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**2015, No.**

**A BILL INTITULED**

**AN ACT** to regulate and control the conservation, management or development of fisheries and the licensing of Samoan fishing vessels and foreign fishing vessels and for related purposes.

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

**PART 1  
PRELIMINARY**

**1. Short title and commencement-**(1) This Act may be cited as the Fisheries Management Act 2015.

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**2015, Nu.**

**O SE TULAFONO TAU FAAOFI UA TAU**

**O SE TULAFONO** e faatonutonu ai faaletulafono ma faafoe ai le faasaoina, pulea po o le atiacina o faiga faiva ma le laiseneina o vaa fagota a Samoa ma vaa fagota mai atunuu i fafo ma mo faamoemoega e fesootai i ai:

**UA FAIA** e le Fono Aoaofa o Samoa i totonu o le Palemene ua potopoto e faapea:

**VAEGA 1  
FAATOMUAGA**

**1. Igoa puupuu ma le amataga-**(1) E mafai ona taua leni Tulafono o le Tulafono o le Pulega o Faiga Faiva 2015.

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

**2. Interpretation-**(1) In this Act, unless the context otherwise requires:

“access agreement” means any bi-lateral or multi-lateral agreement or any other agreement or arrangement entered into under section 17(1);

“act” includes an omission to do the act;

“aircraft” has the meaning in the Civil Aviation Act 1998;

“approved form” means a form approved under section 92(4);

“aquaculture”:

(a) means an activity designed to cultivate or farm fish and other living aquatic resources; and

(b) includes the cultivation, propagation or farming of aquatic organisms from eggs, spawn, spat or seed or by rearing fish or aquatic plant lawfully taken from the wild or lawfully imported into Samoa, or by other similar process.

“aquaculture authorisation” means an authorisation issued under section 39 or 41;

“authorisation” means any of the following:

(a) a high seas authorisation issued under section 24(2);

(b) a Flag State authorisation specified under section 25;

(2) O lenei Tulafono e amata faamamaluina i se aso o le a filifilia e le Minisita.

**2. Faamatalaina o uiga o upu-**(1) I totonu o lenei Tulafono, ae vagana ai ua manaomia e le mataupu se isi uiga e ese ai:

“feagaiga ua ulufale atu i ai”, o lona uiga o so o se feagaiga i le va o ni atunuu se lua po o se feagaiga ma isi atunuu po o so o se isi feagaiga po o se maliega ua sainia i lalo o le fuaiupu 17(1);

“gaoioiga” e aofia ai se mea ua lē faia i le faatinoga o se gaoioiga;

“vaalele” e i ai le uiga i totonu o le Tulafono o Vaalele Sivili 1998;

“pepa faatumu faamaonia,” o lona uiga o se pepa faatumu ua faamaonia i lalo o le fuaiupu 92(4):

“faaolaivai”:

(a) o lona uiga o se gaoioiga ua fuafua e galueaina ai po o le faafaileleina ai i’a ma isi punaoa o meaola i vai; ma

(b) e aofia ai le galueaina, faatupulaia po o le faafaileleina o meaola ninii o le vai mai fua, fua o i’a, figota e i ai pipi ma maso ninii, po o fatu po o e ala i le faatutupuina o i’a, po o laau e ola i le vai na aveese mai le vaomatua, po o ua faaulufale mai faaletulafono i totonu o Samoa, po o e ala i isi gaoioiga faapena.

“faatagaga o le faaolaivai” o lona uiga o se faatagaga ua tuuina atu i lalo o le fuaiupu 39 po o le 41;

“faatagaga” o lona uiga o so o se tasi o itu nei:

(a) o se faatagaga o ogasami maualuluga na tuuina atu i lalo o le fuaiupu 24(2);

(b) o se faatagaga o se Fu’a a le Malo ua faamaotiina i lalo o le fuaiupu 25;

(c) research authorisation issued under section 27;

(d) an aquaculture authorisation issued under section 39 or 41;

(e) transshipment authorisation issued under section 44.

“authorised officer” means a person or category of persons designated or appointed as such under section 9;

“buy” includes:

(a) barter or attempt to barter;

(b) purchase or attempt to purchase;

(c) receive on account or consignment;

(d) purchase or barter for future goods or for any consideration or value; or

(e) purchase or barter as an agent for another person.

“Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for fisheries;

“coastal fisheries” means fisheries within coastal waters;

“coastal waters” means the area of fisheries waters within the limits of territorial sea and internal waters specified by the Maritime Zones Act 1999;

“Compliance Agreement” means the 1993 Food Agriculture Organisation Compliance Agreement 1993 to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas;

“Court” means the District Court or the Supreme Court;

(c) o se faatagaga tau suesuega ua tuuina atu i lalo o le fuaiupu 27;

(d) o se faatagaga o faolaivai ua tuuina atu i lalo o le fuaiupu 39 po o le 41;

(e) o se faatagaga o le toe utaina o i’a i luga o isi vaa na tuuina atu i lalo o le fuaiupu 44.

“tagata ofisa faatagaina” o lona uiga o se tagata po o se vasega o tagata ua filifilia po o ua tofia i sea tulaga i lalo o le fuaiupu 9;

“faatau mai” e aofia ai:

(a) fefaatauaiga o oloa e suia mo isi oloa po o le taumafai e fefaatauai oloa e suia mo isi oloa;

(b) faatau mai po o le taumafai e faatau mai;

(c) mauaina ona o po o o uta o oloa auina atu i vaa;

(d) faatau mai po o fefaatauaiga o oloa e suia mo isi oloa, mo oloa i le lumanai po o mo so o se totogi ua faia po o so o se tau aogā; po o

(e) faatau mai, po o le fefaatauaiga o oloa e suia mo isi oloa, e avea ai o se sooupu mo se isi tagata.

“Ofisa Sili o Pulega” o lona uiga o le Ofisa Sili o Pulega o le Matagaluega e nafa ma faiga faiva;

“faiga faiva i le talafatai” o lona uiga o faiga faiva i totonu o ogasami o le talafatai;

“ogasami i le talafatai” o lona uiga o le vaega o ogasami o faiga faiva i totonu o tapulaa o le sami o le atunuu ma ogasami i totonu o le atunuu ua faamaotiina i totonu o le Tulafono o Sone Tau Folauga i le Sami 1999;

“Feagaiga o le Tausisia” o lona uiga o le Feagaiga o le Tausisia a le Faalapotopotoga a le Lalolagi mo Taumafa ma Faatoaga 1993 e Uunaia ai le Tausisia o Faasao Faava o Malo ma Faiga Tau Pulega e Vaa Fagota i ogasami Maualuluga;

“Faamasinoga” o lona uiga o le Faamasinoga Faaitumalo po o le Faamasinoga Sili;



“craft” means a vessel, aircraft or vehicle;

“designated fishery” means an area within fisheries waters designated as such under section 20;

“driftnet” means a gillnet or other net which is more than 2.5 kilometres in length used to enmesh, entrap or entangle fish;

“driftnet fishing activity” includes a fishing activity using a driftnet and any related activity, including transporting, transshipping and processing a driftnet catch, and provision of food, fuel and other supplies for the vessel used or outfitted for driftnet fishing;

“exclusive economic zone” has the meaning in the Maritime Zones Act 1999;

“fish”:

(a) means an aquatic plant or an aquatic animal, whether piscine or not; and

(b) includes -

(i) an oyster or other mollusc, crustacean, coral, sponge, holothurian (*beche-de-mer*), or other echinoderm, turtle or marine mammal; and

(ii) eggs, spawn, spat or juvenile stages of species under paragraph (a) and subparagraph (i).

“fish aggregating device”:

(a) means a man-made or partly man-made floating, semi-submerged or submerged device (whether or not it is anchored) intended for the purpose of aggregating fish; and

“vaa” o lona uiga o se vaa, vaalele po o se taavale;

“ogasami faatulagaina o faiga faiva” o lona uiga o se vaega i totonu o ogasami faatulagaina o faiga faiva ua faapea ona aiaia i lalo o le fuaiupu 20;

“upega faatafea” o lona uiga o se upega tili po o isi upega e sili atu i le 2.5 kilomita le umi, e faaaogā e pue ai, mailei ai po o le faalave ai o i’a;

“gaoioiga tau faiga faiva i upega faatafea,” e aofia ai se gaoioiga tau faiga faiva e faaaogāina ai se upega faatafea ma so o se gaoioiga e fesootai i ai, e aofia ai le felauaiga, toe utaina i luga o isi vaa ma le faagaioioiga o i’a na maua i upega faatafea, ma le saunia o taumafa, suauu ma isi oloa mo le vaa o faaaogāina, po o ua faatotogaina mo faiga faiva i upega faatafea;

“sone faapitoa tau i le tamaoiga” e i ai lona uiga i totonu o le Tulafono o Sone Tau Folauga i le Sami 1999;

“i’a”:

(a) o lona uiga o se laau po o se meaola o le sami e tusa lava po o i’a e mafai ona taumafaina pe leai ai foi; ma

(b) e aofia ai -

(i) se faisua laitiiti po o isi figota fai atigi, meaola fai atigi (*ula ma pa’a*), ‘amu, meaola o le sami e lē apoina le suavai, peva, po o isi ituaiga limu eseese, laumei po o mamele o le gataifale; ma

(ii) fua, fofoina, pipi po o maso laiti po o o lo o i le laasaga o le faafaileleina o meaola laiti o taua i lalo o le parakalafa (a) ma le parakalafa laitiiti (i).

“pole fagota”:

(a) o lona uiga o se pole e faia e tagata, po o e faia se vaega e tagata e opeopea, pole e opeopea le isi pito ae magoto le isi po o se pole e opeopea (tusa lava pe o taulaina pe leai foi) ua faamoemoe e faaputupuina ai i totonu i’a; ma

- (b) includes a natural floating object on which a device has been placed to facilitate its location.
- “fish processing” means the producing of a substance, article or matter from fish by a method that includes the cutting, dismembering, cleaning, sorting, loining, freezing, canning, salting or preserving of fish;
- “fish product” includes a product which has fish as an ingredient or component;
- “Fish Stocks Agreement” means the Agreement for the Implementation of the provision of the Law of the Sea on the conservation and management of straddling fish stocks and highly migratory fish stocks 1995;
- “Fisheries Division” or “Division” means the division of the Ministry responsible for fisheries management;
- “fisheries management plan” means a plan made under section 21;
- “fisheries organisation” includes a global, regional or sub-regional fisheries organisation;
- “fisheries treaty” or “treaty” means a treaty entered into under section 17(1), and includes an agreement or arrangement entered into under that section;
- “fisheries officer” means an employee of the Ministry within the Fisheries Division that is responsible for the administration of this Act;
- “fisheries waters”:
- (a) means the waters of the territorial sea, the exclusive economic zone and internal waters including lagoons as defined in the Maritime Zones Act 1999; and

- (b) e aofia ai se meafaitino e opeopea moni lea o lo o tuu ai i luga se pole e faigofie ai lona tulaga.
- “gaosiga o i’a” o lona uiga o le aumaia o se vailaau, meafaitino po o se mea mai i’a e ala i le faaaogāina o se uga lea e aofia ai le tipiina, pena, faamama, faavasegaina, aisaina, faamaloina i le aisa, tuuapa, faamasima po o le togafitia e puipuia ai mai le vave leaga;
- “oloa tau i’a” e aofia ai se oloa lea e aveia ai le i’a ma se tasi o ona vaega o gaosia ai po o se vaega ua tuufaatasia i ai;
- “Feagaiga o Oloa Tau I’a” o lona uiga o le Feagaiga mo le Faatinoga o aiaiga o le Tulafono o le Sami e faasino i le faasaoina ma le puleaina o i’a e fegasoloai faavaitaimi mai lea nofoaga i le isi nofoaga lea na faia i Niu Ioka i le 1995;
- “Vaega o Faiga Faiva” po o le “Vaega” o lona uiga o le vaega o le Matagaluega e fitoitonu ma le puleaina o faiga faiva;
- “fuafuaga o le pulega o faiga faiva” o lona uiga o se fuafuaga ua faia i lalo o le fuaiupu 21;
- “faalapotopotoga o faiga faiva” e aofia ai se faalapotopotoga a le lalolagi, faaitulagi po o se faalapotopotoga laitiiti faaitulagi o faiga faiva;
- “feagaiga tau faiga faiva: po o le “feagaiga” o lona uiga o se feagaiga ua sainia i lalo o le fuaiupu 17(1), ma e aofia ai se maliega po o se faatulagaga ua ofi atu i ai i lalo o lea fuaiupu;
- “tagata ofisa o faiga faiva” o lona uiga o se tagata faigaluega o le Matagaluega i totonu o le Vaega o Faiga Faiva lea e fitoitonu ma le faafoega o lenei Tulafono;
- “ogasami o faiga faiva”:
- (a) o lona uiga o ogasami o le sami o le atunuu, sone faapitoa tau le tamaoaiga ma ogasami i totonu o le atunuu e aofia ai le aloalo e pei ona faamatalaina i le Tulafono o Sone Tau Folauga i le Sami 1999; ma

(b) includes any other waters over which the Government has fisheries jurisdiction.

“fishery” means one or more stocks of fish or a fishing operation based on those stocks which can be treated as a unit for purposes of conservation and management, taking into account geographical, scientific, social, technical, recreational, economic, and other relevant characteristics;

“fishery allocation” means a fishery allocation made under section 36;

“fishing” or “fishing activity” means:

- (a) searching for, catching, fishing or harvesting fish;
- (b) the attempted searching for, catching, fishing or harvesting of fish;
- (c) engaging in any activity which can reasonably be expected to result in locating, catching, fishing or harvesting fish;
- (d) placing, searching for or recovering a fish aggregating device or associated equipment including radio beacons;
- (e) an operation at sea in support of or in preparation for an activity described in paragraphs (a) to (d) excluding an operation within the meaning of “related activities”; or
- (f) the use of an aircraft for an activity under paragraphs (a) to (d).

“fishing gear” means a thing that can be used in the act of fishing, including an equipment, an implement, fishing net, rope, line, float, trap, hook, winch, vessel, or aircraft;

(b) e aofia ai so o se isi lava ogasami o lo o i lalo o le puleaga tau faiga faiva a le Malo.

“faiga faiva” o lona uiga o le tasi po o le sili atu o oloa tau i’a po o se gaoioiga tau faiga faiva e faavae i luga o i’a po o oloa tau i’a ia e mafai ona tagofia e aveva o se vaega mo faamoemoega o le faasao ma le puleaina, i le amanaia ai o le tulaga o taoto ai le atunuu, uiga vaaia faasaienisi, agafesootai, tau tomai, faamallosia o le tino ma le mafaufau, tamaoaiga, ma isi lava uiga vaaia talafeagai;

“faatulagaga tau faiga faiva” o lona uiga o se faatulagaga tau faiga faiva ua faia i lalo o le fuaiupu 36;

“fagotaina” po o “gaoioiga tau fagotaga” o lona uiga

- (a) o le sueina o, fagotaina, faia o faiva po o le faaaogāina o i’a;
- (b) o le taumafai e sueina, fagotaina, faia o faiva po o le faaaogāina o i’a;
- (c) auai i so o se gaoioiga lea e mafai ona talafeagai ai le taunuu i le mauaina, pueina, fagotaina po o le faaaogāina o i’a;
- (d) tuuina i ai, sailia mo po o le toe mauaina mai o se pole fagota, po o mea fagota e fesootai i ai e aofia ai faailoilo tau leitio;
- (e) se gaoioiga i luga o le sami e lagolago atu i po o, e sauniuni ai mo se gaoioiga ua faamatalaina i le parakalafa (a) e oo atu i le (d) e lē aofia ai se gaoioiga o lo o i le uiga o “gaoioiga e fesootai i ai”; po o
- (f) le faaaogāina o se vaalele mo se gaoioiga o lo o taua i lalo o le parakalafa (a) e oo atu i le (d).

“mea fagota mo faiga faiva” o lona uiga o se mea lea e mafai ona faaaogāina i le faatinoga o faiga faiva, e aofia ai se meafaigaluega, se mea e mafai ona faaaogāina mo faiga faiva, upega fagota, maea, laina, pole, pa, matau, masini mo le tosoina o maea, vaa, po o vaalele;

“fishing right” means a statutory fishing right granted under section 37;

“fishing vessel” means a vessel, ship or other craft that is used for, equipped to be used for or of a type that is normally used for fishing or related activities;

“Flag State”, for a foreign vessel, means the country in which the vessel is registered and whose Flag the vessel flies;

“Flag State authorisation” means a Flag State authorisation specified under section 25;

“foreign vessel” means a vessel that is not a Samoan vessel;

“foreign fishing vessel” means a vessel that is not a Samoan fishing vessel;

“high seas” means all areas of the sea that are outside the fishery waters of Samoa or of any other country;

“high seas authorisation” means an authorisation issued under section 24(2);

“hot pursuit” means the pursuit of a vessel under Article 111 of the Law of the Sea;

“international conservation and management measures” means:

(a) measures to conserve and manage one or more species of living marine resources that are adopted and applied by global, regional or subregional fisheries organisations; or

(b) arrangements, consistent with the relevant rules of international law set out in the Law of the Sea and the Fish Stocks Agreement, or under treaties

“aia tatau tau faiga faiva” o lona uiga o se aia tatau faaletulafono mo faiga faiva ua tuuina atu i lalo o le fuaiupu 37;

“vaa fagota” o lona uiga o se vaa laitiiti, vaa lapoa po o isi vaalele ia e faaaogāina mo, ua faatotogaina e faaaogā mo, po o, se ituaiga lea e masani ona faaaogāina mo faiga faiva po o gaoioiga e fesootai i ai;

“Malo e ona le Fu’a”, mo se vaa mai atunuu i fafo, o lona uiga o le atunuu lea o lo o faaamauina ai le vaa ma e ana le Fu’a lea o lo o tauave e le vaa;

“Faatagaga a le Malo e ona le Fu’a” o lona uiga o se faatagaga a le Malo e ana le Fu’a ua faamaoti i lalo o le fuaiupu 25;

“vaa mai atunuu ese” o lona uiga o se vaa e le o se vaa o Samoa;

“vaa fagota mai atunuu ese” o lona uiga o se vaa lea e le o se vaa fagota o Samoa;

“ogasami maualuluga” o lona uiga o nofoaga uma o le sami ia o lo o i tua atu o ogasami o faiga faiva o Samoa po o, o so o se isi lava atunuu;

“faatagaga o ogasami maualuluga” o lona uiga o se faatagaga ua tuuina atu i lalo o le fuaiupu 24(2);

“tuliloaina” o lona uiga o le tuliloaina o se vaa i lalo o le Mataupu 111 o le Tulafono o le Sami;

“faasao faava o malo ma faiga tau pulega” o lona uiga:

(a) o auala e faasaoina ai ma pulea le tasi po o le sili atu o ituaiga o punaoa o lo o ola i le gataifale ia o lo o faaaogāina ma mulimulitaia e faalapotopotoga a le lalolagi, po o faalapotopotoga faaitulagi po o faalapotopotoga laiti faaitulagi tau faiga faiva; po o

(b) faatulagaga, e ogatasi ma tulafono faafoe talafeagai o tulafono faava o malo ua aiaia i le Tulafono o le Sami ma le Feagaiga o Oloa Tau I’a, po o lalo

or arrangements to which Samoa is a party or is a cooperating non-contracting party.

“Law of the Sea” means the United Nations Convention on the Law of the Sea 1982;

“licensed fishing vessel”:

(a) means a fishing vessel licensed under section 28; and

(b) includes a fishing vessel licensed under a fishery treaty; and

(c) “licence” has a corresponding meaning.

“master” for a vessel:

(a) means the person-in-command or in-charge, or for the time being in-charge, or apparently in-command or in-charge of the vessel; and

(b) includes the pilot of an aircraft or the driver of a vehicle; but

(c) does not include a pilot on board a vessel solely for the purpose of navigation.

“Minister” means the Minister responsible for fisheries;

“Ministry” means the Ministry responsible for fisheries;

“Mobile Transceiver Unit” or “MTU” means a device, (approved, installed, maintained and operated on a fishing vessel under section 48) which transmits (either in conjunction with any other device or devices or independently) information or data concerning the position and any fishing or other activities of the vessel;

“net sharing” means the transfer of excess fish taken for the purpose of retaining the fish on another purse seine vessel belonging to the same fishing company if the well space is not sufficient to accommodate all fish caught in the final set of a fishing trip;

o feagaiga po o faatulagaga lea o ave'a ai Samoa ma vaega auai po o, se vaega auai e galulue faatasi i le aunoa ai ma se feagaiga.

“Tulafono o le Sami” o lona uiga o le Feagaiga a Malo Afaatasi e faasino i le Tulafono o le Sami 1982;

“vaa fagota ua laiseneina”:

(a) o lona uiga o se vaa fagota ua laiseneina i lalo o le fuaiupu 28; ma

(b) e aofia ai se vaa fagota ua laiseneina i lalo o se feagiga tau faiga faiva; ma

(c) “laisene” e i ai lona uiga tutusa.

“aliivaa” mo se vaa:

(a) o lona uiga o le tagata o lo o pule po o lo o vaavaaia, po o mo le taimi lea o va'aia, po o ua manino lona pule po o le vaavaaia o le vaa; ma

(b) e aofia ai le pailate o se vaalele po o le ave taavale o se taavale; ae peitai

(c) e lē aofia ai se pailate o lo o i luga o se vaa mo na o le faamoemoe e faatautaia.

“Minisita” o lona uiga o le Minisita e fitoitonu ma faiga faiva;

“Matagaluega” o lona uiga o le Matagaluega e fitoitonu ma faiga faiva;

“Leitio Ualesi Feaveai (MTU)” o lona uiga o se masini, (ua faamaonia faapipiina, tausia ma faagaoioia i luga o se vaa fagota i lalo o le fuaiupu 48) lea o lo o faaliliuina ai (a le o le faaaogā faatasi ma se isi lava masini po o ni masini po o le faaaogāina na o ia) faamatalaga po o faamaumauga tusitusia e uiga i le nofoaga o i ai ma so o se faiga faiva, po o isi gaoioiga a le vaa;

“faasoaina atu o ia ua sili atu” o lona uiga o le toe aveina atu o i'a ua sili atu na maua mai mo le faamoemoe o le taofia ai o ia i se isi vaa o le kamupani vaa fagota lava lea pe afai ua lē ofi ma le lava le nofoaga e tuuina ai i'a uma na fagotaina i le faiva mulimuli o se vaa;

“non-target species” includes fish and non-fish species not being sought by a fishing vessel;

“notoriously accurate” means that the substance or its content is presumed to be correct in any material aspect;

“observer” means a person appointed as such under section 10;

“operator”, for a vessel:

(a) means the person who, by virtue of ownership, a lease, a sub-lease, a charter or a sub-charter or otherwise, has lawful possession and control of the vessel; and

(b) includes the master, owner or charterer of the vessel.

“owner”, for a fishing vessel:

(a) means a person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge any of the powers or duties of the owner whether on his or her own behalf or on behalf of another; and

(b) includes -

(i) a person who is the owner jointly with any other person or persons; or

(ii) a manager, director or secretary of a body corporate or company.

“property”:

(a) means -

(i) any conveyance, including a vessel, vehicle or aircraft; or

(ii) any fishing gear, implement, appliance, material, container, goods, or equipment; and

“ituaiga i’a e le o fuafua e fagotaina” e aofia ai i’a ma ituaiga e le o ni i’a o sailia i se faiga faiva a se vaa fagota;

“e le o mailoa le sao atoatoa” o lona uiga ua taumateina le sao atoatoa o le vailaau po o mea o aofia ai i so o se tulaga faapitoa;

“tagata e mataituina” o lona uiga o se tagata ua tofia e aveva ma sea tagata i lalo o le fuaiupu 10;

“tagata e faagaoioia”, mo se vaa:

(a) o lona uiga o le tagata o ia lea, e ala i lona umiaina o se isi, se lisi laitiiti, le togipauina po o le totogipau na o se vaega po o se isi faiga e ese ai, ua ia umia faaletulafono ma faatonutonuina le vaa; ma

(b) e aofia ai le aliivaa, tagata e ona po o le tagata o lo o ia togipauina le vaa.

“tagata e ona”, mo se vaa fagota:

(a) o lona uiga o se tagata o lo o faatinoina po o tauaveina, po o talosagaina le aia tatau, po o le taliaina o le noataga e faatino pe tauaveina ai so o se malosiaga, po o tiute tauave o lē e ona tusa lava po o le tulai mo ia lava, po o le aveva ai ma sui o se isi tagata; ma

(b) e aofia ai -

(i) se tagata o ia lea e umiaina faatasi ma so o se isi tagata po o tagata; po o

(ii) se pule, faatonu po o se failautusi a se faalapopotoga ua tuufaatasia faaletulafono po o se kamupani.

