

FISHERIES MANAGEMENT BILL 2015

SAMOA

Explanatory Memorandum

Introduction

The purposes of the Bill are:

- (a) to regulate and control conservation, management and development of fisheries, including fisheries management plans;
- (b) to regulate fishing activities, including allocation of fishing rights, aquaculture, prohibited methods of fishing and transshipment and port measures;
- (c) to regulate licensing of fishing vessels, including foreign fishing vessels intending to fish within the fisheries waters of Samoa;
- (d) to control Samoan fishing vessels fishing outside Samoa fisheries waters;
- (e) to regulate entering into fisheries treaties, fisheries access agreement, fisheries commercial and other agreements or arrangements;
- (f) to regulate processing, trading and marketing of fish and fisheries products;
- (g) to provide for enforcement measures.

The Bill will repeal and replace the Fisheries Act 1988 and the Fisheries (Ban of Driftnet Fishing) Act 1999.

TULAFONO TAU FAAOFI O LE PULEGA O FAIGA FAIVA 2015

SAMOA

Faamatalaga e Faamalamalama ai

Faatomuaga

O faamoemoega nei o le Tulafono Tau Faaofi:

- (a) ia faatonutonu faaletulafono ma fafoe tulaga o le faasao, pulea ma le atiaaina o faiga faiva, e aofia ai fuafuaga tau puleaga o faiga faiva;
- (b) ia faatonutonu faaletulafono ai gaoioiga tau faiga faiva, e aofia ai le faasoasoina o aia tatau tau faiga faiva, faolaivai, faiga faasaina o fagotaga ma auala e toe utaina ai i isi vaa ma taulaga;
- (c) ia faatonutonu faaletulafono ai le laiseneina o vaa faagota, e aofia ai vaa fagota mai atunuu ese ua faamoemoe e fagogota i totonu o ogasami o faiga faiva a Samoa;
- (d) ia faafoeina vaa fagota o Samoa o fagogota i fafo atu o ogasami o faiga faiva o Samoa;
- (e) ia faatonutonu faaletulafono ai le sainia o feagaiga tau faiga faiva, maliega tau faiga faiva e avanoa i ai, faiga faiva faapisinisi ma isi maliega po o faatulagaga;
- (f) ia faatonutonu faaletulafono ai le gaosiga, fefaatauaiga ma le maketiina o i'a ma oloa tau i'a;
- (g) ia aiaia ai mo faiga e faamalosia ai.

O le a soloia ma suia e le Tulafono Tau Faaofi le Tulafono o Faiga Faiva 1988 ma le Tulafono o Faiga-Faiva (Faasaina o Faiga-Faiva i Upega Faatafea) 1999.

Clauses:**PART 1
PRELIMINARY**

- Clause 1:** - states that when enacted, the Bill will be called the Fisheries Management Act 2015 (“the Act”), and it will commence on a date nominated by the Minister.
- Clause 2:** - provides for the definitions of terms used within the Act.
- Clause 3:** - provides that the Act will bind the Government and also deals with acts committed outside Samoa fisheries waters, including the high seas, by residents or Samoa, including fisheries authorised officers and observers.
- Clause 4:** - sets out the approaches and the principles of conservation and management measures to be taken into account when carrying out any functions, duty or power under the Act.

**PART 2
ADMINISTRATION, TREATIES AND
FISHERIES MANAGEMENT PLANS***Division 1 - Administration*

- Clause 5:** - provides that the Chief Executive Officer (“CEO”) is the administrative head of the Fisheries Division (“Division”).

Fuaiupu:**VAEGA 1
FAATOMUAGA**

- Fuaiupu 1:** - ua taua ai e faapea, afai e pasia, o le a taua loa le Tulafono Tau Faaofi, o le Tulafono o le Pulega o Faiga Faiva 2015 (“o le Tulafono”), ma o le a amata faamamaluina i se aso e filifilia e le Minisita.
- Fuaiupu 2:** - ua aiaia ai mo le faamatalaina o uiga o fuaitau o faaaogāina i totonu o le Tulafono.
- Fuaiupu 3:** - ua aiaia ai e faapea, o le Tulafono o le a noatia ai le Malo ma o le a faapea foi ona tagofia ai o gaioiga i le faia i fafo atu o ogasami o faiga faiva o Samoa, e aofia ai ogasami maualuluga, e tagata nofomau o Samoa, e aofia ai tagata ofisa faatagaina o faiga faiva ma tagata e mataituina.
- Fuaiupu 4:** - ua faatulagaina ai o auala ma taiala faavae o le faasao ma faiga tau pulega e ao ona amanaia pe a faatinoina o so o se galuega tauave, tiute po o malosiaga i lalo o le Tulafono.

**VAEGA 2
FAAFOEGA, FEAGAIGA MA FUAFUAGA
TAU PULEGA O FAIGA FAIVA***Vaevaega 1 - Faafoega*

- Fuaiupu 5:** - ua aiaia ai e faapea o le Ofisa Sili o Pulega (“CEO”) o le faaululuga tau pulega lea o le Vaega o Faiga Faiva (“Vaega”).

