava i le faafuaiupu (2), e mafai e le Fono a le Nuu ona faatino lona malosiaga i lalo o le faafuaiupu (1)(aa) pe afai e le i tali mai le tagata solitulafono ua tuuaia i le Fono a le Nuu, i totonu o se taimi maoti ua talafeagai ai e tusa ai ma le faafuaiupu (2)(b).

(7) E avea ai o se tuusaunoaga i le fuaiupu 11, o le tagata, o ia lea ua faia faasaga i ai le poloaiga e faatea mai le nuu i lalo o le faafuaiupu (1)(aa), e mafai ona ia talosaga tetee e tusa ai ma lea poloaiga, i le Faamasinoga o Fanua ma Suafa.”

8. Ua suia le fuaiupu 9 - Mo le fuaiupu 9 o le Tulafono autu, ia suia e faapea:

“9. Tapulaa o puleaga a Fono a Nuu-(1) I le noatia ma le fai fuafua i lenei fuaiupu, e le o i ai i le Fono a le Nuu lea e faasino i ai se puleaga i se tagata o aumau i se fanua tau le Malo, fanua umia saoloto, po o se fanua umia faalisi o lo o aofia ai i totonu o elelee o le nuu, pe afai o lea tagata:

- (a) e le o se matai o lea nuu; po o
- (b) e lē noatia e tusa ai ma aganuu ma agaifanua a lea nuu e tuuina atu le tautua i se Matai o lena nuu.

(2) E mafai e le Fono a le Nuu, i so o se faiga ua ia manatu ua talafeagai ai, ona logoina so o se tagata o lo o nofo i se fanua tau le Malo, fanua umia saoloto, po o fanua umia faalisi o lo o aofia i totonu o elelee o le nuu, e uiga i *faiga faavae* po o *iugafono* a so o se nuu ua faamauina i lalo o le fuaiupu 5A.

(3) Where the Village Fono has reasonable cause to believe that a person informed under subsection (2) disrupts or is likely to disrupt harmony within the village, Village Fono may summon that person to appear before them to discuss the Village Fono's concerns with a view to resolving those concerns.

(4) If the person fails to appear before the Village Fono or where the concerns of the Village Fono are not resolved, the Village Fono may request the registrar to convene a Samoan Conciliation under the Land and Titles Act 1981 to resolve the matter.

(5) A person commits an offence and is liable to a fine not exceeding 5 penalty units if the person fails to attend a Samoan Conciliation required under subsection (4)."

9. New section 12 inserted - For the principal Act, after section 11, insert:

"12. Structures and activities for community purposes-(1) If a person proposes:

(a) to construct a building or structure of any kind; or

(b) to undertake any activity,

for community purposes on village land, the person must first consult with the Village Fono to approve the building, structure or activity before it is constructed or undertaking the activity.

(2) When considering a request under subsection (1), the Village Fono must take into account the following factors:

(a) the community purpose for the use of the building or structure or for undertaking the activity;

(3) Afai ua i ai i le Fono a le Nuu se mafuaaga tataua e talitonu ai e faapea, o se tagata ua faapea ona logoina i lalo o le faafuuiupu (2) ua ia faalavelaveina pe o le a ia faalavelaveina le nonofo filemu i totonu o le nuu, e mafai e le Fono a le Nuu ona samania lea tagata ina ia oo atu e faatalatalanoa atugaluga o le Fono a le Nuu, faatasi ai ma se faiga ua manatu o le a mafai ona foia ai ia atugaluga.

(4) Afai ae lē oo atu i luma o le Fono a le Nuu le tagata, po o pe afai ua lē mafai ona foia atugaluga o le Fono a le Nuu, e mafai e le Fono a le Nuu ona talosagaina le Resitara, ina ia taloina se Faaleleiga Faa-Samoa i lalo o le Tulafono o Fanua ma Suafa 1981 ina ia foia ai le mataupu.

(5) Ua faia e se tagata se soligatulafono ma ua noatia i se sala tupe e lē silia le 5 iunite tau faasalaga pe afai ua lē mafai e lea tagata ona auai atu i se Faaleleiga Faa-Samoa ua manaomia i lalo o le faafuuiupu (4)."