“meatotino”:

(a) o lona uiga -

(i) o so o se ala o felauaiga, e aofia ai se vaa, taavale po o se vaalele; po o

(ii) so o se mea fagota, meafaitino e faaaogā, meafaigaluega e alu i le uila, meafaitino, pusa lapopoa, oloa, po o meafaigaluega; ma

(b) for the purposes of Divisions 2 and 3 of Part 6, includes fish or a thing or article specified under section 55(1)(b) or (c); but

(c) does not include a fishing right or fishery allocation.

“Regional Register” means the Regional Register of foreign fishing vessels maintained by the Pacific Islands Forum Fisheries Agency;

“Registrar” means the Registrar of the Court;

“related activities” includes doing, attempting or preparing to do any or more of the following activities:

- (a) transshipment of fish or fish products to or from any vessel;
- (b) storing, processing, or transporting from fishery waters up to the time the fish or fish products are first landed;
- (c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations;

“research authorisation” means an authorisation issued as such under section 27;

“Ports Authority” means the Samoa Ports Authority established by the Ports Authority Act 1998;

“Samoan” means a citizen of Samoa;

“Samoan fishing vessel” means:

- (a) a vessel which is registered under the Shipping Act 1998, and includes a Samoan chartered fishing vessel; and
- (b) the fishing vessel is wholly owned and controlled by -

(i) the Government; or

(b) mo faamoemoega o le Vaega 2 ma le 3 o le Vaega 6, e aofia ai i’ a po o se mea, po o meafaitino ua faamaoti mai lalo o le fuaiupu 55(1)(b) po o le (c); ae peitai

(c) e lē aofia ai se aia tatau tau faiga faiva po o faatulagaga tau faiga faiva.

“Tusi Resitala Faaitulagi” o lona uiga o le Tusi Resitala Faaitulagi o vaa fagota mai atunuu ese e tausia e le Lala Sooupu o Faiga Faiva a Atumotu o le Pasefika;

“Resitara” o lona uiga o le Resitara o le Faamasinoga;

“gaoioiga e fesootai i ai” e aofia ai le faia, taumafai po o le sauniuni e faia so o se tasi po o le sili atu o gaoioiga nei:

- (a) toe utaina o i’ a po o oloa tau i’ a i luga o isi vaa i, po o, mai so o se vaa;
- (b) teuina, gaosia, po o le felauaiga mai ogasami o faiga faiva e oo atu i le taimi e toai taunuu ai i’ a po o oloa tau i’ a;
- (c) toe utuina o suauu po o le tuuina atu o mea e faaaogā i vaa fagota po o le faatinoga o isi gaoioiga e lagolago ai faagaoioiga tau faiga faiva i vaa fagota.

“faatagaga tau suesuega” o lona uiga o se faatagaga ua tuuina atu faapea i lalo o le fuaiupu 27;

“Pulega o Taulaga” o lona uiga o le Pulega o Taulaga o Samoa ua faavaeina i lalo o le Tulafono o Pulega o Taulaga 1998;

“Tagata Samoa” o lona uiga o se tagatanuu o Samoa;

“vaa fagota o Samoa” o lona uiga:

- (a) o se vaa lea ua faamauina i lalo o le Tulafono o Vaa 1998, ma e aofia ai se vaa fagota togipau o Samoa; ma
- (b) le vaa fagota lea o lo o umia atoatoa ma faatonutonuina e -

(i) le Malo; po o

(ii) a company or other entity incorporated or established under the laws of Samoa, at least 60% of which is beneficially owned by a Samoan or the Government; or

(iii) a Samoan; or

(iv) a joint venture, consortium or partnership arrangement or agreement between two (2) or more parties, if at least 60% of the beneficial ownership and control of the joint venture, consortium or partnership is vested in a Samoan or the Government.

“sell” includes:

- (a) a disposition for consideration, including cash, anything which has value or which can be exchanged for cash, other valuable consideration or barter;
- (b) a disposition to an agent for sale on consignment;
- (c) offering or attempting to sell, or receiving or having in possession for sale, or displaying for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or displayed for sale;
- (d) disposition by way of any game of chance, including raffle or lottery.

“surveillance officer” includes an officer of a vessel or aircraft who enforces this Act (whether or not the officer is a Samoan or whether or not the vessel or aircraft is registered in Samoa);

(ii) se kamupani po o isi faalapotopotoga ua tuufaatasia po o ua faavaeina i lalo o tulafono o Samoa, a itiiti mai e 60% e umia ma faamanuiaina ai se tagata Samoa po o le Malo; po o

(iii) se tagata Samoa; po o

(iv) se galuega soofaatasi, vaega o tagata po o faatulagaga faapaaga, po o se maliega i le va o le lua (2) po o le sili atu o vaega auai pe afai a itiiti mai e 60% o le tulaga umia o faamanuiaga ma le vaavaaiga o galuega soofaatasi, vaega o tagata po o le faiga paaga o lo o faaee atu i se tagata Samoa po o le Malo.

“faatau atu” e aofia ai:

- (a) le faamatuina atu mo tau tau tupe, e aofia ai tinoitupe, so o se mea e i ai sona tau aogā po o, mea ia e mafai ona faafesuiai mo tinoitupe, o isi tupe o tau aogā po o fefaatauaiga o oloa;
- (b) le faamatuina atu i se sooupu mo le faatauina atu i luga o uta o oloa o lo o felauai i ala o felauaiga;
- (c) ofoina atu po o le taumafai e faatau atu, po o le taulimaina, po o le umia ai mo le faatauina atu, po o le faalauiloina e faatau atu, po o le faaoo atu po o le faaooina atu e faatau, po o le faapogai pe faatagaina ina ia faatau atu, ofoina po o le faalauiloa mo le faatauina atu;
- (d) le faamatuina atu e ala i so o se taaloga o matematega, e aofia ai lulu po o le loto.

“tagata ofisa e mataituina gaoioiga masalomia” e aofia ai se tagata ofisa o se vaa po o se vaalele lea o lo o faamalosi lenei Tulafono (tusa lava pe o se tagata Samoa pe leai foi le tagata ofisa po o, tusa foi pe o faamauiina pe leai foi le vaa po o le vaalele i totonu o Samoa);



“sustainable use” means conserving, using, enhancing, or developing marine resources to enable persons to provide for their social, economic, or cultural wellbeing while:

- (a) maintaining the potential of marine resources to meet the reasonably foreseeable needs of future generations; or
- (b) avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment.

“transhipment”:

- (a) means the transfer of any or all of the fish on board of a vessel onto another vessel, either directly or by off-loading the fish from the vessel onto the shore and then immediately loading the fish onto another vessel, for the purposes of transporting that fish elsewhere; but

- (b) does not include net sharing.

“transhipment authorisation” means an authorisation issued under section 44;

“tuna” means any fish of the *Scombridae* species;

“vehicle” has the meaning in the Road Traffic Ordinance 1960;

“vessel” has the meaning in the Shipping Act 1998;

“Vessel Monitoring System Information” means any data or information generated, obtained or collected about the operation of the vessel as required under section 50;

“Vessel Monitoring System Register” means a register of vessels monitoring system established and maintained by the Pacific Islands Forum Fisheries Agency;

“faaaogā gafataulimaina” o lona uiga o le faasaoina, faaaogāina, faamalosia, po o le atiaeina o punaoa o le gataifale e mafai ai e tagata ona tausia o latou olaga lautele, tau tamaoaiga, po o le soifua manuia faaleaganuu a o:

- (a) faatumauina ai le avanoa i punaoa o le gataifale e faamalieina ai manaoga talafeagai i le silasila mamao i le lumanai o tupulaga fai mai; po o
- (b) le aloese mai ai, foia, po o le faaleleia o ni aafiaga tuga i faiga faiva i le siosiomaga o meaola ma figota o le sami.

“o le toe utaina o ia i luga o isi vaa”:

- (a) o lona uiga o le fesiitaiga o so o se i’a po o i’a uma o i luga o se vaa i se isi vaa, a le faia i se tulaga tuusao po o e ala i le laueseina mai o i’a mai le vaa i luga o le matafaga ona toe vave uta loa lea i luga o se isi vaa, mo faamoemoega o le felauaiga o ia i’a i se isi nofoaga; ae peitai

- (b) e lē aofia ai le faasoaga o i’a ua totoe;

“faatagaga o le toe utaina i isi vaa” o lona uiga o se faatagaga ua faamatuu atu i lalo o le fuaiupu 44;

“tuna” o lona uiga o so o se i’a o le ituaiga o le “*Scombridae*”;

“taavale” e i ai lona uiga i le Tulafono o Taavale Feoai i Luga o Ala Tetele 1960;

“vaa” e i ai lona uiga i le Tulafono o Vaa 1998;

“Faamatalaga mai Faiga e Mataituina ai Vaa” o lona uiga o so o se faamatalaga faamaumauina po o faamatalaga e afua mai, mauaina po o e aoina mai e faasino i le faagaoioga o le vaa, e pei ona manaomia ai i lalo o le fuaiupu 50;

“Tusi Resitala o Faiga o Mataituina ai Vaa” o lona uiga o se tusi resitala o faiga e mataituina ai vaa ua faavaeina ma tausia e le Lala Sooupu o Faiga Faiva a le Fono o Atumotu o le Pasefika;

“village Fono” has the meaning in the Village Fono Act 1990;

“village fisheries bylaws” or “by laws” means bylaws made under Part 8;

“village fisheries management area” or “management area” means any area of the coastal fisheries waters designated as such under section 19;

“village fisheries management committee” means a committee established by a village Fono under its approved fishery management plan.

(2) The validity of any matter required to be published under this Act is not affected if the matter is, for any reason, not published.

**3. Application-**(1) This Act binds the Government.

(2) This Act applies to an act committed:

- (a) by a person within the fishery waters;
- (b) outside the fishery waters by a Samoan or a person ordinarily resident in Samoa, as if the act were committed in Samoa; or
- (c) outside the fishery waters by a person on board of a Samoan fishing vessel if the act were committed in Samoa.

(3) If:

- (a) an authorised officer or observer is exercising any powers under this Act outside the fishery waters; or
- (b) unless the applicable treaty provides otherwise, a person commits an act, which if committed within the fishery waters would be an offence under this Act,

the exercise of the powers by the officer or observer or the commission of that act by the person is taken to have been committed within the fishery waters.

“fono a nuu” e i ai lona uiga tutusa i le Tulafono o Fono a Nuu 1990;

“tulafono laiti o faiga faiva a nuu” po o “tulafono laiti” o lona uiga o tulafono laiti ua faia i lalo o le Vaega 8;

“nofoaga o pulega o faiga faiva a nuu” po o “nofoaga tau pulega” o lona uiga o so o se nofoaga o ogasami o faiga faiva i le talafatai ua faatulagaina i lalo o le fuaiupu 19;

“komiti o le pulega o faiga faiva a nuu” o lona uiga o se komiti ua faavaeia e se Fono a se nuu, i lalo o lana fuafuaga faamaonia o le pulega o faiga faiva.

(2) O le a lē aafia le tulaga aloaia o so o se mataupu ua manaomia le lomía faasalalau i lalo o lenei Tulafono, pe afai, mo so o se mafuaaga, e lē lomaiaina faasalalau.

**3. Faaaogāina-**(1) O lenei Tulafono e noatia ai le Malo.

(2) O lenei Tulafono e faaaogā i se gaoioiga ua faia:

- (a) e se tagata i totonu o ogasami o faiga faiva;
- (b) i fafo atu o ogasami o faiga faiva, e se tagata Samoa po o se tagata e masani ona nofo i totonu o Samoa, e faapei ai na faia le gaoioiga i totonu o Samoa; po o
- (c) fafo atu o ogasami o faiga faiva, e se tagata o i luga o se vaa fagota o Samoa, e faapei ai na faia le gaoioiga i totonu o Samoa.

(3) Afai:

- (a) o faatinoina e se tagata ofisa faatagaina po o se tagata e mataituina so o se malosiaga i lalo o lenei Tulafono i fafo atu o ogasami o faiga faiva; po o
- (b) vagana ai ua aiaia i se isi faiga e ese ai i se feagaiga talafeagai, ua faia e se tagata se gaoioiga lea pe ana faapea e faia i totonu o ogasami o faiga faiva, o le a avea ma soligatulafono i lalo o lenei Tulafono,

o le faatinoga o malosiaga e le tagata ofisa po o le tagata e mataituina, po o le faia o lea gaoioiga e le tagata, ua faatatauina e faapea, na faia i totonu o ogasami o faiga faiva.

(4) An act on the high seas by a person referred to in subsection (2)(b) or (c), which if committed within the fishery waters would be an offence under section 25 is taken to have been committed within the fishery waters.

(5) If any regulation or a licence condition requires specifically or incidentally the reporting of any fact while a vessel is on the high seas, proceedings may be taken for the failure to report or for the misreporting of the fact as if it had occurred within the fishery waters.

#### **4. Approaches and principles of conservation and management measures-**

(1) A person must consider the approaches set out under subsection (2) and the principles of conservation and management measures set out under subsection (3) if that person:

- (a) is carrying out any function, duty or power under this Act; or
- (b) deals with a matter relating to any or more of the following -
  - (i) the management and conservation of fisheries in Samoa;
  - (ii) the regulation, control, or management of a substance;
  - (iii) any other matter which may adversely impact upon Samoa's fisheries.

(2) For the purposes of subsection (1), the approaches to be considered are:

- (a) the precautionary approach (as described in the Fish Stocks Agreement) is to be applied widely to the conservation and management of fishery resources in order to protect those resources and

(4) O se gaoioiga e faia i sami maualuluga e se tagata ua taua i le faafuuiupu (2)(b) po o le (c), lea pe a na faia i totonu o ogasami o faiga faiva o le a avea ma soligatulafono i lalo o le fuaiupu 25, ua faatatauina lava na faia i totonu o ogasami o faiga faiva.

(5) Afai o manaomia faapitoa po o e faaono manaomia e so o se tulafono faatonutonu, po o se tuutuuga o se laisene le lipoti atu o so o se mea moni a o i ai le vaa i sami maualuluga, e mafai ona faia taualumaga mo le lē mafai ai ona lipotia, po o, mo le sese ona lipotia o le mea moni e faapei ai na tulai mai i totonu o ogasami o faiga faiva.

#### **4. Taumafaiga ma taiala o auala e faatonutonu ai faasao ma pulega tau faiga faiva-**

(1) E ao i se tagata ona fuafua taumafaiga ua faatulaga atu i lalo o le faafuuiupu (2), ma taiala o auala e faatonutonu ai faasao ma pulega ua faatulaga atu i lalo o le faafuuiupu (3) pe afai o lea tagata:

- (a) o lo o ia tauaveina so o se matafaioi, tiute po o malosiaga i lalo o lenei Tulafono; po o
- (b) o lo o ia tagofiaina se mataupu e faasino i so o se tasi po o le sili atu o itu nei:
  - (i) o le pulega ma le faasao o faiga faiva i Samoa;
  - (ii) o le faatonutonuina, vaavaaiga, po o le faafoega o se vailaau oona;
  - (iii) so o se isi lava mataupu lea e mafai ona aafia matuia ai faiga faiva i Samoa.

(2) Mo faamoemoega o le faafuuiupu (1), o tauamafaiga e ao ona iloiloina:

- (a) o le taumafaiga lea tau lapataiga (e pei ona faamatalaina i le Feagaiga o Oloa Tau I'a) e ao ona faaaogāina faalauaitetele i le faasoina ma le puleaina o punaoa tau i'a ina ia puipuia ai nei

to preserve the aquatic ecosystems in which the resources occur, and in particular the person making the decision or taking action must -

(i) be more cautious when information is uncertain, unreliable, or inadequate; and

(ii) not use the absence of adequate scientific information as a reason for postponing or failing to take conservation and management measures; and

(iii) take account of best practices regarding the application of the precautionary approach, including Annex II of the Fish Stocks Agreement; and

(iv) take into account livelihoods and users of aquatic living resources;

(b) the ecosystem approach is to be applied widely to the conservation and management of fishery resources through an integrated approach under which decisions for the management of fishery resources are considered in the context of the functioning of the wider ecosystems in which the resources occur to ensure the long-term conservation and sustainable use of those resources and in doing so safeguard those ecosystems.

(3) For the purposes of subsection (1), the principles of conservation and management measures to be considered are:

(a) any dealings with conservation and management of fishery resources must be conducted in a transparent, accountable and inclusive manner, taking into account applicable best international or regional practices;

punaoa ma, faasaoina ai meaola ma o latou siosiomaga i le sami, ia o lo o tulai mai ai, ma aemaise lava, e ao i le tagata lea e faia le faaiuga po o le faia o gaoioiga ona -

(i) matua faeteete pe afai e lē mautinoa, lē faatuatuaina, po o e lē atoatoa faamatalaga; ma

(ii) aua nei faaaogāina le tulaga o le aunoa ai o faamatalaga atoatoa faasaienisi e aveva ma mafuaaga o le toloina po o le lē mafai ai ona faatino auala e faatonutonu ai le faasao ma le pulega; ma

(iii) ia amanaia faatinoga aupito sili ona lelei e uiga i le faaaogāina o tauamafaiga tau lapataiga, e aofia ai le Pepa Faaopoopo II o le Feagaiga o Oloa Tau I'a; ma

(iv) amanaia tulaga e tua i ai le tausiga o i latou o lo o faaaogāina punaoa o meaola ma figota o le sami;

(b) e ao ona faaaogāina faalauaitete taumafaiga e faasao ai ma pulea i'a ma o latou siosiomaga, e ala i se taumafaiga tuufaatasi lea e mafai ai ona fuafuaina faaiuga mo le puleaina o punaoa tau faiga faiva i le faagaoioiga lelei o le siosiomaga lautele o i'a ma punaoa o le gataifale e faamautinoa ai le faasaoina i se vaitaimi umi ma faaaogā gafataulimaina nei punaoa, ma i le faia ai o lea tulaga, o lea a mafai ai ona puipuia lelei lea siosiomaga.

(3) Mo faamoemoega o le faafuaiupu (1), o taiala o faasao ma faiga tau pulega e ao ona iloiloina:

(a) e ao ona faatautaia le tagofia o faasao ma le pulega o punaoa tau i'a i se tulaga lelei ma manino, ia mafai ona tali atu ma ia aofia faatasi uma ai mea nei i le amanaia ai faatinoga aupito sili ona lelei faava o malo ma faatinoga faaitulagi;

- (b) fishing to commensurate with the sustainable use of fishery resources taking into account the impacts on non-targeted and associated or dependent species and the general obligation to protect and preserve the marine environment;
  - (c) management decisions are based on the best information available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, or any other approved reference points, as qualified by relevant environmental, social and economic factors, and taking into account fishing patterns and the interdependence of stocks;
  - (d) over-fishing and excess fishing capacity are to be prevented or eliminated;
  - (e) full and accurate data on fisheries, including information relating to the ecosystems and social systems in which fisheries occur, are to be collected, verified, reported and shared in a timely and appropriate manner;
  - (f) effective enforcement of, and compliance with, conservation and management measures are to be pursued to protect biodiversity;
  - (g) pollution and waste originating from fisheries operations, discards, by-catch, lost or abandoned gear and impacts on other species and marine ecosystems are to be minimised;
  - (h) decisions and actions taken are to improve the welfare and livelihood of fishers and the fishing community.
- (b) o faiga faiva e talafeagai tutusa ma le faaaogā gafataulimaina o punaoa tau i'a i le amanaia ai o aafiaga i ituaiga o meaola e le o fagotaina ma tuufaatasi po o le ola tutoatasi, ma noataga lautele e puipuia ai ma faasao le siosiomaga i le gataifale;
  - (c) ia faavae faaiuga tau pulega i luga o faamatalaga faatuatuaina o i ai ma fuafuaina e faatumauina ai, po o le toe faaleleia ai o oloa tau i'a ua tuuina atu, po o so o se isi lava itu ua taua e faamaonia le agavaa ma talafeagai i le tulaga tau siosiomaga, tau agafesootai ma le tamaoaiga, ma amanaia ai ituaiga faiga faiva ma oloa tau i'a eseese;
  - (d) ia puipuia po o le taofia o le soona fagotaina ma le sili atu o le aofai o i'a e fagotaina;
  - (e) ia aoina mai, faamaonia, lipotia ma fefaasoai i se taimi e tatau ai ma i se faiga talafeagai faamaumauga sao ma atoatoa e uiga i faiga faiva, e aofia ai faamatalaga e faasino i faiga e iloa ai le siosiomaga o meaola ma tulaga agafesootai ia e faia ai faiga faiva;
  - (f) ia tuliloaina le faamalosi lelei o, ma le tausisia o auala e faatonutonuina ai faasao ma le pulega o i'a ina ia puipuia ai le tulaga o le eseese o siosiomaga o meaola ma o latou siosiomaga;
  - (g) ia faaitiitia le tulaga filogia ma otaota e mafua mai faiga faiva, suavai leaga e faaaogāina i i'a, i'a e le o manaomia, leiloloa po o le tiaina o mea fagota ma aafiaga i isi ituaiga o i'a ma le siosiomaga o meaola o le gataifale;
  - (h) o faaiuga ma gaoioiga uma e faia e tatau ona faaleleia ai le tulaga o le soifua lelei ma le tausiga o tagata faifaiva ma i latou uma o lo o fagotaina le gataifale.

**PART 2  
ADMINISTRATION, TREATIES AND  
FISHERIES MANAGEMENT PLANS**

*Division 1 - Administration*

**5. Chief Executive Officer** - The Chief Executive Officer is the administrative head of Fisheries Division.

**6. Guidelines by Chief Executive Officer**-(1) Subject to subsection (2), the Chief Executive Officer may, issue guidelines for the purposes of carrying out any functions, duties and powers in order to ensure the effective and efficient management of this Act and other enactment.

(2) Any guidelines issued under this section:

- (a) are to be subject to public consultation as the Chief Executive Officer considers appropriate before they are issued;
- (b) must not be inconsistent with this Act or any regulations;
- (c) commence on a date specified in the guidelines by the Chief Executive Officer; and
- (d) may be amended, suspended or revoked by the Chief Executive Officer.

**7. Functions of Fisheries Division**-(1) The Fisheries Division has the following functions:

- (a) to liaise with international, regional, and government agencies and village communities on issues affecting the development and management of fisheries resources and their environment;
- (b) to assist government agencies, villages, non-government organisations and stakeholders meet their obligations under this Act;

**VAEGA 2  
FAAFOEGA, FEAGAIGA MA FUAFUAGA  
TAU PULEGA O FAIGA FAIVA**

*Vaevaega 1 - Faafoega*

**5. Ofisa Sili o Pulega** - O le Ofisa Sili o Pulega o le faauluuluga tau faafoega lea o le Vaega o Faiga Faiva.

**6. Taiala e tuuina atu e le Ofisa Sili o Pulega**-(1) I le noatia ma le fai fuafua i le faafuaiupu (2), e mafai e le Ofisa Sili o Pulega, ona tuuina atu taiala mo faamoemoega o le faatinoga o so o se galuega tauave, tiute ma malosiaga, e faamautinoa ai le pulega lelei atoatoa o lenei Tulafono ma isi tulafono.

(2) So o se taiala ua tuuina atu i lalo o lenei fuaiupu:

- (a) e ao ona noatia i faatalanoaga ma tagata lautele e pei ona manatu le Ofisa Sili o Pulega ua talafeagai ai a o lumanai ai tuuina atu;
- (b) e lē tataua ona lē ogatasi ma lenei Tulafono po o so o se isi tulafono faatonutonu;
- (c) e amata faamamaluina i se aso o lo o faamaoti mai i taiala e le Ofisa Sili o Pulega; ma
- (d) e mafai ona teuteuina, taofia lē tumau pe faalēaogāina e le Ofisa Sili o Pulega.

**7. Galuega Tauave a le Vaega o Faiga Faiva**-(1) O galuega tauave nei a le Vaega o Faiga Faiva:

- (a) ia galulue soofaatasi ma lalasooupu faava o malo, faaitulagi ma lala sooupu a le Malo ma nuu ma afioaga e uiga i mataupu e aafia ai le atinae ma le pulega o punaoa tau i'a ma le latou siosiomaga;
- (b) ia fesoasoani i lala sooupu a le malo, nuu, faalapotopotoga tutoatasi ma tagata e i ai aia, ina ia faamalieina o latou noataga i lalo o lenei Tulafono;

- (c) to advise government agencies, villages and other communities on the management of coastal fisheries resources, aquaculture, environment and the protection and conservation of the fishery resources for the present and future generations of the people of Samoa;
- (d) to monitor activities and proposals in other sectors and advise the Minister concerning their effect on fisheries;
- (e) to establish, operate, maintain, and administer government facilities for fishing and related activities;
- (f) to act in combination or association with any other person whether in Samoa or another country, for the purposes of this Act;
- (g) to manage finance incurred for the purposes of this Act and to collect prescribed fees for services rendered under this Act;
- (h) to carry out any other function determined by the Chief Executive Officer and to do any other thing to give effect to the objects or for the purposes of this Act.

(2) The Chief Executive Officer has the powers necessary to carry out the functions of the Division.

**8. Delegation-**(1) The Minister may delegate the Minister's functions or powers to issue licence under this Act to the Chief Executive Officer.

(2) The Chief Executive Officer may delegate any of his or her functions or powers under this Act to an officer of the Division.