- Clause 6:** - empowers the CEO to issue guidelines to ensure the effective and efficient management of the Act.
- Clause 7:** - sets out the functions of the Division, including dealing with issues and advising on matters relating to the development, management and conservation of fisheries resources.
- Clause 8:** - empowers the Minister to delegate the power to issue licence to the Chief Executive Officer.
- Clause 9:** - empowers the CEO to designate civil servants as authorised officers and the Minister acting on the advice of the CEO to appoint a person from another country as an authorised officer.
- Clause 10:** - empowers the CEO to appoint observers to carry out compliance and monitoring functions on board fishing vessels.
- Clause 11:** - obligates operators, master and crews of vessels to allow and assist observers carry out their compliance and monitoring functions while on board the vessels, including gathering of information and removing samples.
- Clause 12:** - sets out the duties of operators of fishing vessels to authorised officers and observers.
- Clause 13:** - empowers authorised officers to give directions when carrying out their powers under the Act.
- Fuaiupu 6:** - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega, e tuuina atu o taiala e faamautinoa ai le taunuuga lelei ma le faatinoga lelei o le puleaina o le Tulafono.
- Fuaiupu 7:** - ua faatulagaina ai galuega tauave a le Vaega, e aofia ai le tagofia o mataupu ma fautuaina mataupu e faasino i le atinae, pulega ma le faasaoina o punaoa tau faiga faiva.
- Fuaiupu 8:** - ua tuuina atu ai malosiaga i le Minisita, e faamatuu atu ai malosiaga i le Ofisa Sili o Pulega, e tuuina atu ai laisene.
- Fuaiupu 9:** - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega e tofia ai tagata faigaluega a le Malo e avea ma tagata ofisa faatagaina, ma o le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega, e tofia se tagata mai se isi atunuu, e avea ma se tagata ofisa faatagaina.
- Fuaiupu 10:** - ua tuuina atu malosiaga i le Ofisa Sili o Pulega, e tofia ai tagata e mataituina e faatinoina galuega tauave i tulaga o le tausisia ma le mataituina i luga o vaa fagota.
- Fuaiupu 11:** - ua noatia ai tagata faafoe, aliivaa ma auvaa o vaa ina ia faataga ma fesoasoani i tagata e mataituina i le faatinoga o tulaga o le tausisia ma galuega tauave tau le mataituina a o i ai i luga o vaa, e aofia ai le aoina o faamatalaga ma le aveesea o vaegamea faataitai.
- Fuaiupu 12:** - ua faatulagaina ai tiute tauave o tagata faafoe o vaa fagota i tagata ofisa faatagaina ma tagata e mataituina.
- Fuaiupu 13:** - ua tuuina atu malosiaga i tagata ofisa faatagaina e tuuina atu ai faatonuga pe a faatinoina o latou malosiaga i lalo o le Tulafono.

Clause 14: - empowers authorised officers and observers to ask another person to assist them when carrying out their powers under the Act.

Clause 15: - obligates authorised officers and observers to show their identification cards if requested.

Clause 16: - provides for protection of any confidential information obtained for the purpose of the Act.

Division 2 - Treaties, agreements and arrangements

Clause 17: - empowers the Minister with the prior approval of Cabinet to enter into any fisheries treaty, access agreement or other arrangements on behalf of the Samoa.

Clause 18: - empowers the Minister (for treaties, access agreement, etc) to give effect to international conservation and management measures through regulations, fisheries plan and imposing conditions on licences.

Division 3 - Fisheries Management Plans

Clause 19: - empowers the CEO to declare and mark any area as a village fisheries management area after consulting village Fonos and neighbouring villages.

Fuaiupu 14: - ua tuuina atu ai malosiaga i tagata ofisa faatagaina ma tagata e mataituina, e fesiligia ai se isi tagata e fesoasoani ia i latou i le tauaveina o latou malosiaga i lalo o le Tulafono.

Fuaiupu 15: - ua noatia ai tagata ofisa faatagaina ma tagata e mataituina ina ia faaali o latou pepa e iloagofie ai pe afai e tapaina.

Fuaiupu 16: - ua aiaia ai mo le puipuiga o so o se faamatalaga agatapuia ua mauaina mo le faamoemoe o le Tulafono.

Vaevaega 2 - Feagaiga, maliega ma faatulagaga

Fuaiupu 17: - ua tuuina atu ai malosiaga i le Minisita, faatasi ai ma le uluai faamaoniga a le Kapeneta e sainia ai so o se feagaiga o faiga faiva, maliega e avanoa i ai po o isi faatulagaga e aveva ai ma sui o Samoa.

Fuaiupu 18: - ua tuuina atu ai malosiaga i le Minisita (mo feagaiga, maliega e avanoa i ai, ma isi) e aloaia ai faasao faava o malo, ma faiga e pulea ai, e ala i tulafono faatonutonu, fuafuaga tau faiga faiva ma le faaee atu o aiaiga o laisene.

Vaevaega 3 - Fuafuaga o Pulega Tau Faiga Faiva

Fuaiupu 19: - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega e faaalua manino ma makaina ai so o se vaega e aveva ma nofoaga tau le pulega o faiga faiva i nuu, i le maea ai o feutagaiga ma Fono a nuu ma nuu tuaoi.