9. Ua faaofi le fuaiupu 12 fou - Mo le Tulafono autu, i le tuanai ai o le fuaiupu 11, ia faaofi e faapea:

"12. Fausaga ma galuega mo faamoemoega o nuu ma afioaga-(1) Afai ua faamoemoe e se tagata:

(a) e fausia se fale po o se fausaga o so o se ituaiga; po o

(b) e faatino so o se galuega,

mo faamoemoega o le nuu ma afioaga i luga o eleele o le nuu, e ao i le tagata ona muai feutagai ma le Fono a le Nuu, ina ia faamaonia lea fale, fausaga po o le galuega a o lumanai ai lona fausiaina po o le faatinoina o le galuega.

(2) Afai e iloiloina se talosaga i lalo o le faafuuiupu (1), e ao i le Fono a le Nuu ona amanaia itu taua nei:

(a) o le faamoemoe o le nuu mo le faaaogāina o le fale po o fausaga po o mo le faatinoga o galuega;

- (b) whether the building, structure or activity will have any benefit to the village and its community;
- (c) whether any other person in the village will be or likely to be adversely affected if approval is given, and the extent to which the person will be affected;
- (d) the effect on the applicant if the approval is declined;
- (e) consent of the matai of the family who are beneficial owners of the land.

(3) In this section:

“community purpose” includes any purpose (including large business operations) which impacts on the promotion of Samoan customs and traditions, community safety, health and wellbeing, social cohesion and village harmony;

“person” includes family, organisation or any community group.

(4) A person who constructs a building or structure or undertake an activity without the approval under subsection (1) is guilty of village misconduct and is liable to any punishment under section 6 or imposed pursuant to the powers granted or preserved under this Act.

10. Consequential amendment and transitional-(1) The Internal Affairs Act 1995 is amended by repealing sections 5(1)(f) and 18(2)(b).

- (b) po o le a maua ai so o se faamanuiaga mo le nuu faapea ona tagata i lea fale, fausaga po o le galuega;
- (c) po o le a aafia ai pe ono aafia ai so o se isi tagata o le nuu i se tulaga e lamatia ai pe a tuuina atu lea faamaoniga, ma le tulaga e oo i ai lea tagata o le a aafia ai;
- (d) o le aafiaga o le tagata o lo o talosaga pe afai e teena le faamaoniga;
- (e) maliega a matai o le aiga, o i latou ia o umia le fanua ua faamanuiaina ai.

(3) I totonu o lenei fuaiupu:

“faamoemoega o nuu ma afioaga” e aofia ai so o se faamoemoe (e aofia ai faatinoga o pisinisi tetele) lea e lagolago i le uunaia o tu ma aganuu a Samoa, saogalemu o nuu ma afioaga, soifua maloloina ma le soifua manuia, galulue feoeoeai ma le nonofo lelei i totonu o le nuu;

“tagata” e aofia ai le aiga, faalapotopotoga po o so o se vaega i totonu o nuu ma afioaga.

(4) O se tagata, o ia lea ua ia fausia se fale, po o se fausaga po o ua faatinoina se galuega e aunoa ma le faamaoniga o i lalo o le faafuiau (1), ua tausalaia i se amioga lē taupulea i totonu o le nuu, ma ua noatia i so o se faasalaga i lalo o le fuaiupu 6, po o ua faaee atu i ai, e tusa ai ma malosiaga na faamatuu atu po o ua faaagaaga i lalo o lenei Tulafono.

10. Teuteuga faatupulaia ma aiaiga tau soloaiga-(1) Ua teuteuina le Tulafono o Mataupu Tau Lotoifale 1995 e ala i le soloia o le fuaiupu 5(1)(f) ma le 18(2)(b).

(2) Despite subsection (1), any regulations made pursuant to section 18(2)(b) of the Internal Affairs Act 1995 or bylaw proposed and made under the regulations continue in force as if they were made under this Act until revoked or replaced as *faiga fa'avae* or *i'ugafono* under this Act.

(2) E ui lava i le faafuaiupu (1), so o se tulafono faatonutonu ua faia e tusa ai ma le fuaiupu 18(2)(b) o le Tulafono o Mataupu Tau Lotoifale 1995, po o tulafono laiti ua fuafuaina ma faia i lalo o tulafono faatonutonu, e faaauau pea le aloaia e faapei ai na faia i lalo o lenei Tulafono seia oo ina faalēaogāina pe suia e aveva ma *faiga faavae* po o *iugafono* i lalo o lenei Tulafono.