(3) A delegation under this section:

- (a) must not include delegating the power under this section;

(c) ia faufautua i lala soupu a le malo, nuu ma isi afioaga e uiga i le pulega o punaoa tau i'a i le talafatai, meaola ma figota o le sami, siosiomaga ma le pui puiga, faasaoina o punaoa tau i'a mo tupulaga o i ai nei ma le lumanai o Samoa;

(d) ia mataitu gaoioiga ma talosaga i isi vaega ma fautuaina le Minisita e uiga i o latou aafiaga i faiga faiva;

(e) ia faavaeina, faagaoioia, tausia ma puleaina nofoaga ma fale o le Malo mo gaoioiga tau faiga faiva ma isi itu e fesootai i ai;

(f) ia galulue soofaatasi po o le tuufaatasia ma so o se isi lava tagata tusa lava po o i totonu o Samoa po o se isi atunuu, mo faamoemoega o lenei Tulafono;

(g) ia pulea tupe ua faatupulaia mo faamoemoega o lenei Tulafono, ma aoina mai totogifuapauina ua faatonuina mo auunaga ua tuuina atu i lalo o lenei Tulafono;

(h) ia faatino so o se isi lava galuega tauave ua fuafuaina e le Ofisa Sili o Pulega ma ia faia so o se isi lava mea, e faamamaluina ai sini po o, mo faamoemoega o lenei Tulafono.

(2) E i ai i le Ofisa Sili o Pulega malosiaga talafeagai uma e faatino ai galuega tauave a le Vaega o Faiga Faiva.

**8. Tuuina atu o malosiaga-**(1) E mafai e le Minisita ona tuuina atu ana galuega tauave po o malosiaga i le Ofisa Sili o Pulega e tuuina atu ai laisene i lalo o lenei Tulafono.

(2) E mafai e le Ofisa Sili o Pulega ona tuuina atu se tasi po o ana galuega tauave po o malosiaga i lalo o lenei Tulafono, i se tagata ofisa o le Vaega o Faiga Faiva.

(3) O le tuuina atu o malosiaga i lalo o lenei fuaiupu:

- (a) e lē tatau ona aofia ai le tuuina atu o le malosiaga i lalo o lenei fuaiupu;

- (b) must be in writing;
- (c) may be given with or without conditions;
- (d) may be varied, suspended or revoked; and
- (e) does not prevent the Minister or the Chief Executive Officer from carrying out any function or power so delegated.

**9. Appointment of authorised officers in Samoa or other countries-**(1) The Chief Executive Officer may designate other officers of the Ministry or a class of officers from another Ministry as authorised officers.

(2) The following officers are taken to be authorised officers for the purposes of this Act:

- (a) fisheries officers of the Ministry;
- (b) police officers.

(3) The Minister may, acting on the advice of the Chief Executive Officer, appoint a person from another country to be an authorised officer for the purposes of this Act.

**10. Appointment and duties of observers-**(1) The Chief Executive Officer may, in writing, appoint persons as fisheries observers on licensed fishing vessels.

(2) Despite subsection (1), fisheries observers may be designated under any fishery plan or treaty and are so designated if:

- (a) required by any fishery plan or any agreement; or
- (b) a fisheries observer or class of fisheries observers has been certified under an agreement or other bilateral or multilateral treaty to which Samoa is party.

- (b) e ao ona faia i se faiga tusitusia;
- (c) e mafai ona tuuina atu i le i ai faatasi po o le aunoa ai ma tuutuuga;
- (d) e mafai ona fetuunai, taofia lē tumau po o le faalēaogāina; ma
- (e) e lē puipuia ai le Minisita po o le Ofisa Sili o Pulega mai le upu sa faatinoga o so o se galuega tauave, po o malosiaga ua faapea ona tuuina atu.

**9. Tofiga o tagata ofisa faatagaina i totonu o Samoa po o isi atunuu-**(1) E mafai ona tofia e le Ofisa Sili o Pulega isi tagata ofisa o le Matagaluega po o se vasega o tagata ofisa mai se isi Matagaluega e avea ma tagata ofisa faatagaina.

(2) O tagata ofisa nei ua faatatauina e avea ma tagata ofisa faatagaina mo faamoemoega o lenei Tulafono:

- (a) tagata ofisa o faiga faiva o le Matagaluega;
- (b) o leoleo.

(3) E mafai e le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega ona tofia se tagata mai se isi atunuu e avea ma tagata ofisa faatagaina mo faamoemoega o lenei Tulafono.

**10. Tofiga ma tiute tauave o tagata e mataituina-**(1) E mafai e le Ofisa Sili o Pulega, i se faiga tusitusiga, ona tofia tagata e avea ma tagata e mataituina faiga faiva i luga o vaa fagota ua laiseneina.

(2) E ui lava i le faafuaiupu (1), e mafai ona filifilia tagata ofisa e mataituina faiga faiva i lalo o so o se fuafuaga tau faiga faiva po o feagaiga, ma ua faapea ona filifilia pe afai;

- (a) e manaomia i so o se fuafuaga tau faiga faiva po o so o se maliega, po o
- (b) ua faamaonia se tagata e mataituina faiga faiva po o se vaega o ia tagata i lalo o se feagaiga, po o isi feagaiga ma se malo, po o isi feagaiga ma ni malo e sili atu i le tasi lea e avea ai Samoa ma vaega auai.



- (3) Persons (other than Samoans) designated under subsection (2) are subject to this Act while:
- (a) carrying out their duties and functions; and
  - (b) enforcing their rights.
- (4) Fisheries observers:
- (a) must carry out their scientific, compliance, monitoring and other functions, duties and powers under this Act;
  - (b) may board fishing vessels that is licensed or has a high seas authorisation or a Flag State authorisation; and
  - (c) may remain on the fishing vessel when carrying out their functions, duties and powers under this Act.

**11. Operators', etc., duties on observers-**(1) The operator, master, and each member of the crew of a fishing vessel must allow and assist a fisheries observer to do any or more of the following:

- (a) board and remain on the vessel for the purpose of carrying out the observer's functions, duties and powers, at any time and place, as the Chief Executive Officer may require;
- (b) have full access to and the use of facilities and equipment on board the vessel as the fisheries observer determines to be necessary to carry out the observer's duties, including -
  - (i) full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish;

- (3) O tagata (e ese ai na i lo tagata Samoa) ua filifilia i lalo o le faafu'aiupu (2) e noatia i lenei Tulafono a o:
- (a) faatino o latou tiute ma galuega tauave; ma
  - (b) faamalosia le faaaogāina o a latou aia tatau
- (4) O tagata ofisa e mataituina faiga faiva:
- (a) e ao ona faatinoina a latou galuega tauave faasaienisi, tausisia, mataituina ma isi galuega tauave, tiute ma malosiaga i lalo o lenei Tulafono;
  - (b) e mafai ona ulufale atu i luga o vaa fagota ia ua laiseneina po o, e i ai faatagaga i sami maualuluga, po o se faatagaga a le Malo e ona le Fu'a o lo o ia tauaveina; ma
  - (c) e mafai ona tumau ai i luga o le vaa fagota pe a faatinoina a latou galuega tauave, tiute ma malosiaga i lalo o lenei Tulafono.

**11. Tagata faafoe, ma isi tulaga faapena, tiute tauave o tagata e mataituina-**(1) E ao i le tagata faafoe, aliivaa, ma sui taitoatasi uma o se vaa fagota, ona faataga ma fesoasoani i se tagata e mataituina faiga faiva e faia so o se tasi po o le sili atu o tulaga nei:

- (a) ulufale atu i luga ma tumau ai i le vaa mo le faamoemoe o le faatinoga o galuega tauave, tiute ma malosiaga, i so o se taimi ma se nofoaga, e pei ona mafai ona manaomia e le Ofisa Sili o Pulega;
- (b) ia avanoa atoatoa i, ma le faaaogāina o fale ma nofoaga ma meafaigaluega o i luga o le vaa e pei ona fuafuaina e le tagata e mataituina faiga faiva, ua talafeagai ai e tauaveina ona tiute, e aofia ai -
  - (i) le avanoa atoatoa i le fale tautai, i'a o i luga o le vaa ma nofoaga ia e mafai ona faaaogāina e taofi ai, gaosia, fuaina ma teu ai i'a;

(ii) full access to the vessel's records including its log and documentation for the purpose of records inspection and copying;

(iii) full access to fishing gear on board;

(iv) full access to navigation equipment and radios;

(c) take and remove from the vessel reasonable samples for the purposes of scientific investigation and other relevant information;

(d) take photographs of the fishing operations, including fish, fishing gear, equipment, charts and records, and remove from the vessel the photographs or film as the observer may have taken or used on board the vessel;

(e) send or receive messages by means of the vessel's communications equipment;

(f) gather any other information relating to fisheries in the fishery waters or other areas as may be authorised by licence, authorisation or treaty;

(g) disembark at any time and place, as may be determined by the Chief Executive Officer or under an access agreement, plan or treaty;

(h) carry out the fisheries observers functions, duties and powers safely;

(i) carry out any other prescribed functions, duties and powers.

(2) The operator must provide the observer, while on board the vessel, at no expense to the Government or observer, with food, accommodation and medical facilities equivalent to officers of the vessel or any reasonable standard acceptable to the Chief Executive Officer.

(ii) le avanoa atoatoa i faamaumauga o le vaa e aofia ai faamaumauga o ana malaga ma faamatalaga mo le faamoemoe o le suesueina o faamaumauga ma faia o ata;

(iii) le avanoa atoatoa i mea fagota o lo i luga o le vaa;

(iv) le avanoa atoatoa i mea faigaluega mo le faatautaiga ma leitia;

(c) faaaogā ma aveeseina mai le vaa mea faataitai talafeagai mo faamoemoega o suesuega faasaienitisi ma isi faamatalaga talafeagai;

(d) pueina ata o gaoioiga tau faiga faiva, e aofia ai i'a, mea fagota, meafaigaluega, siata ma faamaumauga, ma aveeseina mai le vaa ata pue po o ata faaali, e pei ona mafai ona aveina pe faaaogāina e le tagata e mataituina i luga o le vaa;

(e) faaoo atu po o le taulimaina o feau tusitusia e ala i auala tau fesootaiga i luga o le vaa;

(f) tuufaatasia so o se faamatalaga e uiga i faiga faiva i ogasami o faiga faiva, po o isi nofoaga e pei ona mafai ona faatagaina i le laisene, faatagaga po o feagaiga;

(g) tulaeleele i so o se taimi ma nofoaga, e pei ona mafai ona fuafuaina e le Ofisa Sili o Pulega, po o lalo o se maliega, fuafuaga po o feagaiga ua sainia;

(h) faatino galuega tauave, tiute ma malosiaga o tagata e mataituina faiga faiva i se faiga saogalemu;

(i) faatino so o se isi lava galuega tauave faatonuina, tiute ma malosiaga.

(2) E ao i le tagata faafoe ona tuuina atu i le tagata e mataituina i le taimi e i ai o ia i luga o le vaa meaai, nofoaga e faamautu i ai ma vailaau faafomai e tutusa lelei ma tagata ofisa o le vaa po o so o se isi tulaga faataatia e talafeagai lelei i le Ofisa Sili o Pulega.

(3) In addition to the requirements in subsection (2), the Chief Executive Officer may require the operator to pay in full the following costs of the observer:

- (a) travel costs to and from the vessel;
- (b) any salary as may be notified by the Chief Executive Officer, being the full amount of the salary; and
- (c) full insurance coverage.

(4) The operator of a licensed fishing vessel must allow and assist an observer:

- (a) to have full access to a place within Samoa where fish taken in the fishery waters is unloaded or transhipped;
- (b) to remove samples; or
- (c) to gather any information relating to fisheries in the fishery waters.

**12. Functions and powers of authorised officers and observers-**(1) The operator of a fishing vessel must:

- (a) immediately, comply with any appropriate instruction or direction given by an authorised officer or observer;
- (b) facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft and any fishing gear, equipment, records, fish and fish products; and
- (c) ensure the safety of an authorised officer or observer as appropriate when carrying out his or her functions, duties or powers.

(2) In subsection (1), “operator” includes the owner, charterer, master or a crew member of a fishing vessel, the driver of a vehicle or the pilot or crew of an aircraft.

(3) E faaopoopo atu i manaoga i le faafuaiupu (2), e mafai e le Ofisa Sili o Pulega ona ia manaomia le tagata faafoe e totogi atoa tau le tagata e mataituina:

- (a) tupe alu i faiga malaga i, ma mai le vaa;
- (b) so o se totogi e pei ona mafai ona logoina atu e le Ofisa Sili o Pulega, o le aofaiga atoa o le totogi tumau; ma
- (c) aofaiga atoa o inisiua.

(4) E ao i le tagata faafoe o se vaa fagota ua laiseneina ona faataga ma fesoasoani i se tagata e mataituina:

- (a) ina ia avanoa atoatoa i se nofoaga i totonu o Samoa pe afai ua sasaaina pe toe utaina i luga o isi vaa i’ a ua maua mai ogasami o faiga faiva;
- (b) ia aveeseina i’ a e fai ai suesuega; po o
- (c) ia aoina so o se faamatalaga e faasino i faiga faiva i ogasami o faiga faiva.

**12. Galuega tauave ma malosiaga o tagata ofisa faatagaina ma tagata e mataituina-**(1) E ao i le tagata faafoe o se vaa fagota ua laiseneina ona:

- (a) tausisia i le taimi lava lea so o se faatonuga talafeagai po o se faatonuga ua tuuina atu e se tagata ofisa faatagaina po o se tagata e mataituina;
- (b) faafaigofie le saogalemu o le ulufale atu, ma le suesuega o vaa, taavale po o vaalele ma so o se mea fagota, meafaigaluega, faamaumauga, i’ a ma oloa tau i’ a; ma
- (c) faamautinoa le tulaga saogalemu o se tagata ofisa faatagaina po o se tagata e mataituina ia talafeagai, pe a faatinoina ana galuega tauave, tiute po o malosiaga.

(2) I totonu o le faafuaiupu (1), “tagata faafoe” e aofia ai le tagata e ona, tagata e togipauina, aliivaa po o se tasi o le auvaa o se vaa fagota, le avetaavale o se taavale po o le pailate po o le auvaa o se valele.

(3) A person commits an offence who:

- (a) contravenes subsection (1);
- (b) assaults, obstructs, resists, delays, refuses boarding to, intimidates, fails to ensure the safety of or interferes with an authorised officer or observer when carrying out their functions, duties or powers;
- (c) incites or encourages any other person to assault, resist, or obstruct an authorised officer or observer when carrying out their functions, duties or powers, or a person lawfully acting under the officer's or observer's orders or in the officer's or observer's aid;
- (d) uses threatening word or behaves in a threatening or insulting manner or uses abusive word or insulting gestures towards any authorised officer or observer when carrying out their functions, duties or powers, or a person acting under the authorised officer's or observer's orders or in the officer's or observer's aid;
- (e) fails to comply with any direction or order of any authorised officer or observer;
- (f) gives to any authorised officer any particular which is false or misleading in any material respect;
- (g) personates or falsely represents himself or herself to be an authorised officer or observer;
- (h) falsely represents himself or herself to be a person acting under the authorised officer's or observer's orders or in the officer's or observer's aid; or

(3) Ua faia e se tagata se soligatulafono o ia lea:

- (a) ua ia solia le faafuaiupu (1);
- (b) faaoolima, faalavelaveina, tetee atu, faatuatuai, teena le ulufale atu i, tau faamatau, ua ia lē faamautinoaina le tulaga saogalemu o, po o le aia fua i le faatinoga o galuega tauave, tiute po o malosiaga o tagata ofisa faatagaina po o tagata e mataituina;
- (c) tauanauina po o le faamalosia o so o se isi tagata e faaoolima, tetee atu, po o le faalavelaveina o se tagata ofisa faatagaina po o se tagata e mataituina i le faatinoga o a latou galuega tauave, tiute po o malosiaga, po o se tagata o lo o galue e tusa ai ma le tulafono i lalo o poloaiga a le tagata ofisa po o le tagata e mataituina, po o le fesoasoani atu i le tagata ofisa po o le tagata e mataituina;
- (d) po o ua faaogāina upu tau faamatau po o ua faia amioga e tau luilui pe faifai, po o le faaogāina o upu saua, po o taga e tau faifai ai i so o se tagata faatagaina po o se tagata e mataituina a o faatino ai ana galuega tauave, tiute po o malosiaga, po o se tagata o lo o galue i lalo o poloaiga a ia tagata po o, le fesoasoani atu i le tagata ofisa po o le tagata e mataituina;
- (e) ua ia lē mafai ona usitaia so o se faatonuga po o poloaiga a so o se tagata ofisa faatagaina po o se tagata e mataituina;
- (f) tuuina atu i so o se tagata ofisa faatagaina so o se faamatalaga faapitoa lea e sese po o, e taufaasese i so o se tulaga faapitoa;
- (g) ua ia faafoliga o se tagata ofisa faatagaina po o se tagata e mataituina;
- (h) ua ia faafoliga sese e avea o se tagata o lo o galue i lalo o poloaiga a tagata ofisa faatagaina po o tagata e mataituina po o lo o fesoasoani i ia tagata; po o

(i) resists an arrest made under this Act.

(4) For the purpose of subsection (3), a person who does not allow:

(a) an authorised officer, or a person acting under the officer's order or in the officer's aid; or

(b) an observer to carry out the observer's functions, duties or powers,

is taken to be obstructing that officer or the person acting under the order of or aiding the officer or the observer.

(5) A person commits an offence who:

(a) transports an authorised officer or observer outside the fishery waters; and

(b) causes officer or observer to disembark outside the territory of Samoa.

(6) A person convicted of an offence under this section is liable:

(a) to a fine not exceeding 500 penalty units, or to imprisonment for a term not exceeding six (6) months, or both; and

(b) in addition, for any costs of repatriation, including board and lodging while the officer or observer is out of Samoa and their transportation to Samoa.

(7) In subsection (5), "person" means:

(a) the operator of a fishing vessel; or

(b) a company (or its agent) incorporated under the laws of Samoa that owns, partly owns or controls a fishing vessel.

(i) ua ia tetee atu i lona pueina faapagota i lalo o lenei Tulafono.

(4) Mo le faamoemoe o le faafuaiupu (3), o se tagata o ia lea na te lē faatagaina:

(a) se tagata ofisa faatagaina, po o se tagata o lo o galue i lalo o le poloaiga a le tagata ofisa po o lo o fesoasani ia te ia; po o

(b) se tagata e mataituina e tauaveina ana galuega tauave, tiute po o malosiaga -

ua faatatau ina e faapea, ua ia faalavelaveina lea tagata ofisa po o le tagata o lo o galue i lalo o le poloaiga a, po o lo o fesoasoani i le tagata ofisa po o le tagata e mataituina.

(5) Ua faia e se tagata se soligatulafono, o ia lea ua ia:

(a) felauaia se tagata ofisa faatagaina po o se tagata e mataituina i fafo atu o ogasami o faiga faiva; ma

(b) ua mafua ia te ia ona ulufafo ese atu se tagata ofisa po o se tagata e mataituina i fafo atu o le teritori o Samoa.

(6) E noatia se tagata ua faamaonia faaletulafono i se soligatulafono i lalo o lenei fuaiupu:

(a) i se sala tupe e lē silia le 500 iunite tau faasalaga, po o e nofosala i le falepuipui mo se vaitaimi e lē silia le ono (6) masina, po o faasalaga uma e lua; ma

(b) e faaopoopo atu i ai, o so o se tau e totogi o le toe foi atu i lona atunuu, e aofia ai le nofo totogi ma le nofo ai a o i ai le tagata ofisa po o le tagata e mataituina i fafo atu o Samoa, ma le toe malaga atu i Samoa.

(7) I totonu o le faafuaiupu (5), o le "tagata" o lona uiga:

(a) o le tagata faafoe o se vaa fagota; po o

(b) se kamupani (po o lana sooupu) ua tuufaatasia i lalo o tulafono o Samoa lea e umia, umia na o se vaega po o le faafoega o se vaa fagota.

**13. General powers of authorised officers-**(1) An authorised officer may do anything or give any directive as is reasonably necessary for the purposes of carrying out his or her powers under this Act.

(2) The powers of an authorised officer under this Act are exercisable:

- (a) within Samoa;
- (b) in the fishery waters; or
- (c) beyond the fishery waters for any conduct whether or not that conduct occurred in the fishery waters.

(3) Subsection (2)(c) does not permit an authorised officer to carry out any powers under this Act on a foreign vessel or a person aboard the foreign vessel unless the authorised officer:

- (a) believes on reasonable grounds that a person on board the vessel has committed an offence in the fishery waters;
- (b) is in hot pursuit of the vessel; and
- (c) commenced that pursuit in the fishery waters.

(4) An authorised officer may carry out any powers of fisheries inspection, compliance or enforcement beyond the limits of the fishery waters on a foreign vessel or a person aboard the vessel if the exercise of the powers is authorised:

- (a) by a treaty to which Samoa is party, which has been enacted as laws of Samoa; or
- (b) under international law.

**14. Assistance to authorised officers and observers-**(1) When exercising their powers under this Act, an authorised officer or observer may, if considered necessary, call upon another person to assist.

**13. Malosiaga lautele o tagata ofisa faatagaina-**(1) E mafai e se tagata ofisa faatagaina ona faia so o se mea po o le tuuina atu o so o se iugafono e pei ona talafeagai ai i luga o mafuaaga tatau, mo faamoemoega o le faatinoga o ona malosiaga i lalo o lenei Tulafono.

(2) O malosiaga o se tagata ofisa faatagaina i lalo o lenei Tulafono e mafai ona faatinoina:

- (a) i totonu o Samoa;
- (b) i ogasami o faiga faiva; po o
- (c) tala atu o ogasami o faiga faiva mo so o se faatinoga, tusa lava pe na tulai mai lea faatinoga i ogasami fagotaina pe leai foi.

(3) E le o faatagaina i le faafuaiupu (2)(c) se tagata ofisa faatagaina e faatinoina so o se malosiaga i lalo o lenei Tulafono i luga o se vaa fagota mai atunuu ese, po o se tagata o i luga o le vaa mai atunuu ese vagana ai o le tagata ofisa faatagaina:

- (a) lea o lo o talitonu i luga o mafuaaga talafeagai e faapea, ua faia e se tagata o i luga o le vaa se soligatulafono i ogasami o faiga faiva;
- (b) o lo o ia tuliloaina le vaa; ma
- (c) amatalia lea tuliloaga i ogasami o faiga faiva.

(4) E mafai e se tagata ofisa faatagaina ona faatino so o se malosiaga e faia ai suesuega tau faiga faiva, tausisia po o le faamamaluina o tapulaa i tua atu o ogasami o faiga faiva i se vaa mai atunuu ese, po o se tagata o i luga o le vaa pe afai ua faatagaina le faatinoga o malosiaga:

- (a) e ala i se feagaiga lea e aveva ai Samoa ma vaega auai, lea na pasia e aveva ma tulafono o Samoa; po o
- (b) i lalo o tulafono faava o malo.

**14. Fesoasoani i tagata ofisa faatagaina ma tagata e mataituina-**(1) I le faatinoina ai o o latou malosiaga i lalo o lenei Tulafono, e mafai e se tagata ofisa faatagaina po o se tagata e mataituina, pe afai ua manatu o ia ua talafeagai ai, ona valaau i se isi tagata e fesoasoani atu.

(2) The person called upon under subsection (1) must render assistance.

**15. Identification cards for authorised officers and observers** -When carrying out their functions, duties and powers under this Act, an authorised officer or observer must, on request, produce identification card as proof of identity as an authorised officer or observer.

**16. Confidential information** - A staff member of the Fisheries Division or of the Ministry, an authorised officer, observer or any other person who obtains any confidential information for the purpose of this Act must use the confidential information only for the purposes of this Act.

*Division 2 - Treaties, agreements and arrangements*

**17. Treaties, agreements and arrangements**-(1) With the prior approval of Cabinet, the Minister may, on behalf of Samoa, enter into:

- (a) a fisheries treaty, agreement or other arrangement with another country; or
- (b) a commercial access agreement (including commercial agreement on processing of tuna or tuna products) with a company or an association of fishers.

(2) A fisheries treaty may provide for any or all of the following:

- (a) fisheries access and related activities;
- (b) cooperation in fisheries conservation, management, exploration or exploitation of fisheries resources;

(2) E ao i le tagata lea ua valaauina i lalo o le faafuaiupu (1) ona tuuina atu le fesoasoani.

**15. Pepa e iloagofie ai mo tagata ofisa faatagaina ma tagata e mataiutina** - I le faatinoga o a latou galuega tauave, tiute ma malosiaga i lalo o lenei Tulafono, e ao i se tagata ofisa faatagaina po o se tagata e mataituina pe a talosagaina, ona tuuina atu pepa e iloagofie ai e faamaonia ai o i latou o tagata ofisa faatagaina po o tagata e mataituina.