Clause 20: - empowers the Minister to declare an area to be a designated fishery if it is in the public interest and management measures are needed to ensure the sustainable use of fishery resources in the area.

Clause 21: - obligates the CEO to prepare, make and review fisheries management plans for designated fishery areas.

Clause 22: - provides for the rights of disadvantaged villages (i.e. land-locked villages) to participate in the management or village fisheries management areas if they have traditional, family or clan relationship with the village.

PART 3 LICENCES

Division 1 - Licensing of Vessels and Marine Scientific Research

Clause 23: - prohibits persons from operating a Samoan fishing vessel in Samoa fishery waters unless the vessel is licensed except for vessels with less than 8 meters long.

Clause 24: - regulates Samoan fishing vessels when fishing outside Samoa's fishery waters.

Clause 25: - regulates fishing on high seas by Samoans.

Fuaiupu 20: - ua tuuina atu ai malosiaga i le Minisita e faaalua manino ai se vaega o ogasami e avea ma ogasami faatulagaina o faiga faiva, pe afai o se tulaga lea e manuia ai tagata lautele ma e manaomia faiga tau pulega e faamautinoa ai le faaaogāina o punaoa tau faiga faiva i totonu o lea ogasami e mafai ona gafataulimaina.

Fuaiupu 21: - ua noatia ai le Ofisa Sili o Pulega e saunia, faia ma iloilo ina fuafuaga tau pulega o faiga faiva mo ogasami faatulagaina o faiga faiva.

Fuaiupu 22: - ua aiaia ai mo aia tatau a nuu ua le faamanuiaina (o lona uiga, o nuu i nofoaga maualuluga) i le auai i le pulega po o vaega o ogasami o puleaina mo faiga faiva i nuu, pe afai e i ai ni o latou sootaga, faaleaganuu, aiga po o ituaiga o tagata e i ai sootaga ma le nuu.

VAEGA 3 LAISENE

Vaevaega 1 - Laiseneina o Vaa ma Suesuega Faasaienisi o le Gataifale

Fuaiupu 23: - ua faasāina ai tagata mai le faagaioioiga o se vaa fagota Samoa i totonu o ogasami o faiga faiva o Samoa ae vagana ai ua laiseneina le vaa, vagana mo vaa e itiiti ifo i lo le 8 mita le umi.

Fuaiupu 24: - ua faatonutonuina ai faaletulafono vaa fagota o Samoa pe a fagogota i ogasami o faiga faiva i fafo atu o Samoa.

Fuaiupu 25: - ua faatonutonuina ai faale-tulafono faiga faiva i ogasami maualuluga e tagata Samoa.

Clause 26: - regulates fishing within the Samoa fisheries waters by foreign fishing vessels.

Clause 27: - empowers the CEO to issue marine scientific research authorisation for research within the Samoa fisheries waters.

Division 2 - Licensing Procedures and Other Matters

Clause 28: - empowers the Minister to license fishing vessels.

Clause 29: - obligates the Minister not to issue fishing vessel licences if issuing of licences will contravene the Act, any treaty, fisheries management agreement or plan or international conservation or management measure.

Clause 30: - provides for prescribed and special conditions for fishing vessel licences.

Clause 31: - sets out the period of validity of fishing vessel licences.

Clause 32: - clarifies that the issuing of a fishing vessel licence does not relieve the foreign fishing vessel, mater and crews from their obligations under other laws of Samoa.

Clause 33: - obligates the CEO to establish and maintain a register of fishing vessels licensed under clause 28 and to provide information to relevant regional or sub-regional fisheries management organisation.

Fuaiupu 26: - ua faatonotonuina ai faaletulafono faiga faiva a vaa fagota mai atunuu ese e fagogota i totonu o ogasami o faiga faiva o Samoa.

Fuaiupu 27: - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega e tuuina atu ai le faatagaga o suesuega faasaenisi o le gataifale mo suesuega i totonu o ogasami o faiga faiva o Samoa.

Vaevaega 2 - Taulumaga o le Laiseneina ma Isi Mataupu

Fuaiupu 28: - ua tuuina atu ai malosiaga i le Minisita e laiseneina ai vaa fagota.

Fuaiupu 29: - ua noatia ai le Minisita ina ia lē tuuina atu laisene o vaa fagota, pe afai o le tuuina atu o laisene o le a solia ai le Tulafono, o so o se feagaiga, maliega tau pulega o faiga faiva po o se fuafuaga po o se faasao faava o malo po o se faiga tau pulega.

Fuaiupu 30: - ua aiaia ai mo aiaiga faatonuina ma aiaiga faapitoa mo laisene o vaa fagota.

Fuaiupu 31: - ua faatulagaina ai le vaitaimi e aloaia ai le aogā o laisene o vaa fagota.

Fuaiupu 32: - ua faamaninoina ai e faapea o le tuuina atu o se laisene o se vaa fagota, o le a lē aveva lea ma faamama avega i se vaa fagota mai fafo, aliivaa ma auvaa, i o latou noataga i lalo o isi tulafono a Samoa.