**16. Faamatalaga agatapuia** - E ao i se tagata faigaluega o le Vaega o Faiga Faiva po o le Matagaluega, tagata ofisa faatagaina, tagata e mataituina, po o so o se isi lava tagata o ia lea ua ia mauaina so o se faamatalaga agatapuia mo le faamoemoe o lenei Tulafono, ona faaogaina faamatalaga agatapuia mo na o faamoemoga o lenei Tulafono.

*Vaevaega 2 - Feagaiga, maliega ma faatulagaga*

**17. Feagaiga, maliega ma faatulagaga**-(1) I le i ai faatasi ma le uluai faamaoniga a le Kapeneta, e mafai e le Minisita, e fai ma sui o Samoa, ona sainia:

- (a) se feagaiga tau faiga faiva, maliega po o isi faatulagaga ma se isi lava atunuu; po o
- (b) se maliega faapisinisi ua avanoa i ai (e aofia ai maliega faapisinisi e uiga i le gaosiga o le tuna po o oloa o tuna), faatasi ai ma se kamupani po o se faalapotopotoga a le aufai faiva.

(2) E mafai ona aiaia i se feagaiga tau faiga faiva se tasi po o tulaga uma nei:

- (a) avanoa i faiga faiva ma gaoioiga e fesootai i ai;
- (b) galulue faatasi i faasao tau faiga faiva, pulega, suesuega o mea fou po o le faaogaina o punaoa tau i'a;

- (c) monitoring, control and surveillance;
  - (d) any other matter as may be provided for under this Act.
- (3) An access agreement:
- (a) that provides access to the fishery waters of Samoa, is subject to the laws of Samoa; or
  - (b) that relates to fishing in areas beyond the fishery waters of Samoa, is subject to the requirements of an applicable treaty or arrangement, to which Samoa is a party to; and
- (c) must be consistent with the principles of conservation and management measures in section 4.
- (4) The following conditions form part of an access agreement:
- (a) the Flag State government, association of fishers or vessel operator for each vessel granted rights under a fisheries treaty must nominate, appoint and maintain an agent that is -
    - (i) a resident in Samoa; and
    - (ii) has authority to receive and respond to any legal process relating to the fishing vessel;
  - (b) the vessel operator, owner, charterer or master of a fishing vessel under a fisheries treaty must notify the Chief Executive Officer of the name and address of an agent, and any communication to or from that address is taken to have been sent to, or received from the Flag State government, association of fishers or vessel operator or master.

- (c) mataituina, faatonutonuina ma le mataituina o gaoioiga masalomia;
  - (d) so o se isi lava mataupu e pei ona mafai ona aiaia i lalo o lenei Tulafono.
- (3) O se maliega ua avanoa i ai:
- (a) lea ua aiaia ai le avanoa e fagota ai i ogasami o faiga faiva o Samoa, e noatia i tulafono o Samoa; po o
  - (b) lea e faasino i faiga faiva i nofoaga e i tua atu o ogasami o faiga faiva o Samoa, e noatia ma fai fuafua i manaoga o se feagaiga po o se faatulagaga o faaaogāina, lea o lo o avea ai Samoa ma vaega auai; ma
  - (c) e ao ona ogatasi ma taiala o auala e faatonutonu ai faasao ma le pulega i le fuaiupu 4.
- (4) O tuutuuga nei ua avea ma vaega o se maliega ua sainia:
- (a) e ao i le Malo e ona le Fu'a faalapotopotoga a le aufai faiva po o tagata faafoe o vaa taitasi ua faamatuu i ai aia tatau i lalo o se feagaiga tau faiga faiva ona tofia ma tausia se sooupu lea o -
    - (i) se tagata nofomau i Samoa; ma
    - (ii) e i ai lana pule faataga e taliaina ma tali atu i so o se faagasologa faaletulafono e uiga i le vaa fagota;
  - (b) e ao i le tagata faafoe, tagata e umia, tagata e totogifuapauina po o le aliivaa o se vaa fagota o i lalo o se feagaiga tau faiga faiva, ona logoina le Ofisa Sili o Pulega, e uiga i le igoa ma le tuatusi o se sooupu, ma e faatatauina so o se fesootaiga i po o, mai lea tuatusi e faapea, na auina atu i, po o ua mauaina mai le Malo e ona le Fu'a, o lo o faaaogāina e le vaa, faalapotopotoga o le aufai faiva, po o le tagata faafoe o le vaa po o le aliivaa.



(5) The powers under subsection (1) include the power to amend, suspend or revoke the treaty or access agreement.

**18. International conservation and management measures in international agreements-**(1) The Minister may, for any treaties, agreements or arrangements Samoa enters into, give effect to the international conservation and management measures required under the agreement by:

- (a) proposing regulations to be made under section 92;
- (b) declaring, by Order in the Savali, that whole or part of a conservation and management measure has the force of law in Samoa;
- (c) endorsing a fisheries management plan that gives effect to an international conservation and management measure as having the force of law in Samoa; or
- (d) imposing conditions to any existing licence or imposing conditions on future licences, by Order in the Savali.

(2) The Fisheries Division must:

- (a) keep copies of all the international conservation and management measures that are in effect in Samoa; and
- (b) make a list of the measures available to the public.

(4) The Order under subsection (1)(d) must, after its first publication, be published every other six (6) months thereafter for at least two (2) years.

(5) O malosiaga o i lalo o le faafuaiupu (1) e aofia ai le malosiaga e teuteuina ai, taofia lē tumau, po o le faalēaogāina ai le feagaiga po o maliega ua avanoa i ai.

**18. Faasao faava o malo ma faiga tau pulega i maliega faava o malo-**(1) E mafai e le Minisita, mo so o se feagaiga, maliega po o faatulagaga ua avanoa i ai Samoa, ona faamamaluina faasao faava o malo ma faiga tau pulega ua manaomia i lalo o le maliega e:

- (a) talosagaina ai tulafono faatonutonu e ao ona faia i lalo o le fuaiupu 92;
- (b) faailoaina ai e ala i se Poloaiga i totonu o le Savali, e faapea ua aloaia le vaega atoa po o se vaega o se faasao ma faiga tau pulega i tulafono ua aloaia i totonu o Samoa;
- (c) faamaonia ai se fuafuaga tau pulega o faiga faiva lea e aloaia ai se faasao faava o malo ma faiga tau pulega e faapea ua aloaia i tulafono o Samoa; po o
- (d) le faaee atu o tuutuuga i so o se laisene o i ai nei po o le faaeeina atu o tuutuuga i laisene i le lumanai e ala i se Poloaiga i totonu o le Savali.

(2) E ao i le Vaega o Faiga Faiva ona:

- (a) teuina ata o faasao faava o malo ma faiga tau pulega ia o lo o aloaia i totonu o Samoa; ma
- (b) faia se lisi o faiga e faatonutonu ai o lo o avanoa i tagata lautele.

(3) E ao i le Poloaiga i lalo o le faafuaiupu (1)(d), ina ua muai lomua faasalalau, ona lolomi faasalalau tai ono (6) masina mulimuli ane, a itiiti mai o le tai lua (2) tausaga.

*Division 3 - Fisheries management plans*

**19. Village fisheries management areas-**(1) The Chief Executive Officer may, by Order in the Savali, declare and mark an area as a village fisheries management area.

(2) Before declaring an area under subsection (1), the Chief Executive Officer must consult the Village Fono of the area and of any neighbouring village taking into account any or more of the following:

- (a) the size of the district;
- (b) the population of the district;
- (c) the ownership of customary land;
- (d) any traditional fisheries practices;
- (e) any other factors that may be necessary to facilitate the process.

(3) A dispute arising from a declaration or marking of an area under subsection (1) is to be referred to the Minister to hear and determine the dispute.

**20. Designated fishery-**(1) The Minister may, by Order, declare an area to be a designated fishery, if the Minister considers that:

- (a) it is in the national interest; and
- (b) management measures are needed to ensure sustainable use of the fishery resource.

(2) When deciding to declare an area as a designated fishery area, the Minister must take into account:

- (a) any fisheries management plan in the area to be declared; and
- (b) any factor, as the Minister considers appropriate in the circumstances, including any economic or environmental factor.

*Vaevaega 3 - Fuafuaga o pulega tau faiga faiva*

**19. Ogasami o pulega tau faiga faiva i nuu-**(1) E mafai e le Ofisa Sili o Pulega e ala i se Poloaga i totonu o le Savali, ona faaalua manino ma faailoga se nofoaga e avea ma nofoaga o pulega tau faiga faiva.

(2) Ao lumanai ai faaalua manino se nofoaga i lalo o le faafuaiupu (1), e ao i le Ofisa Sili o Pulega ona feutagai ma le Fono a Nuu e uiga i le nofoaga ma so o se nuu tuaoi, i le amanaia ai o se tasi po o le sili atu o tulaga nei:

- (a) o le telē o le itumalo;
- (b) o le faitau aofai o le itumalo;
- (c) le tulaga tau le umiaina o fanua faaleaganuu;
- (d) so o se faiga o faiga faiva faaleaganuu;
- (e) so o se isi lava itu e mafai ona talafeagai e faafaigofie ai le faagasologa.

(3) O se finauga e tulai mai se faaalua manino, po o le faailogaina o se nofoaga i lalo o le faafuaiupu (1), e tataua ona faasee atu i le Minisita e fofogaina ma faia le faaiuga o le finauga.

**20. Faiva faatulagaina-**(1) E mafai e le Minisita, e ala i se Poloaga, ona faaalua manino se nofoaga e avea ma ogasami tau faiga faiva ua filifilia pe afai e manatu le Minisita e faapea:

- (a) e mo le manuia o le tagata o le atunuu; ma
- (b) e manaomia auala e faatonutonu ai le pulega ina ia mautinoa le faaogāina i se tulaga gafataulimaina punaoa tau i'a.

(2) I le filifili ai pe faaalua manino se nofoaga e avea o se nofoaga ua filifilia mo faiga faiva, e ao i le Minisita ona amanaia:

- (a) so o se fuafuaga o pulega tau faiga faiva i le ogasami o le a faaalua manino; ma
- (b) so o se itu, e pei ona manatu le Minisita ua talafeagai ai i tulaga ua aliae mai, e aofia ai so o se itu tau taumaoaiga po o le siosiomaga.

**21. Fisheries management plans-**(1) The Chief Executive Officer must prepare, make and review, if necessary, a fishery management plan for the management of a designated fishery.

(2) A fishery management plan:

(a) must -

- (i) identify the fishery;
- (ii) describe the status of the fishery;
- (iii) specify management measures to be applied to the fishery;
- (iv) specify the process for the allocation of any fishing rights provided for in the fishery management plan;
- (v) any enforcement measures;
- (vi) make provision for any other matter necessary for sustainable use of fishery resources; and

(b) commences on a date specified by a notice in the Savali.

(3) The Chief Executive Officer:

- (a) may amend, suspend or revoke the fishery management plan, following any consultation as the Chief Executive Officer considers appropriate; and
- (b) must publish, in the Savali, any amendment, suspension or revocation of plan.

**22. Disadvantaged village community-**(1) A disadvantaged village community or a member of a disadvantaged community, has the right to participate on an equal basis in the management of a village fisheries management area, if any or more of the following exist:

- (a) traditional links and affinity;
- (b) familial or clan relationship;

**21. Fuafuaga tau pulega o faiga faiva-**(1) E ao i le Ofisa Sili o Pulega ona saunia, faia ma iloiloina, pe afai e talafeagai ai, se fuafuaga tau pulega o faiga faiva mo le puleaina o se faiga faiva ua faatulagaina.

(2) O se fuafuaga tau pulega o faiga faiva:

(a) e ao ona -

- (i) faailoagofie ai le faiga faiva;
- (ii) faamatala ai le ituaiga faiga faiva;
- (iii) faamaoti faiga e pulea ai e ao ona faaaogāina i faiga faiva;
- (iv) faamaoti ai le faagasologa mo le faatulagaga o so o se aia tatau ua aiaia i le fuafuaga tau pulega o faiga faiva;
- (v) so o se faiga e faamalosia ai;
- (vi) faia aiaiga mo so o se isi lava mataupu e talafeagai mo le faaaogā gafataulimaina o punaoa tau i'a; ma

(b) e amataina i se aso ua faamaoti mai i se faasilasilaga i totonu o le Savali.

(3) O le Ofisa Sili o Pulega:

- (a) e mafai ona ia teuteuina, taofia lē tumau po o le faalēaogāina o le fuafuaga tau le pulega o faiga faiva, i le maea ai o so o se feutagaiga e pei ona manatu le Ofisa Sili o Pulega ua talafeagai ai; ma
- (b) e ao ona lomia faasalalau i totonu o le Savali so o se teuteuga, taofiga lē tumau po o le faalēaogāina o le fuafuaga.

**22. Nuu ma afioaga e lē faamanuiaina ai-**(1) E i ai i se nuu ma se afioaga, po o se sui o nuu ma afioaga le aia tatau e auai ai i se tulaga tutusa, i le pulega o se nofoaga o faiga faiva a se nuu, pe afai o i ai se tasi po o le sili atu o tulaga nei:

- (a) sootaga faaleaganuu ma sootaga vavalalata;
- (b) sootaga masani po o sootaga i le va o ituaiga tagata;

(c) ownership of land adjacent to the coastal waters;

(d) other arrangements between a disadvantaged village community and the village community responsible for the bylaws.

(2) Arrangements for access to a fisheries management area:

(a) may be made between a disadvantaged village community and the coastal village community claiming ownership of the fisheries management area; and

(b) must take into account any or more of the following matters -

(i) traditional access rights;

(ii) the needs of a disadvantaged village community;

(iii) the relevant national coastal fisheries management and development plan;

(iv) the relevant national aquaculture plan;

(v) the needs of the village community.

(3) In this section, “disadvantaged village community” means a community that must cross the land of a coastal village community to access the coastal waters to fish or carry out aquaculture.

### **PART 3 LICENCES**

#### *Division 1 - Licensing of vessels and marine scientific research*

**23. Samoan fishing vessels in fishery waters-**(1) A person must not operate a Samoan fishing vessel in the fishery waters for:

(c) tulaga tau le umiaina o fanua e i luga o ogasami i le talafatai;

(d) o isi faatulagaga i le va o nuu ma afioaga e le o faamanuiaina ai ma nuu ma afioaga e fitoitonu ma tulafono laiti.

(2) O faatulagaga mo le avanoa i se nofoaga tau pulega o faiga faiva:

(a) e mafai ona faia i le va o se nuu e le o faamanuiaina ai ma le nuu o lo o i le talafatai o lo o talosagaina le umia ai o le nofoaga tau pulega o faiga faiva; ma

(b) e ao ona amanaia so o se tasi po o le sili atu o mataupu nei -

(i) aia tatau faaleaganuu e uia ai;

(ii) o manaoga o se nuu e le o faamanuiaina ai;

(iii) o le fuafuaga talafeagai o le pulega ma le atinae o faiga faiva i talafatai o le atunuu;

(iv) o le fuafuaga talafeagai o faaolaivai o figota ma i'a;

(v) o manaoga o nuu ma afioaga.

(3) I totonu o lenei fuaiupu, “nuu ma afioaga e le o faamanuiaina ai” o lona uiga o nuu ma afioaga ia e ao ona latou sopoia eleele o nuu ma afioaga i le talafatai ina ia sao atu i ogasami o le talafatai e fagogota pe faatino ai faiva.

### **VAEGA 3 LAISENE**

#### *Vaevaega 1 - Laiseneina o vaa ma suesuega faasaienisi o le gataifale*

**23. O le i ai o vaa fagota o Samoa i ogasami o faiga faiva-**  
(1) E lē tatau i se tagata ona faagaoioia se vaa fagota o Samoa i ogasami o faiga faiva mo:

- (a) fishing; or
- (b) related activities; or
- (c) any other activity regulated under this Act,

unless the vessel is licensed to do so under this Act.

(2) A fishing vessel used solely for sport, pleasure, recreational or subsistence fishing does not require a licence unless any fish to be caught under the sporting activity is intended to be sold.

(3) The operator or the master of a vessel used in contravention of subsection (1) commits an offence, and is liable on conviction to a fine not exceeding 10,000 penalty units.

(4) This section does not apply to a vessel less than 8 meters in length.

**24. Samoan fishing vessels outside the fishery waters-**(1) A person must not operate a Samoan fishing vessel for fishing or related activities:

- (a) in the fisheries waters of a foreign country except under the laws of that country;
- (b) in an area subject to a treaty or multilateral access agreement except under that treaty or agreement;
- (c) on the high seas except under a high seas authorisation issued under subsection (2); or
- (d) in an area subject to international conservation and management measures except under those measures.

(2) A licensed Samoan fishing vessel must not fish in the high seas unless the Chief Executive Officer issues a high seas authorisation to fish in the high seas, subject to:

- (a) fagotaga; po o
- (b) gaoioiga faapena; po o
- (c) so o se isi lava gaoioiga o faatonutonuina i lalo o lenei Tulafono,

vagana ai ua laiseneina le vaa ina ia faia faapea i lalo o lenei Tulafono.

(2) O se vaa fagota e faaaogāina e mo na o taaloga, fiafiaga, faamalositino po o faiva e tausia ai aiga e lē manaomia ai se laisene vagana ai o faamoemoe e faatau atu so o se i'a e maua i gaoioiga tau taaloga.

(3) Ua faia e le tagata faafae po o le aliivaa o se vaa ua faaaogā e solia ai le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 10,000 iunite tau faasalaga.

(4) E lē faaaogāina lenei fuaiupu i se vaa e laitiiti ifo i le 8 mita lona umi.

**24. O le i ai o vaa fagota o Samoa i tua atu o ogasami o faiga faiva-**(1) E lē tatau i se tagata ona faagaioioia se vaa fagota o Samoa mo faiga faiva po o gaoioiga faapena:

- (a) i ogasami o faiga faiva o se atunuu ese vagana ai i lalo o tulafono o lea atunuu;
- (b) i se nofoaga o noatia i lalo o se feagaiga po o maliega ua sainia ma isi Malo vagana ai ua faia i lalo o lea feagaiga po o maliega;
- (c) i ogasami maualuluga vagana ai o se faatagaga ua faamatuu atu i lalo o le faafuaiupu (2); po o
- (d) totonu o se nofoaga o lo o noatia i faasao faava o malo ma faiga tau pulega vagana ai o lalo o ia faiga.

(2) E lē tatau i se vaa fagota a Samoa ona fagota i ogasami maualuluga vagana ai ua faamatuu atu e le Ofisa Sili o Pulega se faatagaga e fagota ai i ogasami maualuluga, i le noatia ma le fai fuafua i:

- (a) prescribed procedures for issuing the high seas authorisation; and
  - (b) any conditions that the Chief Executive Officer may impose or any prescribed conditions.
- (3) The Chief Executive Officer may vary, suspend or impose:
- (a) conditions and restrictions on a fishing vessel licenced to fish on the high seas as are necessary and appropriate to carry out the obligations of Samoa under -
    - (i) the Compliance Agreement and the Fish Stocks Agreement; or
    - (ii) any applicable international conservation and management measures; or
  - (b) any or more of the following conditions—
    - (i) the area in which fishing is authorised;
    - (ii) the period, times or particular voyages during which fishing is authorised;
    - (iii) the descriptions, quantities, size or presentation of fish which may be taken;
    - (iv) the method of fishing to be undertaken and type of gear to be used;
    - (v) the marking of gear;
    - (vi) a requirement that the vessel carry observers on board during fishing operations on the high seas;
    - (vii) a requirement that access be permitted to foreign observers;
    - (viii) a requirement that specific Mobile Transceiver Unit be carried, and the requirements governing its operation;

- (a) tualumaga faatonuina mo le faamatuu atu o le faatagaga e fagota ai i ogasami maualuluga; ma
  - (b) so o se tuutuuga lea e mafai ona faaee atu e le Ofisa Sili o Pulega po o so o se tuutuuga ua faatonuina.
- (3) E mafai e le Ofisa Sili o Pulega ona fesui, taofia lē tumau po o le faaee atu:
- (a) tuutuuga ma tulaga faasaina i se vaa fagota ua laiseneina e fagota i ogasami maualuluga e pei ona talafeagai ma alagata ai e faatino noataga o Samoa i lalo -
    - (i) o le Feagaiga o le Usitaia ma le Feagaiga o Oloa Tau I'a; po o
    - (ii) so o se faasao faava o malo e faatonutonu ai le pulega talafeagai; po o
  - (b) so o se tasi po o le sili atu o tuutuuga nei -
    - (i) o le nofoaga lea ua faatagaina ai faiga faiva;
    - (ii) le vaiami, taimi po o malaga faapitoa ia e faatagaina ai faiga faiva;
    - (iii) le faamatalaina, aofaiga, lapopoa po o foliga vaaia o i'a ia e mafai ona aveina;
    - (iv) le ituaiga faiva e ao ona faia ma ituaiga mea fagota e ao ona faaogāina;
    - (v) o le faailogaina o meafaigaluega e faaogā;
    - (vi) se manaoga e faapea, ia malaga i luga o le vaa tagata e mataituina a o faia faiva i ogasami maualuluga;
    - (vii) se manaoga ia faatagaina le avanoa i tagata mai fafo e mataituina;
    - (viii) se manaoga e faapea, ia tauaveina se Leitio Ualesi Feaveai, faatasi ai ma manaoga e faafoe ai lona faagaioiga;

(ix) measures to be taken to avoid catching non-targeted species;

(x) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data;

(xi) requirements for verifying the catch of target, non-target species and discards;

(xii) the stowage of gear.

(4) The operator of a vessel that is used in contravention of subsection (1) or (2) or any condition imposed under subsection (3) commits an offence, and is liable on conviction to a fine not exceeding 10,000 penalty units.

**25. Use of vessels of another Flag by Samoans on the high seas-**(1) A person must not operate or be employed on foreign fishing vessel for fishing or related activities on the high seas unless the country issues a Flag State authorisation that the country is:

- (a) a party to the Fish Stocks Agreement;
- (b) a party to the Compliance Agreement; or
- (c) a party to, or has accepted the obligations of, a global, regional, or sub-regional fisheries organisation or arrangement to which the Flag State authorisation relates.

(2) For the purpose of subsection (1), a notice given by the Minister in the Savali, specifying a country or a class of countries that may issue a Flag State authorisation is evidence of the matters stated in the notice.

(ix) auala e ao ona faatino e aloese ai mai le fagotaina o ituaiga i'a e lē manaomia;

(x) manaoga mo le faamaumauina ma le lipotia i taimi e tatau ai, le nofoaga o i ai le vaa, i'a ua maua o le ituaiga e manaomia ma le ituaiga e le o manaomia, taumafaiga tau faiga faiva ma isi faamaumauga talafeagai o faiga faiva;

(xi) manaoga mo le faamaoniga o i'a manaomia ua mauaina, ma i'a e le o manaomia ma i'a ua lafoai;

(xii) o le teuina o mea fagota.

(4) Ua faia se soligatulafono e le tagata faafoe o se vaa lea na faaaogāina e lē usitaia ai le faafuaiupu (1) po o le (2), po o so o se tuutuuga ua faaee atu i lalo o le faafuaiupu (3), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 10,000 iunite tau faasalaga.

**25. Faaaogāina e tagata Samoa o vaa fagota o lo o tauaveina Fu'a a isi Malo i ogasami maualuluga-**(1) E lē tatau i se tagata ona faagaioia po o le faafaigaluega i luga o se vaa fagota a atunuu ese mo faiga faiva, po o gaioiga e fesootai i ai, i ogasami maualuluga vagana ai ua faamatuu atu e lea atunuu se faatagaga a le Malo e ona le Fu'a e faapea o lea atunuu:

- (a) o se vaega auai i le Maliega o Oloa Tau I'a;
- (b) o se vaega auai o le Maliega e Usitaia ai; po o
- (c) se vaega auai i, po o ua ia taliaina noataga o, se faalapopotoga a le lalolagi, faava o malo, po o faalapopotoga o faiga faiva a vaega faaitulagi laiti, po o faatulagaga ia e fesootai i ai le faatagaga a le Malo e ona le Fu'a.

(2) Mo le faamoemoega o le faafuaiupu (1), o se faasilasilaga ua tuuina atu e le Minisita i le Savali e faamaoti ai se atunuu, po o se vasega o atunuu lea e mafai ona latou faamatuu atu se faatagaga o le tauaveina o se Fu'a, o se faamatalaga molimau lea o mataupu ua taua i le faasilasilaga.

(3) A person who contravenes subsection (1) commits an offence, and is liable on conviction to a fine not exceeding 10,000 penalty units.

(4) In this section, “person” means a Samoan or a company or other entity incorporated or established under the laws of Samoa.

**26. Foreign fishing vessels in fisheries waters-**(1) A foreign fishing vessel that is in the fishery waters:

- (a) must comply with any international law on navigation and on the protection and preservation of the marine environment; and
- (b) must not be used for fishing or for a related activity or other activity provided for in this Act, except under a licence issued under section 28(1) or under a fisheries treaty.

(2) The operator of a foreign vessel that is used in contravention of subsection (1) commits a serious violation offence, and is liable on conviction to a fine not exceeding 1,000,000 penalty units.

**27. Marine scientific research-**(1) The Chief Executive Officer may:

- (a) issue a research authorisation authorising a vessel or person to undertake any marine scientific research operation on fisheries in the fishery waters; and
- (b) exempt that vessel or person from the requirements of any fisheries management and conservation measures specified in the research authorisation.

(3) Ua faia e se tagata se soligatulafono, o ia lea ua ia lē usitaia le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 10,000 iunite tau faasalaga.

(4) I totonu o lenei fuaiupu, “tagata” o lona uiga o se tagata Samoa po o se kamupani, po o isi faalapotopotoga ua tuufaatasia po o ua faavaeina i lalo o tulafono a Samoa.

**26. O le i ai o vaa fagota mai atunuu ese i ogasami o faiga faiva-**(1) O se vaa fagota mai atunuu ese lea ua i ogasami o faiga faiva:

- (a) e ao ona ia tausisia so o se tulafono faava o malo e uiga i faatautaiga ma, le puipuiga ma le faasaoina o le siosiomaga o le gataifale; ma
- (b) e lē tatau ona faaaogāina mo faiga faiva po o, mo se gaoioiga e fesootai i ai, po o isi gaoioiga ua aiaia i totonu o lenei Tulafono, ae vagana ai o lalo o se laisene ua faamatuu atu i le fuaiupu 28(1) po o lalo o se feagaiga tau faiga faiva.

(2) Ua faia e se tagata faafoe o se vaa mai atunuu ese lea na faaaogā e lē usitaia ai le faafuaiupu (1) se soligatulafono matuia, ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 1,000,000 iunite tau faasalaga.

**27. Suesuega faasaienisi o le gataifale-**(1) E mafai e le Ofisa Sili o Pulega ona:

- (a) tuuina atu se faatagaga e faia ai suesuega i se vaa po o se tagata e tauaveina ai so o se suesuega faasaienisi o le gataifale e uiga i faiga faiva i ogasami o faiga faiva; ma
- (b) tuusaunoa lea vaa po o le tagata mai manaoga o so o se pulega tau faiga faiva ma faasao tau faiga faiva ua faamaoti mai i le faatagaga o suesuega.



(2) A person must, before a research authorisation is issued, submit a research plan for the purposes of marine scientific research to the Chief Executive Officer for approval.

(3) The research authorisation or exemption:

(a) must be in writing; and

(b) is subject to any conditions imposed by the Chief Executive Officer or any other prescribed conditions.

(4) The Chief Executive Officer may vary, suspend or revoke the authorisation if any condition of the research authorisation or a requirement of this Act is not complied with.

(5) A person commits an offence if the person:

(a) undertakes or assists in a marine scientific research operation without research authorisation under subsection (1); or

(b) contravenes a condition of the research authorisation.

(6) A person convicted of an offence under subsection (5) is liable to a fine not exceeding 10,000 penalty units.

#### *Division 2 - Licensing procedures and other matters*

**28. Issue of licences-**(1) The Minister, acting on the advice of the Chief Executive Officer:

(a) may issue a licence, in the approved form, to the owner or operator of a foreign fishing vessel authorising that vessel to be used in the fishery waters for any or more of the following purposes specified in the licence -

(2) E ao i se tagata, a o lumanai ai ona tuuina atu se faatagaga o suesuega, ona tuuina atu se fuafuaga tau suesuega mo faamoemoega o suesuega faasaaienisi o le gataifale, i le Ofisa Sili o Pulega, mo le faamaoniga.

(3) O le faatagaga tau suesuega po o tuusaunoaga:

(a) e ao ona faia i se faiga tusitusia; ma

(b) e noatia i so o se tuutuuga ua faaee atu e le Ofisa Sili o Pulega po o, so o se isi lava tuutuuga faatonuina.

(4) E mafai e le Ofisa Sili o Pulega ona fetuunai, taofia lē tumau po o le faalēaogāina le faatagaga pe afai ua lē usitaia so o se tuutuuga o le faatagaga tau suesuega, po o se manaoga o lenei Tulafono.

(5) Ua faia e se tagata se soligatulafono pe afai o le tagata:

(a) ua ia tauaveina po o le fesoasoani i se gaoioiga tau suesuega faasaaienisi o le gataifale e aunoa ma se faatagaga tau suesuega i lalo o le faafuaiupu (1); po o

(b) le lē usitaia o se tuutuuga o le faatagaga tau suesuega.

(6) E noatia se tagata ua faamaonia faaletulafono i se soligatulafono i lalo o le faafuaiupu (5), i se sala tupe e lē silia le 10,000 iunite tau faasalaga.

#### *Vaevaega 2 - Taulumaga tau laisene ma isi mataupu*

**28. Tuuina atu o laisene-**(1) O le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega:

(a) e mafai ona ia tuuina atu se laisene i le pepa faatumu faamaonia, i le tagata e ona, po o le tagata faafoe o se vaa fagota mai atunuu ese, e faatagaina ai lea vaa ina ia faaaogāina i ogasami mauaululuga mo so o se faamoemoega po o faamoemoega e sili atu i nei faamoemoega ua faamaotiina i le laisene -

- (i) fishing;
- (ii) related activities;
- (iii) exploration or exploitation of non-living marine resources; or

(iv) other purposes under this Act; and

(b) may issue a licence, in the approved form, to the owner or operator of a Samoan fishing vessel authorising that vessel to be used in the fishery waters for any or more of the purposes in paragraph (a); and

(c) may attach any condition -

- (i) under section 30; or
- (ii) to give effect to the contents of an applicable fisheries management plan.

(2) A licence is to be considered by the Minister when:

- (a) an application is made to the Chief Executive Officer in the approved form or by other responsible authority under an applicable multilateral access agreement; and
- (b) the prescribed fee or any compensation has been paid under this Act.

(3) A vessel or person authorised under this section must comply with any applicable laws of Samoa and any condition of the licence or of the high seas authorisation.

**29. Refusal of licences-**(1) The Minister must not issue a licence under section 28 if the Chief Executive Officer advises the Minister that issuing the licence will contravene:

- (i) faiga faiva;
- (ii) gaoioiga e fesootai i ai’
- (iii) suesuega o mea fou po o le faaaogāina o punaoa e lē ola i le gataifale; po o

(iv) isi faamoemoega i lalo o lenei Tulafono; ma

(b) e mafai ona tuuina atu se laisene i le pepa faatumu faamaonia, i le tagata e ona po o le tagata faafoe o se vaa fagota o Samoa e faatagaina ai lea vaa e faaaogāina ogasami o faiga faiva mo so o se tasi (1) po o le sili atu o faamoemoega i le parakalafa (a); ma

(c) e mafai ona faapipii atu so o se tuutuuga -

- (i) i lalo o le fuaiupu 30; po o
- (ii) le aloaia ai o mea o aofia ai i se fuafuaga talafeagai o le pulega o faiga faiva.

(2) E ao ona iloiloina se laisene e le Minisita i le taimi:

- (a) e faia ai se talosaga i le Ofisa Sili o Pulega i le pepa faatumu faamaonia po o, e ala i se pule faataga faatuatua i lalo o se maliega talafeagai ma isi Malo; ma
- (b) ua maea ona totogiina le totogifuapauina faatonuina po o so o se isi tau tupe i lalo o lenei Tulafono.

(3) E ao i se vaa po o se tagata ua faatagaina i lalo o lenei fuaiupu ona usitaia so o se tulafono talafeagai o Samoa ma so o se tuutuuga o le laisene po o, le faatagaga i ogasami mauualuluga.

**29. Teena o laisene-**(1) E lē tatau i le Minisita ona faamatuu atu se laisene i lalo o le fuaiupu 28 pe afai e fautuaina e le Ofisa Sili o Pulega le Minisita e faapea o le faamatuu atu o le laisene o le a lē usitaia ai:

- (a) a requirement of this Act;
- (b) a fisheries treaty or a fisheries management agreement or fishery management plan; or

(c) an international conservation or management measure binding on Samoa.

(2) The Minister may, acting on the advice of the Chief Executive Officer, refuse an application for a licence on any or more of the following grounds:

(a) the owner or operator is the subject of proceedings under the bankruptcy laws of any country and reasonable financial assurances have not been provided;

(b) there has been a failure to satisfy a judgment or other determination for a contravention of this Act or an access agreement by the owner or operator of the vessel for which application for a licence has been made until such time as the judgment or other determination has been made;

(c) the owner or operator of a vessel has contravened, or the vessel has been used to contravene conservation and management measures adopted by a regional or sub-regional fisheries management organisation to which Samoa is a party;

(d) the owner or operator of a vessel has contravened, or the vessel has been used to contravene a fisheries treaty;

(e) the owner or operator of a vessel has committed, or the vessel has been used to commit an offence under any other enactment;

(f) if the fishing vessel for which the application is made does not have good standing on the Vessel Register maintained by the Pacific Islands Forum Fisheries Agency;

(a) se manaoga o lenei Tulafono;

(b) se feagaiga tau faiga faiva po o se maliega tau pulega o faiga faiva po o le fuafuaga tau pulega o faiga faiva; po o

(c) se faasao faava o malo po o auala e faatonutonu ai le pulega o faiga faiva o lo o noatia ai Samoa.

(2) E mafai e le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega, ona teena se talosaga mo se laisene i luga o so o se mafuaaga po o le sili atu nei:

(a) o lo o aveā lē ona po o le tagata faafoe ma tagata o lo o autu i ai taualumaga i lalo o tulafono o le gaumativa a so o se atunuu, ma e le i tuuina atu ni faamatalaga faatuatua ina talafeagai o le tulaga tau tupe;

(b) e le i mafai ona faamalieina se faaiuga po o isi iuga mo le lē usitaia ai o lenei Tulafono, po o se maliega o avanoa ai, e le tagata e ona po o le tagata faafoe o le vaa, lea na faia le talosaga mo se laisene siea oo i sea taimi e pei ona faia ai le faaiuga po o isi iuga;

(c) ua lē usitaia e le tagata e ona po o le tagata faafoe o se vaa, po o na faaaogāina le vaa i se tulaga ua lē usitaia ai auala e faatonutonu ai faasao ma pulega ua faaaogāina e se faalapotopotoga faaitulagi po o faalapotopotoga laiti faaitulagi o pulega tau faiga faiva lea e aveā ai Samoa ma vaega auai;

(d) ua lē usitaia e le tagata e ona po o le tagata faafoe o se vaa, po o, na faaaogāina le vaa i se tulaga e lē usitaia ai se feagaiga tau faiga faiva;

(e) ua faia e le tagata e ona po o le tagata faafoe o se vaa se soligatulafono, po o na faaaogāina le vaa e faia ai se soligatulafono i lalo o se isi lava tulafono;

(f) pe afa'i e le o lelei atoatoa le tulaga gafatia o le vaa fagota e tusa ai ma le Tusi Resitala o Vaa o lo o tausia e le Lala Sooupu o Faiga Faiva a le Fono o Atumotu o le Pasefika;

- (g) any previous offending history of the owner, operator or master of the vessel;
- (h) any other prescribed grounds.

**30. Conditions for licences-**(1) A licence issued under this Part is subject to:

- (a) any prescribed conditions; and
- (b) any special conditions, as may be specified under subsection (3).

(2) The Minister may, by notice published in the Savali, specify conditions additional to existing conditions of a licence.

(3) The Minister may, acting on the advice of the Chief Executive Officer, impose special conditions to a licence as may be required for the proper management of fisheries, including any or more of the following conditions:

- (a) the type and method of fishing or related activity authorised;
- (b) the areas within which the fishing or related activities are authorised;
- (c) the target species and amount of fish authorised to be taken, including a restriction on by-catch; and
- (d) the times within which the fishing or related activities are authorised;
- (e) restrictions relating to the numbers, types, sizes, specifications or operation of fishing related equipment or vessels.

(4) If it is expedient for the proper management of fisheries, the Minister may, acting on the advice of the Chief Executive Officer, vary, suspend or revoke any special conditions attached to a licence or authorisation.

- (g) so o se talaaga tau solitulafono talu ai o le tagata e ona le vaa, tagata faafoe po o le aliivaa;
- (h) o nisi lava mafuaaga faatonuina.

**30. Tuutuuga mo laisene-**(1) O se laisene ua tuuina atu i lalo o lenei Vaega e noatia ma fai fuafua i:

- (a) so o se tuutuuga faatonuina; ma
- (b) so o se tuutuuga faapitoa, e pei ona mafai ona faamaotiina i lalo o le faafuaiupu (3).

(2) E mafai e le Minisita, e ala i se faasilasilaga i le Savali, ona faamaoti tuutuuga e faapoopo atu i tuutuuga o i ai nei o se laisene.

(3) E mafai e le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega, ona faaee atu tuutuuga faapitoa i se laisene e pei ona manaomia mo le pulega lelei o faiga faiva, e aofia ai se tasi po o le sili atu o tuutuuga nei:

- (a) le ituaiga ma auala e faaaogā i faiga faiva po o gaoioiga e fesootai i ai ua faatagaina;
- (b) o nofoaga ia ua faatagaina ai faiga faiva po o gaoioiga e fesootai i ai;
- (c) o ituaiga i'a e manaomia le fagotaina ma le aofai o i'a ua faataga le fagotaina, e aofia ai se tulaga faatapulaaina i meaola o le gataifale e le o manaomia ua maua mai faiva; ma
- (d) taimi ua faatagaina mo faiga faiva po o gaoioiga e fesootai i ai;
- (e) tulaga faasaina e faasino i le aofaiga, ituaiga, lapopoa, fua po o le faagaoioiga o meafaigaluega po o vaa e fesootai ma faiga faiva.

(4) Afai e faavavevave mo le pulega lelei o faiga faiva, e mafai e le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega, ona fetuunai, taofia lē tumau po o le faalēaogāina o so o se tuutuuga faapitoa ua faapipii atu i se laisene po o faatagaga.

(5) An addition to or a variation of a condition of the licence come into force on the date the licence holder, or for a foreign fishing vessel, the licence holder or agent, has been notified in writing by the Fisheries Division.

**31. Period of licences-**(1) A licence is valid for a period not exceeding 12 months as specified in the licence, subject to section 34.

(2) However, a licence issued pursuant to a treaty or access agreement expires upon expiry of the treaty or access agreement.

(3) A licence for a vessel is not transferable to any other vessel except:

- (a) with the prior written permission of the Chief Executive Officer;
- (b) under a fishery management plan or an access agreement; or
- (c) as allowed by regulations.

**32. Compliance with other laws by foreign vessels-**(1) A licence issued under this Act does not relieve a foreign fishing vessel or its master or crew of any obligation or requirement imposed under any other enactment concerning navigation, Customs, immigration, health or any other matter.

(2) The operator and each crew member of a fishing vessel or other vessel that may be used for:

- (a) fishing;
- (b) a related activity; or
- (c) other activity in the fishery waters provided for in this Act,

whether or not it holds a licence or an authorisation, must comply with any other applicable enactment.

(3) The operator of a licensed fishing vessel who is:

- (a) required to hold a high seas authorisation; or

(5) E amata faamamaluina se faaopoopoga i po o se fetuunaiga o se tuutuuga o le laisene, po o mo se vaa fagota mai atunuu ese, i le aso na logoina ai i se faiga tusitusia e le Vaega o Faiga Faiva le tagata o lo o umia le laisene po o se sooupu.

**31. Vaitaimi e aloaia ai laisene-**(1) E aloaia se laisene mo se vaitaimi e lē silia le 12 masina e pei ona faamaoti mai i le laisene, i le noatia ma le fai fuafua i le fuaiupu 34.

(2) Peitai ane, e muta le aogā o se laisene ua tuuina atu e tusa ai ma se feagaiga po o maliega ua ofi atu i ai i le taimi e muta ai le feagaiga ma le maliega ua ofi atu i ai.

(3) E lē mafai ona faaliliuina atu se laisene o se vaa i se isi vaa vagana ai:

- (a) ua i ai faatasi ma le uluai faatagaga tusitusia a le Ofisa Sili o Pulega;
- (b) i lalo o se fuafuaga tau pulega o faiga faiva po o se maliega ua ofi atu i ai; po o
- (c) e pei ona faatagaina i tulafono faatonutonu.

**32. Usitaia o isi tulafono e vaa mai atunuu ese-**(1) O le a lē saoloto ai se vaa fagota a atunuu ese i lalo o se laisene ua tuuina atu i lenei Tulafono, po o lona aliivaa po o le auvaa, i so o se noataga po o manaoga ua faaee atu i lalo o so o se isi tulafono e aafia ai faatautaiga, tiute, femalagaaiga, soifua maloloina po o so o se isi mataupu.

(2) O le tagata faafoe ma tagata taitoatasi o le auvaa o se vaa fagota po o se isi vaa lea e mafai ona faaaogāina mo:

- (a) faiga faiva;
- (b) se gaoioiga e fesootai i ai; po o
- (c) o isi gaoioiga i ogasami o faiga faiva ua aiaia i totonu o lenei Tulafono,

tusa lava po o ia umia se laisene po o se faatagaga, e ao ona ia usitaia so o se tulafono talafeagai.

(3) O le tagata faafoe o se vaa fagota ua laiseneina o ia lea:

- (a) e manaomia le umia o se faatagaga i ogasami maualuluga; po o

(b) subject to any condition imposed under section 30,

must comply with any other applicable enactment.

(4) The operator and the master of a vessel that is used in contravention of this section, commit an offence and are liable on conviction to a fine not exceeding 100,000 penalty units.

### **33. Register of vessels and exchange of information-(1)**

The Chief Executive Officer must establish and maintain a register of fishing vessels licensed under section 28, setting out the following information:

- (a) name of fishing vessel, registration number, any previous flag, previous names (if known), and port of registry;
- (b) type of vessel, length (including length overall and length between the perpendiculars, beam, moulded depth, where and when built, gross register tonnage and net tonnage, power of main engine or engines and normal crew complement, including a colour photograph of vessel;
- (c) International Radio Call Sign and any vessel communication types and numbers (INMARSAT A, B, C and D numbers and satellite telephone number);
- (d) name and address of the owner and the name and nationality of the master;
- (e) type of fishing method or methods;
- (f) the nature of the high seas authorisation or Flag State authorisation to fish issued on the vessel;
- (g) carrying capacity, including freezer type, capacity and number and fish hold capacity;

(b) le noatia ma fai fuafua i so o se tuutuuga ua faaee atu i lalo o le fuaiupu 30,

e ao ona ia usitaia so o se isi tulafono talafeagai.

(4) Ua faia se soligatulafono e le tagata faafoe ma le aliivaa o se vaa lea na faaaogāina e lē usitaia ai lenei fuaiupu, ma e noatia i luga o moliaga ua faamaonia faaetulafono i se sala tupe e lē silia le 100,000 iunite tau faasalaga.

### **33. Tusi resitala o vaa ma le fetufaaiga o faamatalaga-(1)**

E ao i le Ofisa Sili o Pulega ona faamautu ma tausia se tusi resitala o vaa fagota ua laisene i lalo o le fuaiupu 28, e faatulaga ai faamatalaga nei:

- (a) le igoa o le vaa fagota, fuainumera faamauina, so o se fu'a o tauaveina, igoa na i ai muamua (pe afai o iloa), ma le taulaga o faamauina ai);
- (b) le ituaiga vaa, le umi (e aofia ai le umi atoa ma le umi le va o itu faafesagai, laau faalava, loloto faatulagaina, o fea ma o anafea na fausia ai, tone atoa faamauina ma tone maoti, malosi o le afi autu po o afi ma le aofaiga atoa o le auvaa masani, e aofia ai se ata lanu o le vaa;
- (c) Faailoga Faava o Malo o Leitio mo Vailaau ma so o se ituaiga auala o fesootaiga a vaa ma fuainumera (INMARSAT A, B, C, ma le D ma numera o telefoni tau satelite);
- (d) igoa ma le tuatusi o le e ona le vaa ma le igoa ma le tulaga o tagatanuu o le aliivaa;
- (e) ituaiga faiva faiva po o auala o faaaogā mo faiva;
- (f) le uiga moni o le faatagaga i ogasami maualuluga po o le faatagaga a le Malo e ana le Fu'a na tuuina atu i le vaa e fagota ai;
- (g) le mamafa o uta e gafatia ona aveina, e aofia ai ituaiga pusa aisa, mafai gafatia ma le aofai ma le mamafa o i'a e mafai ona ia felauaia;

(h) any other information -

(i) approved by the Chief Executive Officer to be included in the register for the purposes of this Act; or

(ii) necessary to comply with any relevant measures adopted by Samoa at any regional or sub-regional fisheries management organisation.

(2) The Chief Executive Officer may provide to a relevant regional or sub-regional fisheries management organisation any information on the register as the Chief Executive Officer considers necessary.

(3) The information provided by the Chief Executive Officer may include any of the following information:

(a) additions to the register;

(b) deletions from the register;

(c) the withdrawal of an authorisation to fish;

(d) a vessel which is no longer entitled to fly the flag of Samoa.

(4) The operator of a Samoan licensed fishing vessel which is intended to be used to fish or which undertakes fishing outside fisheries waters must provide to the Chief Executive Officer the information required in subsection (1).

(5) The operator of a Samoan fishing vessel who:

(a) fails to provide any information; or

(b) provides any false or misleading information,

required under subsection (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty units.

**34. Suspension and cancellation of licences-**(1) The Minister, acting on the advice of the Chief Executive Officer, may suspend or cancel a licence if the Minister is satisfied that:

(h) so o se isi lava faamatalaga -

(i) ua faamaonia e le Ofisa Sili o Pulega ina ia aofia ai i totonu o le tusi resitala mo faamoemoega o lenei Tulafono; po o

(ii) e talafeagai mo le usitaia ai o so o se auala talafeagai ua faaogāina e Samoa i so o se faalapotopotoga faaitulagi po o faalapotopotoga laiti faaitulagi o pulega tau faiga faiva.

(2) E mafai e le Ofisa Sili o Pulega ona tuuina atu so o se faamatalaga i se faalapotopotoga faaitulagi po o faalapotopotoga faaitulagi laiti tau pulega o faiga faiva talafeagai i luga o le tusi resitala e pei ona manatu le Ofisa Sili o Pulega ua talafeagai ai.

(3) O le faamatalaga e tuuina atu e le Ofisa Sili o Pulega e mafai ona aofia ai so o se tasi o faamatalaga nei:

(a) faaopoopoga i le tusi resitala;

(b) mea e toesea mai le tusi resitala;

(c) o le faaui i tua o se faatagaga e fai ai faiga faiva;

(d) se vaa lea ua le o toe agavaa e tauaveina le fu'a o Samoa.

(4) E ao i le tagata faafoe o se vaa fagota ua laiseneina a Samoa lea ua faamoemoe e faaogā mo faiga faiva po o, o lo o fagota i tua atu o ogasami o faiga faiva, ona tuuina atu i le Ofisa Sili o Pulega faamatalaga e manaomia i le faafuaiupu (1).

(5) O se tagata faafoe o se vaa fagota a Samoa o ia lea:

(a) ua ia lē mafai ona tuuina atu so o se faamatalaga; po o

(b) ua ia tuuina atu so o se faamatalaga sese pe tau faasese,

e pei ona manaomia i lalo o le faafuaiupu (1), ua ia faia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 100 iunite tau faasalaga.

**34. Taofia lē tumau ma le faalēaogāina o laisene-**(1) E mafai e le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega, ona taofia lē tumau po o le faalēaogāina se laisene pe afai ua faamalieina le Minisita e faapea:

- (a) it is necessary to do so in order to give effect to a licensing programme or conservation measure specified in, or implemented under a fishery management plan; or
- (b) a licensed fishing vessel has been used to contravene -
  - (i) this Act;
  - (ii) its licence or a condition of the licence (including the high seas authorisation); or
  - (iii) an applicable fisheries treaty; or
- (c) payment has not been made and is overdue for any fees, other charges and compensation required under this Act, or for a penalty, fine or other order imposed under this Act; or
- (d) good standing on the Vessel Register has been withdrawn for the licensed vessel if the good standing is a condition of the licence; or
- (e) the Minister is required or authorised to do so under an access agreement; or
- (f) the holder of a licence fails to comply with the conditions of the licence or high seas authorisation or a requirement of this Act; or
- (g) on any other prescribed ground to suspend or cancel the licence.

(2) The licence is automatically cancelled by virtue of this subsection if a material circumstance (determined by the Chief Executive Officer) of a licensed vessel changes.

(3) A licence issued under a fisheries treaty is to be suspended or cancelled pursuant to the treaty.