Fuaiupu 33: - ua noatia ai le Ofisa Sili o Pulega e faavaeina ma tausia se tusi resitala o vaa fagota ua laiseneina i lalo o le fuaiupu 28, ma ia tuuina atu faamatalaga i faalapotopotoga tau pulega o faiga faiva i itulagi po o itulagi laiti talafeagai.

Clause 34: - empowers the Minister acting on the advice of CEO to suspend or cancel fishing vessels licences after giving the operator an opportunity to be heard.

Clause 35: - provides the decision of the Minister or CEO may be subject to judicial review.

PART 4 FISHING ACTIVITIES

Division 1 - General Fishing Activities

Clause 36: - empowers the CEO to make fishery allocation on fishing activity or fishery plan or agreement to deal with specific amount of catch or fishing activity.

Clause 37: - empowers the Minister to grant fishing rights to deal with right of access or quotas.

Clause 38: - prohibits fishing operation for exploratory or test fishing unless the Minister approves the operation.

Division 2 - Aquaculture

Clause 39: - prohibits aquaculture operations unless the CEO issues an aquaculture authorisation.

Clause 40: - obligates the Division to manage aquaculture activities other than those within village fisheries management areas.

Fuaiupu 34: - ua tuuina atu ai malosiaga i le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega, e taofia lē tumau ai pe faalēaogāina laisene o vaa fagota, i le tuanai ai ona tuuina atu o le avanoa i le tagata faafoe e fofogaina ai le mataupu.

Fuaiupu 35: - ua aiaia ai e faapea, o le faaiuga a le Minisita po o le Ofisa Sili o Pulega, e mafai ona noatia i se iloiloga faa-faamasinoga.

VAEGA 4 GAOIOIGA TAU FAIGA FAIVA

Vaevaega 1 - Gaoioiga Lautele Tau Faiga Faiva

Fuaiupu 36: - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega, e faasoasoina ai faiga faiva i gaoioiga tau faiga faiva po o fuafuaga po o maliega tau faiga faiva, e tagofia ai se aofaiga maoti o i'a ua maua po o gaoioiga tau faiga faiva.

Fuaiupu 37: - ua tuuina atu ai malosiaga i le Minisita e faamatuu atu ai aia tatau tau faiga faiva e tagofia ai aia tatau e avanoa i ai po o se vaega faatagaina.

Fuaiupu 38: - ua faasaina ai gaoioiga tau faiga faiva mo le faalauteleina o saililiga po o suesuega, seia vagana ai ua faamaonia e le Minisita le gaoioiga.

Vaevaega 2 - Faaolaivai

Fuaiupu 39: - ua faasaina ai gaoioiga tau faaolaivai, seia vagana ai ua tuuina atu e le Ofisa Sili o Pulega se faatagaga.

Fuaiupu 40: - ua noatia ai le Vaega e faafoeina gaoioiga tau faaolaivai, e ese mai ai i lo gaoioiga i vaega o pulega o faiga faiva i nuu.

Clause 41: - prohibits aquaculture operations within village fisheries management areas unless the village fisheries management committee issues an aquaculture authorisation.

Division 3 - Prohibited Fishing Methods

Clause 42: - prohibits fishing by the use of poisons or explosives.

Clause 43: - prohibits driftnet fishing activities in fishery waters.

Division 4 - Transshipment and Port Measures

Clause 44: - prohibits transshipment of fish unless it is authorised under the vessel's licence or an access agreement or a transshipment authorisation issued by the CEO.

Clause 45: - empowers the Head of State acting on the advice of Cabinet to make regulations to deal with port measures such as ports that foreign fishing vessels may access, port inspectors and inspection of fishing vessels while in port, details of vessels to use ports, etc.

Fuaiupu 41: - ua faasaina ai gaoioiga tau faaolaivai i vaega o pulega o faiga faiva i nuu, seia vagana ai ua tuuina atu e le komiti o pulea faiga faiva a se nuu, se faatagaga o gaoioiga tau faaolaivai.

Vaevaega 3 - Ituaiga Auala o Faiga Faiva e Faasaina

Fuaiupu 42: - ua faasaina ai faiga faiva e faaaogāina ai vailaau oona po o fana i'a.

Fuaiupu 43: - ua faasaina ai gaoioiga tau faiga faiva i upega faatafea i ogasami o faiga faiva.

Vaevaega 4 - Toe Utaina o I'a i Luga o Isi Vaa ma Fuafuaga e Faatonutonu ai Taulaga

Fuaiupu 44: - ua faasaina ai le toe utaina o i'a i isi vaa, seia vagana ai ua faatagaina i lalo o le laisene a se vaa po o se maliega ua avanoa i ai po o se faatagaga o le toe utaina o i'a i isi vaa, e pei ona tuuina atu e le Ofisa Sili o Pulega.

Fuaiupu 45: - ua tuuina atu ai malosiaga i Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta e faia ai tulafono faatonutonu, e tagofia ai o fuafuaga tau le taulaga, e pei o taulaga ia e mafai ona avanoa i ai o vaa fagota mai atunuu ese, tagata asiasi o taulaga ma asiasiga o vaa fagota ao i ai i totonu o le taulaga, o auililiga o vaa e faaaogāina taulaga, ma isi tulaga faapena.