- (a) ua talafeagai le faia faapea ina ia aloaia ai se polokalame tau laisene po o auala e faatonotonu ai faasao ua faamaoti i, po o faatino i lalo o se fuafuaga tau pulega o faiga faiva; po o
- (b) na faaogāina se vaa fagota ua laiseneina mo faiga faiva e lē usitaia ai -
  - (i) lenei Tulafono;
  - (ii) lona laisene po o se tutuuga o le laisene (e aofia ai le faatagaga i ogasami maualuluga); po o
  - (iii) se feagaiga talafeagai o faiga faiva; po o
- (c) e le i totogiina tupe ma ua sili atu le taimi e totogi ai so o se totogifuapauina, o isi tau faaee atu ma taui tau tupe e manaomia i lalo o lenei Tulafono po o mo se faasalaga, sala tupe po o isi poloaiga ua faaee atu i lalo o lenei Tulafono, po o
- (d) ua faalēaogāina le tulaga gafatia lelei o le vaa o lo o i le Tusi Resitala o Vaa ua faamauina, pe afai o le tulaga gafatia lelei o se tuutuuga o le laisene; po o
- (e) e manaomia le Minisita po o ua faatagaina foi e faia faapea i lalo o se maliega ua ofi atu i ai; po o
- (f) ua lē mafai e le tagata e ona le laisene ona usitaia tuutuuga o le laisene po o faatagaga i ogasami maualuluga, po o se manaoga o lenei Tulafono; po o
- (g) i luga o so o se isi lava mafuaaga ua faatonuina e taofia lē tumau ai pe faalēaogāina le laisene.

(2) E faalēaogāina e aunoa ma le faatali le laisene e tusa ai ma lenei faafuaiupu pe afai ua suia se tulaga faapitoa (ua fuafuaina e le Ofisa Sili o Pulega) o se laisene o se vaa.

(3) E ao ona taofia lē tumau pe faalēaogāina e tusa ai ma le feagaiga, se laisene ua tuuina atu i lalo o se feagaiga tau faiga faiva.



(4) Except for subsection (2), the Minister must give the operator of the licensed fishing vessel an opportunity to be heard before making a decision to suspend or cancel the licence under subsection (1).

(5) If a licence has been suspended or cancelled:

(a) under this section, the holder of the licence must be notified of the suspension or cancellation, in writing or in any means of communication as approved by the Chief Executive Officer, including by telex, radio, facsimile or email; or

(b) on the grounds specified in subsection (1)(a), a proportion of any fees paid for the licence representing the unexpired period of that licence or the period of suspension, may, upon request, be refunded to the operator of the vessel.

**35. Judicial review of decisions**— A person affected and aggrieved by a decision of the Chief Executive Officer or the Minister may seek judicial review of the decision in the Supreme Court.

#### **PART 4 FISHING ACTIVITIES**

##### *Division 1 - General fishing activities*

**36. Fishery allocation**-(1) The Chief Executive Officer may, in writing, make, amend, suspend or revoke a fishery allocation for:

(a) a fishing activity under this Act; or

(b) any applicable fishery plan or fishery agreement.

(4) Ae vagana ai mo le faafuaiupu (2), e ao i le Minisita ona tuuina atu se avanoa i le tagata faafoe o le vaa fagota ua laiseneina ina ia fofogaina ai o ia a o lumanai ai le faia o se faaiuga e taofia lē tumau ai pe faalēaogāina le laisene i lalo o le faafuaiupu (1).

(5) Afai ua taofia lē tumau pe faalēaogāina se laisene:

(a) i lalo o lenei fuaiupu, e ao ona logoina le tagata o umia le laisene e uiga i le taofia lē tumau ai po o le faalēaogāina i se faiga tusitusia, po o e ala i so o se isi auala tau fesootaiga ua faamaonia e le Ofisa Sili o Pulega, e aofia ai telesi, leitio, fesi po o imeli; po o

(b) luga o mafuaaga ua faamaoti mai i le faafuaiupu (1)(a), e mafai, i luga o se talosaga ona toe faafoi atu i le tagata faafoe o le vaa, se vaeveaga o so o se totogifuapauina ua totogi mo le laisene e sui ai le vaitaimi e le i faamutaina ai lea laisene, po o le vaitaimi na taofia lē tumau ai.

**35. Iloiloga faa-faamasinoga o faaiuga** - E mafai e se tagata ua aafia ma mafatia i se faaiuga a le Ofisa Sili o Pulega po o le Minisita ona sailia le faia o se iloiloga faa-faamasinoga i le Faamasinoga Sili.

#### **VAEGA 4 GAOIOIGA TAU FAIGA FAIVA**

##### *Vaeveaga 1 - Gaoioiga lautele tau faiga faiva*

**36. Faatulagaga o faiga faiva**-(1) E mafai e le Ofisa Sili o Pulega, i se faiga tusitusia, ona faia, teuteuina, taofia lē tumau pe faalēaogāina se faatulagaga mo:

(a) se gaoioiga tau faiga faiva i lalo o lenei Tulafono; po o

(b) so o se fuafuaga talafeagai tau faiga faiva po o maliega tau faiga faiva.

(2) In this Part, “fishery allocation” means the allocation of a specific amount of catch or fishing activity for a fishery.

**37. Fishing rights** - The Minister may grant a fishing right to a person or class of persons, by notice in the Savali setting out any or more of the following:

- (a) the method of applying for a right of access or quota share;
- (b) the identification of criteria for determining those eligible to apply for a fishing right;
- (c) the duration of a fishing right;
- (d) the criteria for adjusting the fishing rights allocated from one period to another;
- (e) determining whether the fishing right is inheritable, leasable, saleable, or divisible;
- (f) the number of rights or quota a person may hold at any one time;
- (g) the method of calculation of a quota;
- (h) the circumstances in which a fishing right may lapse or be reduced, suspended or cancelled.

**38. Exploratory or test fishing**-(1) A person must not carry out any fishing operation for exploratory or test fishing purposes except with the approval granted under this section.

(2) The Minister may, on the advice of the Chief Executive Officer, approve (in writing and with or without conditions) a person to carry out exploratory or test fishing.

(2) I totonu o lenei Vaega, “faatulagaga tau faiga faiva” o lona uiga o le faatulagaga o se aofai maoti o i’a o fagotaga po o gaoioiga tau faiga faiva mo se nofoaga tau i’a.

**37. Aia tatau tau faiga faiva** - E mafai e le Minisita ona faamatuu atu se aia tatau i se tagata po o se vasega o tagata, e ala i se faasilasilaga i le Savali e faatulaga atu ai se tasi po o le sili atu o itu nei:

- (a) le auala e talosaga ai mo se aia tatau e avanoa ai po o le faasoasoaga faatatauina;
- (b) le faailogofieina o taiala mo le fuafuaina o i latou e agavaa e talosaga mo se aia tatau tau faiga faiva;
- (c) le umi o le vaitaimi o aia tatau tau faiga faiva;
- (d) le taiala faavae mo le fetuunaiga o aia tatau tau faiga faiva ua faasoasoaga atu mai lea vaitaimi i lea vaitaimi;
- (e) o le fuafuaina pe mafai ona tuufaasolo aia tatau, lisi atu, e mafai ona faatau atu, po o le vaevaeina;
- (f) le aofai o aia tatau po o le vaega faatagaina e mafai ona umia e se tagata i so o se tasi lava taimi;
- (g) le auala e faaogaina mo le faatatauina o le vaega faatagaina;
- (h) o tulaga aliae mai e mafai ai ona lape pe faaititia, taofia lē tumau pe faalēogaina se aia tatau tau faiga faiva.

**38. Faiga faiva tau suesuega o mea fou po o faiga faiva tau faataitaiga**-(1) E lē tatau i se tagata ona tauave so o se gaoioiga tau faiga faiva mo faamoemoega tau suesuega mo mea fou po o faiga faiva tau sailiiliga vagana ai ua i ai faatasi ma le faamaoniga e faamatuu atu i lalo o lenei vaega.

(2) E mafai e le Minisita, i luga o le fautuaga a le Ofisa Sili o Pulega ona faamaonia (i se faiga tusitusia ma i le i ai faatasi po o le aunoa ai o ni tuutuuga) se tagata e faatino se faiga faiva tau suesuega po o mea fou po o se faiga faiva tau sailiiliga.

(3) A person may apply for an approval, in the approved form and accompanied by the prescribed fee.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding:

- (a) 1000 penalty units; and
- (b) in addition to a fine imposed under paragraph (a), 20 penalty units for each day the offending continues.

*Division 2 - Aquaculture*

**39. Aquaculture operations outside village fisheries management areas-**(1) A person must not establish or operate a business or experimental operation involving aquaculture except with an authorisation under this section.

- (2) The Chief Executive Officer may:
- (a) issue an aquaculture authorisation to a person to establish or operate a business or experimental operation involving aquaculture outside a village fisheries management area; and
  - (b) impose any conditions of aquaculture authorisation, including any or more of the following conditions -
    - (i) the location of the aquaculture operation;
    - (ii) the fish or other aquatic organisms to be cultivated or not to be cultivated;
    - (iii) the construction of the aquaculture facilities and the operation of those facilities;
    - (iv) the prevention of the spread of communicable fish diseases;
    - (v) the inspection of aquaculture sites;

(3) E mafai e se tagata ona talosaga mo se faamaoniga, i le pepa faatumu faamaonia ma tuuina atu faatasi ma le totogifuapauina faatonuina.

(4) Ua faia e se tagata se soligatulafono o ia lea ua ia lē usitaia le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia:

- (a) le 1,000 iunite tau faasalaga; ma
- (b) e faapooopo atu i se sala tupe ua faaee atu i lalo o le parakalafa (a), e 20 iunite tau faasalaga mo aso taitasi uma e faaauau ai le soligatulafono.

*Vaevaega 2 - Faaolaivai*

**39. Gaoioiga o faaolaivai i tua atu o nofoaga o pulega tau faiga faiva i nuu ma afioaga-**(1) E lē tatau i se tagata ona faavaeina pe faagaoioia se pisinisi po o se gaoioiga tau le suesuega e aafia ai faaolaivai vagana ai se faatagaga i lalo o lenei fuaiupu.

- (2) E mafai e le Ofisa Sili o Pulega ona:
- (a) tuuina atu se faatagaga o faaolaivai i se tagata e faavae ai pe faagaoioia se pisinisi po o gaoioiga tau suesuega e aafia ai faaolaivai i tua atu o nofoaga tau pulega o faiga faiva a nuu; ma
  - (b) faaee atu so o se tuutuuga o faaolaivai e aafia ai so o se tasi (1) po o le sili atu o tuutuuga nei -
    - (i) le nofoaga o lo o i ai le faaolaivai;
    - (ii) le i'a po o isi meaola o le sami e ao ona faafaileleina pe leai foi;
    - (iii) le fausia o nofoaga ma fale mo faaolaivai ma le latou faagaoioiga;
    - (iv) le puipuiga o le pipisi o faamai tau i'a;
    - (v) le asiasiga o fale o lo o i ai faaolaivai;

(vi) the provision of statistical, scientific and commercial information;

(vii) the conservation, management and sustainable use of the aquatic environment.

(3) A person may apply (in the approved form and accompanied by the prescribed fee) to the Chief Executive Officer for aquaculture authorisation.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding:

(a) 1000 penalty units; and

(b) in addition to a fine imposed under paragraph (a), 20 penalty units for each day the offending continues.

**40. Aquaculture farming management-**(1) The Division must manage any aquaculture activity, which is not allocated to a village fisheries management area.

(2) The Chief Executive Officer may regulate aquaculture in the coastal waters and inland waters.

**41. Aquaculture operations within village fisheries management areas-**(1) A person must not undertake an aquaculture operation within a village fisheries management area except under an aquaculture authorisation issued under this section.

(2) A village fisheries management committee may:

(a) issue an aquaculture authorisation to a person within the village to undertake any aquaculture operation in its village fisheries management area; and

(vi) le tuuina atu o faamatalaga tau fuainumera faamauina, faasaienisi ma faamatalaga faapisinisi;

(vii) le faasao, pulega ma le faaaogā gafataulimaina o le siosiomaga o laau e ola i le vai.

(3) E mafai e se tagata ona talosaga (i le pepa faatumu faamaonia ma tuuina atu faatasi ma le totogifuapauina faatonuina) i le Ofisa Sili o Pulega mo le faatagaga o faaolaivai.

(4) Ua faia e se tagata se soligatulafono o ia lea ua ia lē usitaia le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaetulafono i se sala tupe e lē silia:

(a) le 1000 iunite tau faasalaga; ma

(b) e faaopoopo atu i se sala tupe na faaee atu i lalo o le parakalafa (a), e 20 iunite tau faasalaga mo aso taitasi uma e faaauau ai le soligatulafono.

**40. Pulega o faatoaga faaolaivai-**(1) E ao ona pulea e le Vaega o Faiga Faiva so o se gaoioiga tau faatoaga faaolaivai lea e le o faatulagaina i se nofoaga o le pulega tau faiga faiva a nuu ma afioaga.

(2) E mafai e le Ofisa Sili o Pulega ona faatonutonu faaetulafono faatoaga faaolaivai i ogasami i le talafatai ma vai i le paumatutu.

**41. Gaoioiga tau faatoaga faaolaivai i totonu o nofoaga tau pulega o faiga faiva a nuu ma afioaga-**(1) E lē tatau i se tagata ona tauaveina se gaoioiga tau faatoaga faaolaivai i totonu o se nofoaga o pulega tau faiga faiva a nuu ma afioaga vagana ai o lalo o se faatagaga tau faatoaga faaolaivai ua tuuina atu i lalo o lenei fuaiupu.

(2) E mafai e se komiti o pulega tau faiga faiva a se nuu ona:

(a) tuuina atu se faatagaga tau faatoaga faaolaivai i se tagata i totonu o le nuu, e faatino ai so o se gaoioiga tau faatoaga faaolaivai i le nofoaga tau pulega o faiga faiva a se nuu; ma

(b) propose bylaws under Part 8 to regulate aquaculture activities in the village fisheries management area.

(3) A person authorised under subsection (2)(a) must comply with any bylaws specified under subsection (2)(b).

(4) The village fisheries management plan must impose conditions for aquaculture authorisation.

(5) In addition to conditions under subsection (4), the Chief Executive Officer may impose other conditions for aquaculture authorisation under this section.

(6) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units, and 20 penalty units for each day the offence continues.

### *Division 3 - Prohibited fishing methods*

**42. Fishing with explosives or poisons-**(1) A person commits an offence who:

- (a) permits to be used, uses, or attempts to use an explosive, poison, or other noxious substance for the purpose of killing, stunning, disabling, or catching fish, or in any way rendering fish more easily caught; or
- (b) permits to be carried, carries or has in the person's possession or control any explosive, poison, or other noxious substance in circumstances evidencing an intention of using the explosive, poison, other noxious substance for any of the purposes referred to in paragraph (a),

(b) talosagaina tulafono laiti i lalo o le Vaega 8 e faatonutonu faaletulafono ai gaoioiga o faatoaga faaolaivai i le nofoaga tau pulega o faiga faiva a le nuu.

(3) E ao i se tagata ua faatagaina i lalo o le faafuaiupu (2)(a) ona usitaia so o se tulafono laitiiti ua faamaoti atu i lalo o le faafuaiupu (2)(b).

(4) E ao ona faaee atu i le fuafuaga tau pulega o faiga faiva a nuu tuutuuga mo faatagaga o faatoaga faaolaivai.

(5) E faaopoopo atu i tuutuuga i lalo o le faafuaiupu (4), e mafai e le Ofisa Sili o Pulega ona faaee atu isi tuutuuga mo faatagaga o faatoaga faaolaivai i lalo o lena faafuaiupu.

(6) Ua faia e se tagata se soligatulafono, o ia lea ua ia lē usitaia le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 1,000 iunite tau faasalaga, ma le 20 iunite tau faasalaga mo aso taitasi uma e faaauau ai le solitulafono.

### *Vaevaega 3 - Ituaiga auala o faiga faiva e faasaina*

**42. Faiga faiva e faaaogā i ai fana i'a po o vailaau oona-**(1)

Ua faia e se tagata se soligatulafono o ia lea:

- (a) ua faatagaina le faaaogā ai po o le taumafai e faaaogā se fana i'a, vailaau oona, po o isi kasa oona mo le faamoemoe e tape ai, faaaogāina o ava oona, faatauga, po o le pueina o i'a, po o i so o se auala ua faafaigofie ai ona pueina i'a; po o
- (b) faataga e tauaveina, tauave pe umia e le tagata po o le faatonutonu o so o se fana i'a, kasa, po o isi vailaau oona i tulaga e molimauina ai le faamoemoe e faaaogāina o fana i'a, mea oona, o isi vailaau oona mo so o se faamoemoega ua taua i le parakalafa (a),

and is liable on conviction to a fine not exceeding 1,000 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(2) Any explosive, poison, or other noxious substance found on board a fishing vessel is presumed, unless the contrary is proved, to be intended for the purposes referred to in subsection (1)(a).

(3) A person who lands, sells, receives, or is found in possession of any fish taken by any means which is in contravention of subsection (1)(a), commits an offence and is liable on conviction to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

(4) In any proceedings for an offence under this section:

(a) a certificate, as to the cause and manner of death of or injury to any fish, signed by the Chief Executive Officer (or by a person authorised, in writing, by the Chief Executive Officer) is, unless the contrary is proved, sufficient evidence as to the matters stated in the certificate; and

(b) the prosecution must give the defendant not less than 14 days' notice in writing of the prosecution's intention to adduce a certificate under paragraph (a).

**43. Driftnet fishing activities-**(1) A vessel, in fisheries waters, must not:

(a) engage or assist or attempt to engage or assist in driftnet fishing activities; or

ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 1,000 iunite tau faasalaga po o, le nofosala i le falepuipui mo se vaitaimi e lē silia le 12 masina, po o faasalaga uma e lua.

(2) Ua faatatauina so o se fana i'a, mea oona, po o isi vailaau oona e maua i luga o se vaa faogta, ua faamoemoe mo faamoemoe ua taua i le faafuaiupu (1)(a) vagana ai ua faamaonia i se isi tulaga e ese ai.

(3) So o se tagata o ia lea ua na faatulaueleeleina, faatau atu, taulimaina, po o ua maua o ia te ia so o se i'a ua aveina e ala i so o se ituaiga auala lea ua lē usitaia ai le faafuaiupu (1)(a), ua ia faia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 500 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le ono (6) masina, po o faasalaga uma e lua.

(4) I so o se taualumaga mo se soligatulafono i lalo o lenei fuaiupu:

(a) ua lava atoatoa faamatalaga molimau i se tusi faamaonia, e uiga i le mafuaaga ma le auala na mate ai pe manua so o se i'a, ua sainia e le Ofisa Sili o Pulega (po o, e se tagata ua faatagaina i se faiga tusitusia, e le Ofisa Sili o Pulega) e faamaonia ai mataupu ua taua i le tusi faamaonia vagana ai ua faamaonia i se isi faiga e ese ai; ma

(b) e ao i le faamasinoga ona tuuina atu i le tagata ua molia a itiiti mai e 14 aso se faasilasilaga tusitusia o le faamoemoe o le faamasinoga e avea ma molimau se tusi faamaonia i lalo o le parakalafa (a).

**43. Gaoioiga tau faiga faiva i upega faatafea-**(1) E lē tatau i se vaa o lo o i ogasami faiga faiva ona:

(a) auai, po o le fesoasoani, pe taumafai e auai po o le lagolago i gaoioiga tau faiga faiva i upega faatafea; po o

(b) possess or have on board a driftnet.

(2) The operator of a vessel that is used to contravene subsection (1) commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

(3) A person who engages, assists, or attempts to engage or assist in driftnet fishing activities in the fishery waters is liable on conviction to a fine not exceeding 10,000 penalty units.

(4) A vessel which has been used to assist driftnet fishing activities may not enter a port in Samoa except in cases of *force majeure*.

(5) A person who contravenes subsection (4) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

#### *Division 4 - Transshipment and port measures*

**44. Transshipment-**(1) A person must not tranship fish to or from a foreign vessel in fisheries waters unless the transshipment:

(a) is provided in the vessel's licence or an applicable access agreement; or

(b) is granted under subsection (2).

(2) The Chief Executive Officer:

(a) may -

(i) with or without conditions (including conditions under subsection (3)), issue a transshipment authorisation permitting the vessel to tranship fish;

(b) le umia po o le i ai i luga o le vaa o se upega faatafea.

(2) Ua faia se soligatulafono e se tagata faafoe o se vaa lea ua lē usitaia ai le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 1,000 iunite tau faasalaga.

(3) E noatia se tagata o ia lea o lo o auai, fesoasoani, po o le taumafai e auai po o le lagolagoina o gaoioiga tau faiga faiva e faaaogāina ai upega faatafea i ogasami o faiga faiva, i se sala tupe e lē silia le 10,000 iunite tau faasalaga, pe a faamaonia faaletulafono lona moliaga.

(4) E lē mafai ona ulufale atu se vaa lea na faaaogā e fesoasoani ai i faiga faiva o upega faatafea i se taulaga i Samoa vagana ai i mataupu e le mafai e se tasi ona tetee atu i ai.

(5) Ua faia e se tagata se soligatulafono o ia lea ua ia lē usitaia le faafuaiupu (4) ma e noatia i luga o moliaga ua faamaonia faaletulafono, i se sala tupe e lē silia le 10,000 iunite tau faasalaga.

#### *Vaevaega 4 - Toe utaina o i'a i luga o isi vaa ma fuafuaga e faatonutonu ai taulaga*

**44. Toe utaina o i'a i luga o isi vaa-**(1) E lē tatau i se tagata ona toe utaina i'a i luga o isi vaa po o mai se vaa fagota a atunuu ese i ogasami o faiga faiva vagana ai o le toeutaina i luga o isi vaa:

(a) o lo o aiaia i le laisene o le vaa po o se maliega talafeagai ua sainia; po o

(b) ua faatagaina i lalo o le faafuaiupu (2).

(2) O le Ofisa Sili o Pulega:

(a) e mafai -

(i) i le i ai po o le aunoa ai o tuutuuga (e aofia ai tuutuuga i lalo o le faafuaiupu (3)), ona ia tuuina atu se faatagaga o le toe utaina o i'a luga o isi vaa e faataga ai le vaa e faia faapea;

(ii) refuse to issue the transshipment authorisation; or

(iii) amend, suspend or revoke the transshipment authorisation;

(b) must attach prescribed condition to the transshipment authorisation; and

(c) may -

(i) amend, suspend or revoke a condition of the transshipment authorisation if the condition or a requirement of this Act is contravened; or

(ii) impose new a condition.

(3) The holder of a transshipment authorisation must comply with any applicable laws of Samoa and any condition of the authorisation.

(4) A person who contravenes subsection (1) or a condition of the transshipment authorisation commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

**45. Port measures regulations-**(1) The Head of State may, acting on the advice of Cabinet, make regulations to give effect to or for the purposes of this Part, in particular to make regulations on any or more of the following matters:

(a) the designation and publication of ports to which foreign fishing vessels may be permitted access;

(b) the designation of port inspectors;

(c) the training and qualifications of port inspectors;

(ii) ona ia teena le tuuina atu o le faatagaga o le toe utaina i luga o vaa; po o

(iii) le teuteu, taofia lē tumau po o le faalēaogāina o le faatagaga e toe utaina ai i luga o vaa;

(b) e ao ona faapipii i ai tuutuuga faatonuina i le faatagaga o le toe utaina i luga o isi vaa o i'a; ma

(c) e mafai -

(i) ona teuteuina, taofia lē tumau po o le faalēaogāina o se tuutuuga o le faatagaga o le toe utaina i luga o isi vaa pe afai ua lē usitaia le tuutuuga po o se manaoga o lenei Tulafono; po o

(ii) le faaee atu o se tuutuuga fou.

(3) E ao i le tagata o lo o umia se faatagaga o le toe utaina i luga o isi vaa ona usitaia so o se tulafono talafeagai a Samoa ma so o se tuutuuga o le faatagaga.

(4) Ua faia se soligatulafono e se tagata o ia lea ua lē usitaia le faafuaiupu (1) po o se tuutuuga o le faatagaga o le toe utaina i luga o isi vaa, ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 10,000 iunite tau faasalaga.

**45. Tulafono faatonutonu o fuafuaga e faatonutonu ai taulaga-**(1) E mafai e Le Ao o le Malo i le faia i luga o le fautuaga a le Kapeneta, ona faia tulafono faatonutonu e aloaia ai le, po o mo faamoemoega o lenei Vaega, ma aemaise lava le faia o tulafono faatonutonu i o so o se mataupu po o le sili atu i tulaga nei:

(a) o le faailoaina ma le lomina faasalalau o taulaga ia e mafai ona lē faatagaina avanoa i ai o vaa fagota mai atunuu ese;

(b) le tofiaina o tagata asiiasi o taulaga o vaa;

(c) o aoaoga ma agavaa o tagata asiiasi o le taulaga;



- (d) establishing the procedures, the contents of and the results to be obtained from an inspection system, including the adoption of port measures adopted by a sub-regional, regional or global fisheries organisation, treaty or arrangement;
  - (e) prescribing the powers of inspectors, the mode of conducting an inspection, including the power to inspect an area of the fishing vessel, the catch (whether processed or not), fishing gear, equipment or other gear and document which inspectors consider necessary to verify compliance with relevant conservation and management measures;
  - (f) requiring the provision of any assistance or information as may be needed in order to undertake inspections;
  - (g) requiring foreign fishing vessel to provide notice before they enter a port or the exclusive economic zone for the purpose of entering a port;
  - (h) prescribing the period of notice and the contents of the notice required under paragraph (g), including vessel identification, high seas authorisation or Flag State authorisation, information on its fishing trip (including the vessel monitoring systems information), quantities of fish on board and any other documentation or information;
- (d) faamautuina o tualumaga, o mea e aofia ai ma taunuuga e ao ona mauaina mai se faiga faakomepiuta o suesuega, e aofia ai le faaaogāina o fuafuaga ua faaaogāina e se faalapotopotoga faaitulagi laitiiti faalapotopotoga faaitulagi po o faalapotopotoga o faiga faiva a le lalolagi, feagaiga po o faatulagaga;
  - (e) e faatonuina ai malosiaga o tagata asiasi, auala e faafoe ai se asiasiga, e aofia ai le malosiaga e asiasi ai so o se nofoaga o totonu o vaa fagota, o i'a e maua mai le fagotaga (tusa lava pe ua gaosia pe leai foi), mea fagota mo faiga faiva, meafaigaluega po o isi mea fagota ma pepa aloaia ia e manatu tagata asiasi e talafeagai e faamaonia ai le usitaia o faasao talafeagai ma auala e faatonutonu ai pulega tau faiga faiva;
  - (f) o le manaomia ai o le tuuina atu o so o se fesoasoani po o faamatalaga e pei ona mafai ona manaomia e faataunuu ai asiasiga;
  - (g) o le manaomia ai o vaa fagota mai atunuu ese e tuuina atu se faasilasilaga a o lumanai ai ulufale atu lea vaa i se taulaga po o, le sone faapitoa tau le tamaoaiga mo le faamoemoe o le ulufale atu i se taulaga;
  - (h) o le faatonuina o le vaitaimi ma mea e aofia ai i le faasilasilaga o lo o manaomia i lalo o le parakalafa (g), e aofia ai le tulaga e iloagofie ai le vaa, faatagaga e uia ai le vasa po o le faatagaga o Fu'a a Malo, faamatalaga e uiga i ana malaga e fagota ai (e aofia ai faamatalaga o faiga e mataitu ai vaa fagota), aofai o i'a i luga o le vaa ma so o se isi lava faamaumauga po o faamatalaga;

(i) regulating or prohibiting -

(i) the landing, transshipment, packaging or processing of fish; or

(ii) the refuelling or resupplying a vessel;

(j) prohibiting the entry into port of a vessel which has been identified or reported as having been engaged in or supporting fishing activities in contravention with sub-regional, regional or global conservation measures, or where there are reasonable grounds for presuming that a vessel has been engaged in any fishing activity;

(k) regulating or prohibiting the entry into port of a vessel that has been included on the list maintained by sub-regional, regional or global fisheries organisations of vessels that are believed to have engaged in illegal, unregulated or unreported fishing;

(l) prohibiting the entry into port of vessels -

(i) which have been identified or reported as having been engaged in or supporting fishing activities in areas under national jurisdiction in contravention of the laws of a particular country; or

(ii) which have been identified or reported as having been engaged in fishing on the high seas without a Flag State authorisation to do so from its Flag State; or

(i) e faatonotonuina faaletulafono ai pe faasaina ai -

(i) le faatulaueleeleina, toe utaina i luga o isi vaa, affi po o le gaosia o i'a; po o

(ii) le toe utuina o penisini po o le toe utuina o suaau o se vaa;

(j) le faasaina o le ulufale atu o se vaa i le taulaga lea ua faailoagofie pe ua lipotia mai o lo o auai po o lagolagoina gaoioiga tau faiga faiva e lē usitaia ai faiga e faatino ai faasao a faalapotopotoga faaitulagi laiti, faalapotopotoga faaitulagi po o faalapotopotoga tau faiga faiva a le lalolagi; po o, pe afai o lo o i ai mafuaaga talafeagai mo le manatu e faapea, na auai se vaa i so o se gaoioiga tau faiga faiva;

(k) e faatonotonuina faaletulafono po o le faasaina ai o le ulufale atu o se vaa i se taulaga lea o lo o aofia i le lisi o tausia e faalapotopotoga faaitulagi laiti, faalapotopotoga faaitulagi, po o le lalolagi, o vaa ia ua talitonuina o lo o auai i faiga faiva faasolitulafono, faiga faiva e le o faatonotonuina faaletulafono po o faiga faiva e le o lipotia;

(l) o le faasaina o le ulufale atu o vaa i totonu o le taulaga o vaa -

(i) lea na faailoagofie mai po o ua lipotia mai o lo o auai i, po o lo o lagolagoina gaoioiga tau faiga faiva i nofoaga o lo o i lalo o puleaga a atunuu e lē usitaia ai tulafono a se atunuu faapitoa; po o

(ii) lea na faailoagofie mai pe na lipotia o lo o auai atu i faiga faiva i ogasami maualuluga e aunoa ma le faatagaga a le Malo e ana le Fu'a; po o

(iii) if there are reasonable grounds for presuming that vessels have been engaged in the fishing activity in areas under national jurisdiction in contravention of the laws of a particular country or on the high seas without a Flag State authorisation to do so from its Flag State;

- (m) authorising the cooperation and exchange of information, including inspection results with other countries and sub-regional, regional or global fisheries organisations;
- (n) providing for a system of appeal against decisions taken in respect of fishing vessels under this section;
- (o) providing for any other measures that may be agreed to by sub-regional or regional or global fisheries organisations, treaty or arrangement;
- (p) creating offences for regulations or failure to comply with a notice under this Part and prescribing penalties for fines not exceeding \$10,000 penalty units.

(2) The Minister may, acting on the advice of the Chief Executive Officer, prohibit an individual vessel or a class of vessels from entering a port of Samoa:

- (a) which has been sighted engaging in or supporting fishing in contravention of the conservation and management measures of a regional or sub-regional fisheries organisation; and
- (b) whose Flag State country is not a member of nor is it a cooperating non-contracting Party to that sub-regional or regional fisheries organisation,–

(iii) pe afai o lo o i ai mafuaaga talafeagai mo le manatu lē maudioa e faapea, na auai le vaa fagota i ni gaoioiga tau faiga faiva i nofoaga o lo o i lalo o le puleaga a atunuu o lo o lē usitaia tulafono a se atunuu faapitoa po o, i ogasami maualuluga e aunoa ma se faatagaga a le Malo e ana le Fu'a ina ia faia faapea;

- (m) faatagaina le galulue faatasi ma fefaasoai faamatalaga, e aofia ai taunuuga o asiasiga ma isi atunuu, ma faalapotopotoga faaitulagi laiti, faaitulagi po o faalapotopotoga o faiga faiva a le lalolagi;
- (n) aiaia ai se faiga e faafae ai talosaga tetee faasaga i faaiuga ua faaogāina e tusa ai ma vaa fagota i lalo o lenei fuaiupu;
- (o) aiaia ai isi lava auala ia e mafai ona malilie faatasi i ai ma faalapotopotoga tau faiga faiva faaitulagi laiti, faaitulagi po o faalapotopotoga o faiga faiva a le lalolagi, feagaiga po o faatulagaga;
- (p) fuafuaina ai soligatulafono mo tulafono faatonutonu po o le lē usitaia ai o se faasilasilaga i lalo o lenei Vaega, ma le faatonuina ai o faasalaga mo sala tupe e lē silia le \$10,000 iunite tau faasalaga.

(2) E mafai e le Minisita, i le faia i luga o le fautuaga a le Ofisa Sili o Pulega, ona faasaina se vaa e tasi po o se vasega o vaa mai le ulufale atu i se taulaga o Samoa:

- (a) lea ua maua o auai i po o lagolagoina faiga faiva e lē usitaia ai le faasao ma auala tau pulega o faiga faiva a se vaega faaitulagi po o faalapotopotoga o faiga faiva faaitulagi laitiiti; ma
- (b) le atunuu o ia tauaveina lona Fu'a e le o se sui auai po o ia foi o se Vaega Auai e galulue faatasi, ma lea faalapotopotoga a vaega laiti faaitulagi po o faalapotopotoga tau faiga faiva faaitulagi,

unless it is established that the catch on board has been taken in a manner consistent with the relevant conservation and management measures.

(3) In this section, “port” includes any offshore terminals or other installations for landing, transshipping, refuelling or re-supplying vessels.

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

**46. Processing, trading and marketing of fish and fish products-**(1) A person must not process, trade and market any fish and fish products except under the authority of a licence or registration prescribed under section 47.

(2) A prescribed licence or registration issued under this Part is subject to any terms (relating to licensing of foreign fishing vessels or to access to fisheries waters) of any commercial agreement to process, trade and market tuna or tuna products entered into section 17(1)(b).

**47. Regulations for processing, etc., of fish and fish products-**(1) The Head of State may, acting on the advice of Cabinet, make regulations to give effect to or for the purposes of this Part, and in particular may make the following regulations:

- (a) regulating licensing or registration of persons or premises to process, trade and market fish and fish products, including conditions of any licence or registration;
- (b) prescribing requirements, standards and procedures for processing, trading and marketing of fish and fish products;

seia vagana ai ua faamautuina e faapea, o i’a na maua i le fagotaga o lo o i luga o le vaa sa maua mai i se faiga e ogatasi ma auala o le faasaoina ma le pulega talafeagai.

(3) I totonu o lenei fuaiupu, “taulaga” e aofia ai so o se nofoaga e tuta i ai i fafo po o isi mea e faapipii e tuta ai, toe utaina i isi vaa, toe utuina o penisini po o le toe utuina o suauu o vaa.

**VAEGA 5  
GAOSIA, FEFAATAUAIGA MA LE  
MAKETIINA O I’A MA OLOA TAU I’A**

**46. Gaosia, fefaatauaiga ma le maketiina o i’a ma oloa tau i’a-**(1) E lē tatau i se tagata ona gaosia, fefaatauai ma maketi so o se i’a ma oloa tau i’a vagana ai o lalo o le pule faataga o se laisene po o le tulaga faamauina ua faatonuina i lalo o le fuaiupu 47.

(2) E noatia se laisene faatonuina po o le tulaga faamauina ua faamatuu atu i lalo o lenei Vaega, i so o se tuutuuga (e faasino i le laiseneina o vaa fagota mai atunuu ese po o, le avanoa ai e fagota i ogasami o faiga faiva) o so o se maliega faapisinisi e gaosia ai, fefaatauai ma maketi tuna ma oloa tau tuna ua taua i le fuaiupu 17(1)(b).

**47. Tulafono faatonutonu mo le gaosia, ma isi tulaga faapena, o i’a ma oloa tau i’a-**(1) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, ona faia tulafono faatonutonu e aloaia ai po o, mo faamoemoega o lenei Vaega, ma e faapitoa lava, e mafai ona ia faia tulafono faatonutonu nei:

- (a) e faatonutonuina ai le laiseneina po o le faamauina o tagata po o nofoaga ma fale e gaosi ai, fefaatauai ma maketi i’a ma oloa tau i’a, e aofia ai tuutuuga o so o se laisene po o le faamauina;
- (b) e faatonuina ai manaoga, tulaga faataatitia ma tualumaga mo le gaosia, fefaatauai ma le maketiina o i’a ma oloa tau i’a;

- (c) prescribing procedures, mechanisms and arrangements for the management, regulation and control of the processing, trading and marketing of fish and fish products;
- (d) providing the classes of fish and fish products;
- (e) regulating fish and fish products intended for use or consumption in Samoa or for export, including regulating domestic or export markets;
- (f) subject to the approval of the National Revenue Board, prescribing fees, charges and levies for the purposes of this Part;
- (g) regulating enforcement powers for the purposes of this Part, including entry, search, arrest, seizure, confiscation for the purposes of this Part;

(2) Regulations under this section may have extra-territorial application.

## PART 6 ENFORCEMENT

### *Division 1 - Mobile Transceiver Units and vehicle monitoring systems information*

**48. Mobile Transceiver Units-**(1) The operator of a licensed fishing vessel must, as a condition of the vessel's licence, install, operate and maintain a Mobile Transceiver Unit (approved by the Chief Executive Officer);

- (a) at all times while in the fishery waters or any other area as may be agreed or designated by the Chief Executive Officer; and

- (c) e faatonuina i tualumaga, auala e faatino ai ma faatulagaga mo le puleaina, faatonutonuina ma le faafoega o le gaosiga, fefaatauaiga ma le maketiina o i'a ma oloa tau i'a;
- (d) e aiaia ai vasega o i'a ma oloa tau i'a;
- (e) faatonutonu faaletulafono ai i'a ma oloa tau i'a ua faamoemoe mo le faaaogāina po o le taumafaina i Samoa po o, mo le auina atu i fafo, e aofia ai le faatonutonuina o maketi i le lotoifale po o maketi e auina atu i ai i fafo;
- (f) e noatia ma fai fuafua i le faamaoniga a le Komiti Faatino o Tupe Maua a le Atunuu, e faatonutonuina totogifuapauina, tau faaee atu ma lafoga mo faamoemoe o lenei Vaega;
- (g) faatonutonuina faaletulafono ai malosia e aloaia ai mo faamoemoe o lenei Vaega, e aofia ai le ulufale atu, sueina, pueina, faapagota, faoa faamalosi, aveesea faamalosi mo faamoemoe o lenei Vaega.

(2) O Tulafono Faatonutonu i lalo o lenei fuaiupu e mafai ona faaaogāina i fafo atu o le atunuu.

## VAEGA 6 TULAGA FAAMALOSIA

### *Vaevaega 1 - Leitio Ualesi Feaveai ma faamatalaga o faiga e mataituina ai taavale*

**48. Leitio Ualesi Feaveai-**(1) E ao i le tagata faafoe se vaa ua laiseneina mo faiga faiva, e avea ai ma tuutuuga o le laisene o le vaa, ona faapipiina, faagaioia ma tausia se Leitio Ualesi Feaveai (ua faamaonia e le Ofisa Sili o Pulega);

- (a) i taimi uma a o i ai i ogasami o faiga faiva po o so o se isi lava nofoaga e pei ona mafai ona ioeina po o ua faatulagaina e le Ofisa Sili o Pulega; ma

- (b) pursuant to -
- (i) the manufacturer's specifications and operating instructions;
  - (ii) any standards as may be required by a body or organisation of which Samoa is a member; or
  - (iii) any other prescribed requirements.
- (2) The operator must ensure that:
- (a) the MTU is switched on and is operational at all times when the vessel is within -
    - (i) the fishery waters; or
    - (ii) any other area as may be agreed or designated by the Chief Executive Officer, and at the times prior to entry into any fishery waters or other prescribed area;
  - (b) the MTU is not moved from the required or agreed installed position or removed without the prior written approval of the Chief Executive Officer;
  - (c) the MTU is not altered, damaged, disabled or otherwise interfered with;
  - (d) a person does not tamper or interferes with the MTU;
  - (e) any written directive of Chief Executive Officer that the MTU has failed to transmit are complied with until the MTU is functioning properly; and
  - (f) the MTU is registered as the Chief Executive Officer may direct or as may be prescribed, at the operator's expense.
- (3) The operator or agent, upon notification by the appropriate authority of the licensing country that the vessel's MTU has failed to report, must ensure that another report:

- (b) ia tusia ai ma -
- (i) faamatalaga maoti ma faatonuga tau faafoega a le tagata o lo o ia gaosia;
  - (ii) so o se tuutuuga e pei ona mafai ona manaomia e se lala po o se faalapotopotoga lea o lo o avea ai Samoa ma sui auai; po o
  - (iii) so o se isi lava manaoga faatonuina.
- (2) E ao i le tagata faafoe ona faamautinoa e faapea:
- (a) o lo o faaolaina le MTU ma o lo o atoatoa lona lelei i taimi uma o i ai le vaa i -
    - (i) ogasami o faiga faiva; po o
    - (ii) so o se isi lava nofoaga e pei ona mafai ona ioeina po o ua faatulagaina e le Ofisa Sili o Pulega, ma taimi a o lumanai ai ona ulufale i totonu o so o se ogasami o faiga faiva po o isi nofoaga faatonuina;
  - (b) e lē aveeseina le MTU mai lona tulaga manaomia po o le tulaga ua ioeina le faapipii ai, po o le aveesea mai e aunoa ma le faatagaga tusitusia a le Ofisa Sili o Pulega;
  - (c) e lē suia, faaleagaina, pe tapeina po o le faalavelaveina i se isi faiga e ese ai le MTU;
  - (d) e lē loteina pe faalavelaveina e se tagata le MTU;
  - (e) e usitaia so o se faaiuga tusitusia a le Ofisa Sili o Pulega lea ua lē mafai ona faasalalauina e le MTU seia vagana ua toe atoatoa le lelei o le MTU; ma
  - (f) e faamauina le MTU e pei ona mafai ona faatonuina e le Ofisa Sili o Pulega po o, e pei ona mafai ona faatonuina i le totogiina ai e le tagata faafoe.
- (3) E ao i le tagata faafoe po o le sooupu, ina ua logoina e le pule faataga talafeagai a le atunuu o lo o laisene ai e faapea ua lē mafai ona lipoti atu e le MTU o le vaa, ona faamautinoa e faapea o se isi lipoti:

- (a) containing the vessel's name, call sign, position (expressed in latitude and longitude to minutes of arc), and the date and time for the report, is sent to an authority (authorised by the licensing country or the Chief Executive Officer) at intervals of 8 hours or any shorter period as specified by the authority, commencing from the time of notification of the failure of the MTU; and
  - (b) continue until the time as the MTU is confirmed operational by the appropriate authority of the licensing country.
- (4) If:
- (a) it is not possible to make any one or more of the further position reports under subsection (3); or
  - (b) the Chief Executive Officer so directs,
- the master of the vessel must:
- (aa) immediately stow the fishing gear; and
  - (bb) take the vessel directly to a port identified by the Chief Executive Officer; and
  - (cc) as soon as possible, report to the Chief Executive Officer that the vessel is being, or has been, taken to port with gear stowed.
- (5) An operator who contravenes subsection (1), (2), (3) or (4) commits an offence and is liable on conviction to a fine not exceeding 500 penalty units.
- (6) The vessel's licence may be cancelled under section 34 if the operator is convicted under subsection (5).

- (a) e faaooina atu o lo o aofia ai le igoa o le vaa, faailoilo o valaau, nofoaga o i ai (ia faamanino i latitu ma logitu i minute o faatamilosaga), ma le aso ma le taimi mo le lipoti, i se pule faataga (ua faatagaina e le atunuu o laisene ai po o le Ofisa Sili o Pulega) faavaitaimi e tai 8 itula po o, so o se vaitaimi puupuu e pei ona faamaotiina e le pule faataga, e amata mai le taimi na logoina ai le lē mafai ai ona faaaogāina o le MTU; ma
  - (b) faaauau pea seia oo i le taimi e faamaonia ai ua toe lelei atoatoa le MTU, e le pulega talafeagai a le atunuu ua laisene ai.
- (4) Afai:
- (a) e lē talafeagai ai ona faia so o se tasi po o le sili atu o nisi lipoti o le nofoaga o i ai i lalo o le faafuaiupu (3); po o
  - (b) e pei ona faatonuina e le Ofisa Sili o Pulega,
- e ao i le aliiavaa ona:
- (aa) teuina loa i le taimi lava lea mea fagota; ma
  - (bb) ave sao le vaa i se taulaga ua faailoagofie mai e le Ofisa Sili o Pulega; ma
  - (cc) i se taimi vave lava e mafai ai, ia lipoti atu i le Ofisa Sili o Pulega e faapea o lo o ua aveina, po o ua aveina le vaa i se taulaga ma ua teuina uma mea fagota.
- (5) Ua faia se soligatulafono e se tagata faafoe o se vaa, o ia lea ua ia lē usitaia faafuaiupu (1), (2), (3) po o le (4), ma e noatia i luga o moliaga ua faamaonia faaetulafono i se sala tupe e lē silia le 500 iunite tau faasalaga.
- (6) E mafai ona faalēaogāina le laisene o le vaa i lalo o le fuaiupu 34 pe afai ua faamaonia le nofosala i lalo o le faafuaiupu (5).

**49. Information or data under MTUs-**(1) Any information or data obtained or ascertained by the use of a Mobile Transceiver Unit is presumed, unless the contrary is proved, to:

- (a) come from the vessel so identified;
- (b) be accurately relayed or transferred;
- (c) be given by the master, owner or charterer of the vessel,

and evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.

(2) The presumption in subsection (1) applies whether or not the information was stored before or after a transmission or transfer.

(3) A Mobile Transceiver Unit installed and operated under this Act is judicially noticed as notoriously accurate.

(4) The judicial notice in subsection (3) applies whether or not the information was stored before or after a transmission or transfer.

(5) A person may give a certificate stating:

- (a) the person's name, address and official position;
- (b) the person is competent to read the printout or visual display unit of a machine capable of obtaining or ascertaining information from an MTU;
- (c) the date, time and details the information was obtained or ascertained from the MTU;
- (d) the name and call sign of the vessel on which the MTU is or was located as known to the person, or as ascertained from an official register, record or other document; and

**49. Faamatalaga po o faamatalaga faamauina i lalo o MTUs-**(1) Ua faatatauina so o se faamatalaga po o faamatalaga faamauina e maua mai, pe faamaonia e ala i le faaaogāina o se Leitio Ualesi Feaveai, vagana ai ua faamaonia i se isi faiga e ese ai:

- (a) ua tuuina mai le vaa ua faapea ona faailoagofie mai;
- (b) ia sao ona tuuina ma faaliliuina atu;
- (c) ia tuuina atu e le aliivaa, tagata e umia po o le tagata o ia totogipauina le vaa,

ma e mafai ona tuuina atu faamatalaga molimau o faamatalaga ma faamatalaga faamauina ua faapea ona maua mai po o ua faamaonia, i le auala ua maua mai ai, po o se ata lomina po o se vaega ua faailoaina atu ai ata vaaia.

(2) O manatu lē mautinoa o lo o i le faafuuiupu (1) e faaaogā tusa lava pe na teuina pe leai foi le faamatalaga i le taimi a o lumanai ai po o le tuanai ai ona faasalalauina po o le faaliliuina atu.

(3) E matua iloga ona sao atoatoa se Leitio Ualesi Feaveai o Faasalalauina e faapipiina ma faagaoioia i lalo o lenei Tulafono.

(4) E faaaogā le faasilasilaga faa-faamasinoga i le faafuuiupu (3) tusa lava pe na teuina le faamatalaga i le lumanai ai po o le maea ai ona faasalalauina pe faaliliuina atu.

(5) E mafai e se tagata ona tuuina atu se tusi faamaonia e taua ai:

- (a) le igoa o le tagata, tuatusi ma le tulaga tofi aloaia;
- (b) e agavaa i le tagata e faitauina le ata lomina po o le vaega o faailoaina ai ata vaaia o se masini e mafaigafatia ona mauaina pe faamaonia ai faamatalaga mai se MTU;
- (c) le aso, taimi ma auiliiliga o le faamatalaga na mauaina pe ua faamaonia mai le MTU;
- (d) le igoa ma le faailoilo o valaau a le vaa lea o lo o i ai i luga pe na i ai i luga le MTU e pei ona iloa ai e le tagata, po o e pei ona faamaonia mai se tusi resitala aloaia, faamaumauga po o isi pepa aloaia; ma



(e) a declaration that there appeared to be no malfunction in the MTU, its transmissions, or other machines used in obtaining or ascertaining the information.

(6) Section 69 applies to a certificate given under this section as if it were a certificate given under section 67 and a reference to section 67 in section 69 is to be read as a reference to this section.

**50. Vessel monitoring systems information-**(1) Ownership of all vessel monitoring system information generated by Mobile Transceiver Units is vested in the Government.

(2) Any vessel monitoring system information is confidential information, and is subject to any prescribed procedures.

(3) A person who divulges confidential information under subsection (2) to a person not authorised to receive the information commits an offence and is liable on conviction to a fine not exceeding 100 penalty units.

(4) In this section, “vessel monitoring system” means a system to generate information for the purposes of monitoring positions and activities of fishing vessels for the purpose of effective management of fisheries.

*Division 2 - Entry, search and seizure*

**51. Entry and search-**(1) An authorised officer may:

- (a) enter and search any conveyance, including a vessel, aircraft or vehicle; or
- (b) stop and search a person; or
- (c) pass across any land.

(e) se tautinoga e faapea, o lo o foliga mai e le o i ai se faaletonu i le MTU, o ana faasalalaua, po o isi masini o lo o faaogāina i le mauaina mai po o le faamautinoaina o faamatalaga.

(6) E faaogā le fuaiupu 69 i se tusi faamaonia ua tuuina atu i lalo o lenei fuaiupu e faapei ai o se tusi faamaonia ua tuuina atu i lalo o le fuaiupu 67, ma e ao ona faitauina faasinomaga i le fuaiupu 67 o lo o i le fuaiupu 69, e aveva ma faasinomaga i lenei fuaiupu.

**50. Faamatalaga mai faiga e mataituina ai vaa-**(1) Ua faaee atu le tulaga e umia ai e le Malo faamatalaga o faiga e mataituina ai vaa uma, e ala i Leitio Ualesi Feaveai.