**PART 5
PROCESSING, TRADING AND MARKETING
OF FISH AND FISH PRODUCTS**

**VAEGA 5
GAOSIGA, FEFAATAUAIGA MA LE
MAKETIINA O I'A MA OLOA TAU I'A**

Clause 46: - prohibits processing, trading and marketing of fish and fish products unless then are done through licensing or registration to be provided by regulations.

Clause 47: - empowers the Head of State acting on the advice of Cabinet to make regulations to deal with matters relating to processing, trading and marketing of fish and fish products.

PART 6 ENFORCEMENT

Division 1 - Mobile Transceiver Units and Vehicle Monitoring Systems information

Clause 48: - obligates operator of licensed fishing vessels to install, operate and maintain a mobile transceiver unit (“MTU”) on the vessels in order to track their movement while fishing.

Clause 49: - deals with information or data obtained or ascertained by the use of MTU.

Clause 50: - provides that the Government owns the vessel monitoring system information generated by MTU and the information is confidential.

Division 2 - Entry, Search and Seizure

Clause 51: - empowers authorised officers to enter and search any conveyance and to stop and search persons.

Fuaiupu 46: - ua faasaina ai le gaosiga, fefaatauaiga ma le maketiina o i’a ma oloa tau i’a, seia vagana ai ua faia e ala i le laiseneina po o le faamauina e ao ona aiaia e tulafono faatonutonu.

Fuaiupu 47: - ua tuuina atu ai malosiaga i Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, e faia ai tulafono faatonutonu, e tagofia ai mataupu e faasino i le gaosiga, fefaatauaiga ma le maketiina o i’a ma oloa tau i’a.

VAEGA 6 TULAGA FAAMALOSIA

Vaevaega 1 - Leitio Ualesi Feaveai ma Faamatalaga o Faiga e Mataituina ai Taavale

Fuaiupu 48: - ua noatia ai tagata faafoe o vaa fagota ua laiseneina, e faapipiina, faagaoioia ma tausia se masini feaveai o fesootaiga tau leitio (“MTU”) i luga o vaa, e mafai ai ona sailia le feoaiga o vaa a o feagai ma fagotaga.

Fuaiupu 49: - ua tagofia ai faamatalaga po o faamaumauga ua mauaina po o ua faamautinoaina e ala i le faaaogāina o masini feaveai o fesootaiga tau leitio (MTU).

Fuaiupu 50: - ua aiaia ai e faapea, o le Malo e ona le faiga o mataituina ai faamatalaga o vaa, e mauaina mai e le masini (MTU) ma e agatapuia o ia faamatalaga.

Vaevaega 2 - Ulufale Atu, Sailia ma le Faoa Faamalosia

Fuaiupu 51: - ua tuuina atu ai malosiaga i tagata ofisa faatagaina e ulufale ma sailia ai so o se ala o felauaiga ma taofi ma sailia se tagata.

Clause 52: - empowers an authorised officer to arrest, without a warrant, a person whom the officer found committing an offence and the person fails to obey the order of the officer to stop committing the offence. A warrant is required if the officer has reasons to suspect to have committed an offence.

Clause 53: - empowers an authorised officer, in consultation with the Samoa Ports Authority, to require the master of a vessel to take the vessel to a port.

Clause 54: - empowers authorised officers to use reasonable force and to make copies of documents, when carrying out the powers under the Act.

Clause 55: - provides for the seizure powers of authorised officers.

Clause 56: - empowersthe Minister authorise an officer of the Ministry to take measures (such as inspection, compliance and enforcement) that have been adopted by regional fisheries management organisation and to issue guidelines to implement those measures.

Clause 57: - empowers the CEO to release, on application, any property seized under the Act.

Clause 58: - empowers the CEO to sell any seized property.

Fuaiupu 52: - ua tuuina atu ai malosiaga i se tagata ofisa faatagaina e pueina ai faapagota, e aunoa ma se tusi poloaiga, se tagata o ia lea ua maua e le tagata ofisa ua na faia o se soligatulafono ma ua lē mafaia e le tagata ona usitaia le poloaiga a le tagata ofisa ina ia taofia le faia o le soligatulafono. E manaomia se tusi poloaiga pe afai e i ai i le tagata ofisa, o mafuaaga e masalomia ai e faapea na faia lava se soligatulafono.

Fuaiupu 53: - ua tuuina atu ai malosiaga i se tagata ofisa faatagaina, i le feutagai ai lea ma le Pulega o Taulaga a Samoa, ina ia tapa le aliivaa o se vaa na te faafoeina le vaa i se taulaga.

Fuaiupu 54: - ua tuuina atu ai malosiaga i tagata ofisa faatagaina e faaaogāina ai le malosi talafeagai ma ia faia ni ata o pepa aloaia, pe a oo i taimi e faatinoina ai malosiaga i lalo o le Tulafono.

Fuaiupu 55: - ua aiaia ai mo malosiaga o tagata ofisa faatagaina e faoa faamalosi ai.

Fuaiupu 56: - ua tuuina atu ai malosiaga i le Minisita e faatagaina ai se tagata ofisa o le Matagaluega e faatino ai fuafuaga (e pei o asiasiga, tulaga o le tausisia ma le faamalosi) lea ua faaaogā aloaia e faalapotopotoga faaitulagi tau pulega o faiga faiva ma ia tuuina atu taiala e faatino ai na fuafuaga.

Fuaiupu 57: - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega e faamatuu atu ai, i luga o se talosaga, so o se meatotino na faoa faamalosi i lalo o le Tulafono.

Fuaiupu 58: - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega e faatau atu ai so o se meatotino na faoa faamalosi.

Clause 59: - provides that an authorised officer is to decide as soon as practicable whether to charge a person relating to seized property, otherwise the seized property can be released to the person entitled to it.

Clause 60: - empowers authorised officers to immobilise a vessel, vehicle or aircraft by removing any of its part.

Division 3 - Forfeitures

Clause 61: - empowers the Court to order forfeiture to the State of any property used in the commission of an offence under this Act.

Clause 62: - empowers the Court, when making a forfeiture order, to also apply any bond or security given for the forfeited property to discharge the property, pay any fines or penalty or to discharge any order of restitution.

Clause 63: - provides that any forfeited property that has been removed unlawfully from the custody of the Government can be seized within the fishery waters.

Clause 64: - empowers the Minister to dispose of any forfeited property.

Clause 65: - exempts the Government from being liable for loss, damage or deterioration of any fish or thing while in the custody of the Government.

Fuaiupu 59: - ua aiaia ai e faapea, e filifili se tagata ofisa faatagaina i se taimi vave lava e mafai ai, pe e molia se tagata e faasino i meatotino ua faoa faamalosi, a leai ona mafai lea ona faamatuu atu meatotino na faoa faamalosi i le tagata e agavaa i ai.

Fuaiupu 60: - ua tuuina atu ai malosiaga i tagata ofisa faatagaina, ina ia lē toe faagaoioia ai se vaa, taavale po o se vaalele, e ala i le aveesea o so o se tasi o ona totoga.

Vaevaega 3 - Aveesea faamalosi

Fuaiupu 61: - ua tuuina atu ai malosiaga i le Faamasinoga e poloaia ai le aveesea faamalosi o so o se meatotino na faaaogāina i le Malo i le faia ai o se soligatulafono i lalo o lenei Tulafono.

Fuaiupu 62: - ua tuuina atu ai malosiaga i le Faamasinoga, pe a faia o se poloaiga e aveesea faamalosi ai, ina ia faapea foi ona faaaogā i so o se feagaiga po o se faamalumaluga na tuuina atu mo meatotino na aveesea faamalosi, ina ia faamatuu atu ai le meatotino, tologi o so o se sala tupe po o se faasalaga po o e faamatuu atu ai so o se poloaiga mo le toe faaola mai o tupe.

Fuaiupu 63: - ua aiaia ai e faapea o so o se meatotino na aveesea faamalosi lea sa aveesea i se ala faasolitulafono mai le puipugamalu a le Malo, e mafai ona faoa faamalosi i totonu o ogasami o faiga faiva.

Fuaiupu 64: - ua tuuina atu ai malosiaga i le Minisita e lafoai ai so o se meatotino na aveesea faamalosi.

Fuaiupu 65: - ua tuusaunua ai le Malo mai le noatia mo mea ua maimau, mea ua faaleagaina po o i'a ua leaga po o se mea, a o i ai i le puipugamalu a le Malo.

Clause 66: - creates an offence of removing from the custody of the Government any vessels, vehicles, aircraft, etc., without authority.

**PART 7
EVIDENCE, LIABILITIES AND OFFENCES**

Division 1 - Evidence

Clause 67: - empowers the CEO or authorised person to give certificate of evidence.

Clause 68: - empowers authorised officers to give a certificate stating the location of vessel which will be evidence of the location of the vessel unless contrary is proved.

Clause 69: - deals with validity and procedures for accepting certificates under clause 67 or 68 in proceedings in the Court.

Clause 70: - deals with general presumptions, such as fish found on board a fishing vessel which has been used to commit an offence is presumed to have been caught in the commission of that offence, etc., unless the contrary is proved.

Clause 71: - deals with presumption on photographs of fishing or related activity.

Clause 72: - presumes that information kept by a person is kept by that person unless the contrary is proved.

Fuaiupu 66: - ua faia ai se soligatulafono o le aveesea mai le puipuiga a le Malo o so o se vaa, taavale, vaalele, ma isi, e aunoa ma se pule faataga.

**VAEGA 7
FAAMATALAGA MOLIMAU, NOATAGA
MA SOLIGATULAFONO**

Vaevaega 1 - Faamatalaga molimau

Fuaiupu 67: - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega po o se tagata faatagaina e tuuina atu ai tusi faamaonia o faamatalaga molimau.

Fuaiupu 68: - ua tuuina atu ai malosiaga i tagata ofisa faatagaina e tuuina atu ai se tusi faamaonia o taua ai le nofoaga o i ai le vaa, lea o le a avea ma faamatalaga molimau o le nofoaga o i ai le vaa, ae vagana ai ua faamaonia lea tulaga i se isi faiga e ese ai.

Fuaiupu 69: - ua tagofia ai le tulaga aloaia ma tualumaga mo le taliaina o tusi faamaonia i lalo o le fuaiupu 67 po o le 68, i tualumaga i totonu o le Faamasinoga.

Fuaiupu 70: - ua tagofia ai manatu lē mautinoa faalauaitete, e pei o i'a ua maua i luga o se vaa fagota lea sa faapea ona faaaogāina e faia ai se soligatulafono ua avea e faapea, na maua i le faia ai o lea soligatulafono, ma isi, seia vagana ai ua faamaonia i se isi faiga e ese ai.

Fuaiupu 71: - ua tagofia ai manatu lē mautinoa e uiga i ata pue o faiga faiva po o gaoioiga e fesootai i ai.

Fuaiupu 72: - ua avea ai e faapea o faamatalaga o tausia e se tagata, o lo o tausia lava e lena tagata, seia vagana ai ua faamaonia i se isi faiga e ese ai.

Division 2 - Liabilities

- Clause 73:** - allows the Attorney General to sue as nominal defendant on matters relating to forfeiture ordered or any charges, duty, etc., payable under the Act.
- Clause 74:** - provides that the defendant is also liable to the Government for any loss, damage caused by the offence or enforcement costs.
- Clause 75:** - Provides that offences other than serious violation are offences for which the defendant is not required to prove the intention to commit the offence.
- Clause 76:** - provides that the directors and managers of a company also commit the offence committed by the company.
- Clause 77:** - deals with the liability of the principal and the agent of the principal.
- Clause 78:** - makes the employer liable for acts of his or her employee and makes the owner of a vessel liable for the acts of the master or crews of the vessel.
- Clause 79:** - makes the master liable for acts of a person on board or employed on the fishing vessel.

Division 3 - Offences, Penalties and other Orders

- Clause 80:** - provides for general offences and penalties relating to contravention of a provision of the Act or any notice, direction, etc., made under the Act.

Vaevaega 2 - Noataga

- Fuaiupu 73:** - ua avanoa ai le Loia Sili ina ia molia e faapei o se tagata tetee i tulaga aloaia, i mataupu e faasino i mea ua aveesea faamalosi na poloaia po o so o se tau faaee atu, tiute, ma isi, e mafai ona totogi i lalo o le Tulafono.
- Fuaiupu 74:** - ua aiaia ai e faapea, e noatia foi le tagata tetee i le Malo mo so o se mea ua maimau, mea ua faaleagaina e mafua mai i le soligatulafono po o tau faaee atu o le faamalosi.
- Fuaiupu 75:** - ua aiaia ai e faapea o soligatulafono e ese ai i lo soliga matuia, o soligatulafono ia e lē manaomia ai le tagata ua molia e faamaonia le faamoemoe e faia le soligatulafono.
- Fuaiupu 76:** - ua aiaia ai e faapea, ua faia foi e faatonu ma pule o se kamupani, le soligatulafono ua faia e le kamupani.
- Fuaiupu 77:** - ua tagofia ai le noataga o le tagata ofisa autu ma lana sooupu.
- Fuaiupu 78:** - ua noatia ai le tagata e ona le galuega mo gaoioiga a ana tagata faigaluega ma ua noatia ai lē e ona se vaa mo gaoioiga a le aliivaa po o le auvaa o le vaa.
- Fuaiupu 79:** - ua noatia ai le aliivaa mo gaoioiga a se tagata o i luga po o o lo o faafaigaluega i luga o le vaa fagota.

Vaevaega 3 - Soligatulafono, Faasalaga ma isi Poloaiga

- Fuaiupu 80:** - ua aiaia ai mo soligatulafono lautele ma faasalaga e faasino i le soliga o se aiaiga o le Tulafono po o so o se faasilasilaga, faatonuga, ma isi tulaga faapena, ua faia i lalo o le Tulafono.

Clause 81: - creates the offence of destroying, concealing, etc., of fish, fish products, gear, record, document, explosive, poison, etc., with the intention to avoid seizure or detection of an offence.

Clause 82: - provides what amounts to serious violation under the Act.

Clause 83: - provides that information or charges for offences under the Act are to be filed in Court within two (2) years of the commission of the offence but the Court may give leave on special circumstances to prosecute the offence after the expiration of two (2) years.

Clause 84: - empowers the Court to order suspension or forfeiture of fishing right, licence, approval or authorisation.

Clause 85: - empowers the Court to make an order prohibiting a person from engaging in any fishing, fishing activities, etc., for up to three (3) years, if, within a 7-year period of being convicted on an offence, the person commits the same or another offence under the Act.

Fuaiupu 81: - ua faia ai le soligatulafono o le faaleagaina, natia, ma isi tulaga faapena, o i'a, oloa tau i'a, meafaigaluega, faamaumauga, pepa aloaia, fanaia, vailaau oona, ma isi, ma le faamoemoe e alofia ai le faoa faamalosi po o le mauaina o se soligatulafono.

Fuaiupu 82: - ua aiaia ai itu e oo atu ai i se soliga matuia i lalo o le Tulafono.

Fuaiupu 83: - ua aiaia ai e faapea o se tagi po o ni moliaga mo soligatulafono i lalo o le Tulafono e ao ona faatoai atu i le Faamasinoga i totonu o le lua (2) tausaga talu ona faia o le soligatulafono, peitai e mafai e le Faamasinoga ona tuuina atu se faatagaga i tulaga faapitoa e aliae mai, e faia ai se moliaga o le soligatulafono, i le maea ai ona muta le lua (2) tausaga.

Fuaiupu 84: - ua tuuina atu ai i le Faamasinoga malosiaga e poloaia ai le taofia lē tumau po o le aveese faamalosi o aia tatau tau faiga faiva, laisene, faamaoniga po o faatagaga.

Fuaiupu 85: - ua tuuina atu ai malosiaga i le Faamasinoga e faia ai se poloaiga e faasaina ai se tagata mai le auai i so o se faiga faiva, gaoioiga tau faiga faiva, ma isi tulaga faapena, mo se vaitaimi e oo atu i le tolu (3) tausaga, pe afai ua faamaonia i totonu o se vaitaimi e 7 tausaga i se soligatulafono, na toe fai ai e le tagata lea lava soligatulafono, po o se isi soligatulafono i lalo o le Tulafono.

**PART 8
VILLAGE FISHERIES BYLAWS**

**VAEGA 8
TULAFONO LAITI O FAIGA FAIVA
I NUU MA AFIOAGA**

- Clause 86:** - empowers a Village Fono to make bylaws for conserving, protecting, managing, developing and sustaining harvest of fish in its village fisheries management area.
- Clause 87:** - obligates village fisheries management committees to monitor village fisheries bylaws.
- Clause 88:** - creates an offence for breaching of village fisheries bylaws.
- Clause 89:** - empowers the CEO acting on the advice of the village Fono to suspend or revoke village fisheries bylaws.

**PART 9
MISCELLANEOUS**

- Clause 90:** - prohibits persons from dealing with any fish or fish products that has been taken, transported, sold, etc., in breach of the law of another country or any international conservation and management measures.
- Clause 91:** - protection of personal liability for acts done in good faith when carrying out any function, duty or power under the Act.
- Clause 92:** - empowers the Head of State acting on the advice of Cabinet to make regulations for the purposes of the Act. It empowers the CEO to approve forms for the purpose of the Act.

- Fuaiupu 86:** - ua tuuina atu ai malosiaga i le Fono a Nuu e faia ai tulafono laiti mo le faasaoina, puipuia, faafoe, atiae ma le gafataulimaina o le faaaogāina o i'a i totonu o vaega o ogasami o faiga faiva o pulea e nuu.
- Fuaiupu 87:** - ua noatia ai komiti o faiga faiva e pulea e nuu, e mataitu tulafono laiti o faiga faiva i nuu.
- Fuaiupu 88:** - ua faia ai se soligatulafono mo le solia o tulafono laiti o faiga faiva i nuu.
- Fuaiupu 89:** - ua tuuina atu ai malosiaga i le Ofisa Sili o Pulega, i le faia i luga o le fautuaga a le Fono a nuu, e taofia lē tumau ai pe faalēaogāina tulafono laiti o faiga faiva i nuu.

**VAEGA 9
AIAIGA ESEESE**

- Fuaiupu 90:** - ua faasaina ai tagata mai le tagofia o so o se i'a po o oloa tau i'a, ia na aveina, felauai, faatau atu, ma isi tulaga faapena, ua solia ai le tulafono a se isi atunuu po o so o se faasao faava o malo o faiga tau pulega.
- Fuaiupu 91:** - ua puipuia ai noataga e patino i le tagata lava ia mo gaoioiga na faia i le agaga lelei, ao tauaveina so o se galuega tauave, tiute po o malosiaga i lalo o le Tulafono.
- Fuaiupu 92:** - ua tuuina atu ai malosiaga i Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, e faia ai tulafono faatonutonu mo faamoemoega o le Tulafono. Ua tuuina atu ai foi malosiaga i le Ofisa Sili o Pulega e faamaonia ai pepa faatumu mo le faamoemoe o le Tulafono.

Clause 93: - repeals the Fisheries Act 1988 and the Fisheries (Ban of Driftnet Fishing) Act 1999.

Clause 94: - deals with transitional and saving matters.

Fuaiupu 93: - ua soloia ai le Tulafono o Faiga Faiva 1988 ma le Tulafono o Faiga-Faiva (Faasaina o Faiga-Faiva i Upega Faatafea) 1999.

Fuaiupu 94: - ua tagofia ai mataupu tau soloaiga ma mataupu faasaina.

.....
(Hon LE MAMEA Ropati Mualia)

MINISTER FOR AGRICULTURE AND FISHERIES

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(Hon LE MAMEA Ropati Mualia)

MINISITA O FAATOAGA MA FAIGA FAIVA