(2) So o se faamatalaga e maua mai faiga e mataituina ai vaa, o faamatalaga agatapuia ia ma e noatia i so o se taulumaga faatonuina.

(3) O se tagata o ia lea e faailoaina atu faamatalaga agatapuia i lalo o le faafuaiupu (2) i se tagata e lē faatagaina na te mauaina le faamatalaga, ua ia faia se soligatulafono, ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 100 iunite tau faasalaga.

(4) I totonu o lenei fuaiupu, “faiga e mataituina ai vaa” o lona uiga o se faiga e maua mai ai faamatalaga mo faamoemoega o le mataituina o nofoaga ma gaoioiga a vaa o lo o fai faiva mo le faamoemoe o le faatinoga lelei o faiga faiva.

*Vaevaega 2 - Ulufale atu, sailia ma le faoa faamalosia*

**51. Ulufale atu ma sailia-**(1) E mafai e se tagata ofisa faatagaina ona:

- (a) ulufale atu ma sailia so o se ala o felauaiga, e aofia ai se vaa, vaalele po o taavale; po o
- (b) le taofia ma sailia se tagata; po o
- (c) le sopoia o so o se fanua.

(2) An authorised officer may only exercise powers under subsection (1) if the officer believes, on reasonable grounds:

- (a) that an offence under this Act is being or has been committed; or
- (b) that any of the following may be concealed to avoid prosecution -
  - (i) any fish taken or item used or intended to be used in contravention of this Act; or
  - (ii) any record or information required under this Act to be kept, completed, or provided; or
  - (iii) any document, or item which may be taken as evidence as to the commission of an offence under this Act.

(3) An authorised officer may:

- (a) detain a person or any conveyance, including a vessel, aircraft or vehicle; and
- (b) retain in his or her custody a thing, including a parcel, package, record, document, article, gear, apparatus, device, container or fish, for any period as is reasonably necessary to enable the authorised officer to carry out a search under this section.

(4) In this section:

“enter” includes to stop or board or both;

“search” means to examine or open anything in the searched premises, including a document, record, article, gear, apparatus, device or container.

(2) E faatoa mafai ona faatino malosiaga o se tagata ofisa faatagaina i lalo o le faafuaiupu (1) pe afai ua talitonu o ia, i luga o mafuaaga talafeagai:

- (a) e faapea ua faia pe na faia se soligatulafono i lalo o lenei Tulafono; po o
- (b) e faapea o so o se tasi o mea nei e mafai ona natia ina ia alofia ai moliaga -
  - (i) so o se i'a ua aveina po o se meafaitino ua faaaogāina, po o ua faamoemoe e faaaogāina e le usitaia ai lenei Tulafono; po o
  - (ii) so o se faamaumauga po o faamatalaga ua manaomia le teuina, faamaea, po o e tuuina atu i lalo o lenei Tulafono; po o
  - (iii) so o se pepa aloaia, po o mea taitasi e mafai ona faaaogāina e aveia ma faamatalaga molimau e uiga i le faataunuuina o se soligatulafono i lalo o lenei Tulafono.

(3) E mafai e se tagata ofisa faatagaina ona:

- (a) taofia se tagata po o so o se ala o felauaiga, e aofia ai se vaa, vaalele po o taavale; ma
- (b) taofia i lalo o lana puipuiga se mea, e aofia ai se afifi, pusa, faamaumauga, pepa aloaia, meafaitino, meafagota, mea faigaluega, masini pusa oloa tetele po o i'a, mo so o se vaitaimi e pei ona talafeagai ai, ina ia mafai ai e le tagata ofisa faatagaina ona faataunuu se suesuega i lalo o lenei fuaiupu.

(4) I totonu o lenei fuaiupu:

“ulufale atu” e aofiai ai le taofia po o le ulufale atu i luga o se vaa po o mafuaaga uma e lua;

“sailia” o lona uiga o le suesuega po o le tatalaina o so o se mea i fale ma nofoaga ua sailia, e aofia ai se pepa aloaia, faamaumauga, meafaitino, meafagota, mea faigaluega, masini po o pusa oloa tetele.

**52. Arrest-**(1) An authorised officer may:

- (a) order a person found committing an offence under this Act to stop committing the offence and if the person fails to obey the order, arrest the person without a warrant; or
- (b) with a warrant issued by a District Court Judge, arrest a person whom the officer reasonably suspects of having committed an offence under this Act,

and request the person to provide the any or more of the following information -

- (i) the name by which the person is commonly known;
- (ii) the person's family name or surname;
- (iii) the person's date of birth;
- (iv) the person's actual place of residence;
- (v) the person's occupation;
- (vi) proof of the information provided under subparagraphs (i) to (v) if it is reasonable to obtain proof.

(2) If an authorised officer (other than a police officer) arrests a person under subsection (1), that authorised officer must, as soon as practicable, deliver the arrested person to the nearest police station or into the custody of a police officer.

**53. Directions to master-**(1) Subject to subsection (3), after consulting the Ports Authority, an authorised officer may, if the officer believes that a vessel is being or has been used to

**52. Pueina faapagota-**(1) E mafai e se tagata ofisa faatagaina ona:

- (a) poloaia se tagata ua maua o faia se soligatulafono i lalo o lenei Tulafono ina ia taofia le faia o le soligatulafono ma, afai e le usitaia e le tagata le poloaiga, ia pueina faapagota loa le tagata e aunoa ma se tusi faapoloaiga; po o
- (b) i le i ai faatasi ma se tusi faapoloaiga e tuuina atu e se Faamasino o le Faamasinoga Faaitumalo, ia pueina faapagota se tagata o ia lea ua masalomia e le tagata ofisa talafeagai na ia faia se soligatulafono i lalo o lenei Tulafono,

ma talosagaina le tagata e tuuina atu se faamatalaga po o le sili atu o faamatalaga nei -

- (i) le igoa e masani ona iloa ai le tagata;
- (ii) le igoa o le aiga ma lona faaiu;
- (iii) le aso fanau o lea tagata;
- (iv) le nofoaga tonu o nofomau ai le tagata;
- (v) le galuega a le tagata;
- (vi) faamaoniga o le faamatalaga ua aiaia i lalo o le parakalafa laiti (i) e oo atu i le (v) pe afai e talafeagai i luga o le mafuaaga talafeagai e maua mai ai le faamaoniga.

(2) Afai e pueina faapagota e se tagata ofisa faatagaina (e ese ai ma se leoleo) se tagata i lalo o le faafuaiupu (1), e ao i lea tagata ofisa, i se taimi vave lava e mafai ai ona faatino ona faao atu le tagata ua pueina i se pou a leoleo e sili ona latalata ane po o le taofia i lalo o puipuga a se leoleo.

**53. Faatonuga e tuuina atu i le aliivaa-**(1) I le noatia ma le faifuafua i le faafuaiupu (3), i le maea ai ona feutanai ma le Pulega o Taulaga, e mafai e se tagata ofisa faatagaina pe afai ua

contravene this Act or a condition of a licence, require the master to take the vessel, as soon as reasonably practicable, to:

- (a) the nearest available port in Samoa; or
- (b) any other port as is agreed between the master and the authorised officer.

(2) When a direction is given under subsection (1), the officer may also give to the master or a person on board the vessel any reasonable directions in respect of any activity, method, procedure, item, gear, document, fish, property, or thing while the vessel is proceeding to port.

(3) Despite subsection (1), an authorised officer need not consult with the Ports Authority if the consultation is impracticable:

- (a) to be done within 24 hours; or
- (b) because of an emergency involving the imminent loss of life or property that requires immediate action to be taken.

**54. Reasonable force and copies of documents-**(1) An authorised officer may use reasonable force, as may be necessary, to enable the exercise of the powers under this Act.

(2) In exercising powers under this Act, an authorised officer may:

- (a) make or take copies of any record or document, and for that purpose may take possession of and remove from the place where they are kept, any record or document, for a period as is reasonable in the circumstances;

talitonu o ia e faapea o lo o faaaogāina, pe sa faaaogāina se vaa i se taulaga ua lē usitaia ai lenei Tulafono, po o se tuutuuga o se laisene, e manaomia le aveina o le vaa e le aliivaa i se taimi vave lava e talafeagai ai ona faatino, i:

- (a) le taulaga aupito lata ane i totonu o Samoa; po o
- (b) so o se isi lava taulaga e pei ona malilie i ai le aliivaa ma le tagata ofisa faatagaina.

(2) Afai e tuuina atu se faatonuga i lalo o le faafuuiupu (1), e mafai foi e le tagata ofisa ona tuuina atu i le aliivaa po o se tagata o i luga o le vaa so o se faatonuga talafeagai e tusa ai ma so o se gaoioiga, auala, taulumaga, meataitasi, meafagota, pepa aloaia, i'a, meatotino, po o so o se mea a o faaaauu atu le Malaga a le vaa i le taulaga.

(3) E ui lava i le faafuuiupu (1), e lē tau feutagai se tagata ofisa faatagaina le Pulega o Taulaga pe afai ua lē mafai ona faatino le feutagaiga:

- (a) ina ia faia i totonu o le 24 itula; po o
- (b) ona o se faalavelave faafuasei e aafia ai le ono tulai mai o se tulaga e maumau ai soifua po o meatotino ia e manaomia le faia i ai o ni gaoioiga vave.

**54. Malosiaga talafeagai ma ata o pepa aloaia-**(1) E mafai e se tagata ofisa faatagaina ona faaaogāina le malosia talafeagai, e pei ona alagatai ai, ina ia mafai ai ona faatino malosia i lalo o lenei Tulafono.

(2) I le faatinoina ai o malosia i lalo o lenei Tulafono, e mafai e se tagata ofisa faatagaina ona:

- (a) faia po o le aveina o ata o so o se faamaumauga po o pepa aloaia, ma mo lea faamoemoga, e mafai ona ia umiaina ma aveesea mai le nofoaga o lo o teuina ai, so o se faamaumauga po o pepa aloaia mo se vaitaimi e pei ona alagatai ai i tulaga ua aliae mai;

- (b) if necessary, require a person to reproduce, or assist the authorised officer to reproduce, in a useable form, information recorded or stored in a document.

**55. Seizure-**(1) An authorised officer may seize:

- (a) any conveyance or thing, including a vessel, aircraft, vehicle, fishing gear, implement, appliance, material, container, goods, equipment, which the authorised officer believes on reasonable grounds is being or has been or is intended to be used to commit an offence under this Act;
- (b) any fish, which the authorised officer believes on reasonable grounds, is being, or have been, taken, killed, transported, bought, sold, or found in the possession of a person, in contravention of this Act, and any other fish with which the fish have been intermixed;
- (c) a thing or any article, including a record, document, which the authorised officer believes on reasonable grounds is evidence of the commission of an offence under this Act.

(2) A property seized under subsection (1) must be delivered into the custody of the Chief Executive Officer.

**56. Measures by regional fisheries management organisation** - The Minister may:

- (a) by notice in the Savali, authorise an officer of the Ministry to undertake fisheries inspection,

- (b) afai e talafeagai ai, e manaomia se tagata e toe gaosia, po o le fesoasoani i le tagata ofisa faatagaina e toe gaosia i se faatulagaga aogā faamatalaga ua faamauina po o teuina i se pepa aloaia.

**55. Faoa faamalosi-**(1) E mafai e se tagata faatagaina ona faoa faamalosi:

- (a) so o se ala o felauaiga po o se mea, e aofia ai se vaa, vaalele, taavale, mea fagota, meafaigaluega e faaaogā ai le uila, pusa oloa tetele, oloa, meafaigaluega ia e talitonu le tagata ofisa faatagaina i luga o mafuaaga talafeagai o lo o faaaogāina pe sa faaaogāina, po o ua faamoemoe e faaaogā e faia ai se soligatulafono i lalo o lenei Tulafono;
- (b) so o se i'a, lea e talitonu le tagata ofisa faatagaina i luga o mafuaaga talafeagai o lo o aveina, pe na aveina tamateina, felauaia, faatauina mai, faatau atu, po o ua maua o lo o umia e se tagata, e lē usitaia ai lenei Tulafono, ma so o se isi lava i'a lea o lo o tuufaatasia ma isi i'a;
- (c) se mea po o se meafaitino, e aofia ai se faamaumauga, pepa aloaia lea e talitonu le tagata ofisa faatagaina i luga o mafuaaga talafeagai o se faamatalaga molimau o le faia ai o se soligatulafono i lalo o lenei Tulafono.

(2) E ao i se meatotino ua aveina faamalosi i lalo o le faafuaiupu (1) ona faaoo atu i le puiupuiga a le Ofisa Sili o Pulega.

**56. Auala e faatonutonu ai faiga faiva e faalapotopotoga faaitulagi o pulega tau faiga faiva** - E mafai e le Minisita:

- (a) e ala i se faasilasilaga e faia i le Savali ona faatagaina se tagata ofisa o le Matagaluega e faatautaia

compliance and enforcement measures which have been adopted by a regional fisheries management organisation of which Samoa is a member; and

- (b) issue guidelines to implement the measures notified under paragraph (a).

**57. Release of seized property-**(1) The following persons may apply to the Chief Executive Officer to release any property seized in relation to an alleged offence:

- (a) the person from whom the property was seized;
- (b) the owner of the property; or
- (c) the person entitled to the possession of the property.

(2) The Chief Executive Officer may, before the information or charge is laid for the offence, release the property to the applicant under a bond in a sum or under any surety or condition, determined by the Chief Executive Officer.

(3) If a person to whom property is released under subsection (1) fails to comply with the condition of a bond or a surety or condition, determined by the Chief Executive Officer:

- (a) the property may be re-seized at any time at the direction of the Chief Executive Officer; and
- (b) this section applies to the property as if it had been seized under section 55; and
- (c) the Chief Executive Officer may apply to the Court for an order to *estreat* the bond.

(4) If the Chief Executive Officer applies for an order under subsection (3)(c) the Registrar of the Court must:

- (a) fix a time and place for the hearing of the application; and

suesuega tau faiga faiva, auala e usitaia ai ma faamalosia ia o lo o faaaogāina e se faalapotopotoga faaitulagi o pulega tau faiga faiva lea o lo o avea ai Samoa ma sui; ma

- (b) tuuina atu taiala e faatino ai faiga e faatonutonu ai ua logoina mai i lalo o le parakalafa (a).

**57. Faamatuu atu o meatotino ua faoa faamalosi-**(1) O tagata nei e mafai ona talosaga i le Ofisa Sili o Pulega e faamatuu mai so o se meatotino ua faoa faamalosi e tusa ai o se soligatulafono ua tuuaia ai:

- (a) o le tagata lea na faoa faamalosi mai ai le meatotino;
- (b) o le onā le meatotino; po o
- (c) le tagata ua agavaa e umia le meatotino.

(2) E mafai e le Ofisa Sili o Pulega, a o lumanai ai faia le tagi po o le moliaga mo le soligatulafono, ona faamatuu atu le meatotino i lē ua talosaga i lalo o se feagaiga e noatia ai i se aofaiga o tupe, po o lalo o so o se faamalumaluga po o ni tuutuuga na fuafuaina e le Ofisa Sili o Pulega.

(3) Afai ua lē mafai e se tagata o ia lea ua faamatuu atu i ai le meatotino i lalo o le faafuaiupu (1), ona tausisia le tuutuuga o se feagaiga e noatia ai po o se faamalumaluga ua fuafuaina e le Ofisa Sili o Pulega:

- (a) e mafai ona toe faoa faamalosi ese le meatotino i so o se taimi i lalo o le faatonuga a le Ofisa Sili o Pulega; ma
- (b) e faaaogā le fuaiupu lenei i le meatotino e faapei ai na faoa faamalosi i lalo o le fuaiupu 55; ma
- (c) e mafai e le Ofisa Sili o Pulega ona talosaga i le Faamasinoga mo se poloaiga e ootoo ai faaumauga o le feagaiga o noatia ai.

(4) Afai ua talosaga le Ofisa Sili o Pulega mo se poloaiga i lalo o le faafuaiupu (3)(c), e ao i le Resitara o le Faamasinoga ona:

- (a) faatulaga se taimi ma le nofoaga mo le fofogaina o le talosaga; ma

- (b) at least seven (7) days before the time fixed for hearing, cause the application to be served on a person bound by the bond.

(5) If, on hearing the application, it is proved to the satisfaction of the Court that a condition of the bond has not been kept, the Court may make an order to *estreat* the bond to an amount, as it thinks fit, to a person bound by it on whom notice is proved to have been served under subsection (4)(b).

(6) The amount payable under subsection (5) on the bond is recoverable as if it were a fine.

(7) If the information or charge has been laid for an offence for which a property was seized under subsection (1), and the property remains in the custody of the Government, the Court may, on application by:

- (a) the person from whom the property was seized; or
- (b) the owner of the property;
- (c) the person entitled to the possession of the property seized,

release the property under bond to the person, and the release may be subject to any surety or condition determined by the Court.

(8) In determining the value of the bond or the form of security or the type of condition, the Court:

- (a) must take into account the aggregate amount of -
  - (i) the value of the property to be released;
  - (ii) the total maximum fine provided for the offence charged or likely to be charged;
- and

- (b) a itiiti mai e fitu (7) aso a o lumanai ai le taimi ua faatulaga mo le fofogaina e faagaoioi ai le faaooina atu o le talosaga i se tagata o lo o noatia i le feagaiga.

(5) Afai, i le fofogaina ai o le talosaga, ua faamaonia ina ua faamalieina le faamasinoga e faapea e le o tausisia se tuutuuga o le feagaiga e noatia ai, e mafai e le Faamasinoga ona faia se poloaiga e ootoo ai faamaumauga o le feagaiga i se aofaiga e manatu o ia ua talafeagai ai, i se tagata o lo o noatia ai lea ua faamaonia na faaoo atu i ai le faasilasilaga i lalo o le faafuuiupu (4)(b).

(6) O le aofai e totogi i lalo o le faafuuiupu (5) o le feagaiga e noatia ai, e mafai ona toe faaolaina mai e faapei ai o se sala tupe.

(7) Afai ua faia le tagi po o se moliaga mo se soligatulafono lea ua faoa faamalosai ai se meatotino i lalo o le faafuuiupu (1), ma o lo o tumau pea ona i lalo o le puipuiga a le Malo, e mafai e le Malo i luga o se talosaga a:

- (a) le tagata lea na faoa faamalosai mai ai le meatotino; po o
- (b) lē ona le meatotino;
- (c) le tagata o agavaa e umiaina le meatotino ua faoa faamalosai,

ona faamatuu atu i le tagata le meatotino o lo o noatia i le feagaiga, ma e mafai ona noatia ma fai fuafua le faamatuuina atu i so o se faamalumaluga po o se tuutuuga ua fuafuaina e le Faamasinoga.

(8) I le fuafuaina ai o le tau aogā o le feagaiga e noatia ai po o le faatulagaga o faamalumaluga, po o le ituaiga tuutuuga, o le Faamasinoga:

- (a) e ao ona ia amanaia le tuufaatasiga o le aofaiga o -
  - (i) le tau aogā o le meatotino e ao ona faamatuu atu;
  - (ii) le maualuga o le aofai atoa o le sala tupe ua aiaia mo le soligatulafono ua molia ai, po o ua foliga mai e molia ai; ma

(iii) the loss, damages or costs the prosecution would be likely to recover, if a conviction were entered; and

(b) may set the value at any aggregate amount.

**58. Disposal of seized property-**(1) If, in the opinion of the Chief Executive Officer, any property seized under section 55 may rot, spoil, deteriorate or otherwise perish, the Chief Executive Officer may sell them in a manner and at any price determined by the Chief Executive Officer.

(2) If the owner of a property is not known when it was seized, the property:

(a) is forfeited to the State from the date it was seized; and

(b) is to be disposed of, as directed by the Chief Executive Officer, after 90 days from the date it was seized if, within that 90 days, the owner is still not known.

(3) A buyer for valuable consideration of any property sold under this section acquires good and unencumbered title to the property.

(4) Subject to subsection (1), any property seized under section 55 or proceeds of sale of the property under this section (except if the property has been disposed of under subsection (1)) is to be kept on behalf of the Government by the Chief Executive Officer in his or her custody until:

(a) a decision is made not to proceed with the offence for which the property was seized; or

(iii) mea ua maimau, mea ua faaleagaina po o tau e faaono toe maua mai i moliaga pe afai e faamaonia moliaga; ma

(b) e mafai ona faatulagaina le tau aogā i so o se tuufaatasiga atoa.

**58. Faamatuu atu o meatotino ua faoa faamalosi-**(1) Afai, i le manatu o le Ofisa Sili o Pulega, e le mafai ona pala, faaleagaina, faaititia le aogā po o le faaleagaina i se isi faiga e ese ai so o se meatotino ua faoa faamalosi i lalo o le fuaiupu 55, e mafai e le Ofisa Sili o Pulega ona faatauina atu ia mea i se faiga ma i so o se tau e fuafuaina e le Ofisa Sili o Pulega.

(2) Afai e le o mailoa le tagata e ana le meatotino i le taimi na faoa faamalosi ai, o le meatotino:

(a) e ave faamalosi i le Malo i le taimi e faoa faamalosi ai; ma

(b) e ao ona tuueseina atu e pei ona faatonuina e le Ofisa Sili o Pulega, i le tuanai ai o le 90 aso mai le aso na faoa faamalosi ai, pe afai i totonu o lea 90 aso e le i faamautuina le tagata e ona lea meatotino.

(3) E maua e se tagata e faatauina i tau tau tupe taua o so o se meatotino ua faatau atu i lalo o lenei fuaiupu, oloa ma le pule i le meatotino.

(4) I le noatia ma le fai fuafua i le faafuaiupu (1), e ao ona teuina so o se meatotino ua faoa faamalosi i lalo o le fuaiupu 55 po o tupe e maua mai le faatauina atu o le meatotino i lalo o lenei fuaiupu (vagana ai pe afai ua maea ona tuueseina atu le meatotino i lalo o le faafuaiupu (1)), e le Ofisa Sili o Pulega e ave ai ma sui o le Malo i lalo o lana puipuiga seia oo:

(a) ina maea ona faia se faaiuga e taofia ai ona faaauau le tagofiaina o le soligatulafono lea na faoa faamalosi ai le meatotino; po o



(b) if a charge or information is laid -

(i) the final determination of proceedings (including any appeal) for the offence for which the property was seized; or

(ii) the Court otherwise makes an order on the property.

**59. Charges and liabilities-**(1) Subject to section 65(2), an authorised officer must decide whether or not to lay any information or charge for an offence for which any property is seized under section 55, as soon as practicable after the property is seized, taken possession of, or detained.

(2) Subject to subsection (1), if:

(a) a property has been seized under section 55; and

(b) the information or charge is not laid or is withdrawn; or

(c) the person is acquitted of the offence for which the property is subject to forfeiture,

the property, or the proceeds from the sale of the property, is immediately to be released by the Chief Executive Officer to the person entitled to it (however, the proceeds of sale of property under section 58 of this Act are to be paid into the unclaimed monies account and to be dealt with under the Public Finance Management Act 2001).

**60. Removal of parts from a seized craft-**(1) An authorised officer may remove any part of a seized craft in custody of the Government for the purpose of immobilizing the craft.

(2) A part removed under subsection (1) must be kept safe and returned to the craft when it is lawful release from custody.

(b) afai ua faia se moliaga po o se tagi -

(i) o le faaiuga mausali o tualumaga (e aofia ai so o se talosaga tetee) mo le soligatulafono lea ua faoa faamalosi ai le meatotino; po o

(ii) ua faia e le Faamasinoga se poloaiga i se isi faiga e ese ai i le meatotino.

**59. Moliaga ma noataga-**(1) I le noatia ma le fai fuafua i le fuaiupu 65(2), e ao i se tagata ofisa faatagaina ona filifili pe faia se tagi po o ni moliaga mo se soligatulafono lea ua faoa faamalosi ai so o se meatotino i lalo o le fuaiupu 55, i se taimi vave lava e mafai ai ona faatino i le tuanai ai ona faoa faamalosi le meatotino, umia po o le taofia.

(2) I le noatia ma le fai fuafua i le faafuaiupu (1), afai:

(a) ua faoa faamalosi se meatotino i lalo o le fuaiupu 55; ma

(b) e le i faia le tagi po o se moliaga po o ua faai foi i tua; po o

(c) ua maua le faamagaloga o le tagata i le soligatulafono lea ua noatia ai le meatotino e faoa faamalosi,

ia faamatuu atu loa le meatotino, po o tupe maua mai le faatauina atu o le meatotino e le Ofisa Sili o Pulega, i le tagata e agavaa i ai (peitai, o tupe maua mai le faatauina atu o meatotino i lalo o le fuaiupu 58 o lenei Tulafono e ao ona totoigiina i totonu o teugatupe o tupe e le i tapaina, ma e tagofia i lalo o le Tulafono o le Pulega o Tupe a le Malo 2001).

**60. Aveeseina o vaega o se vaalele ua faoa faamalosi-**(1) E mafai e se tagata ofisa faatagaina ona aveeseina mai so o se vaega o se vaalele ua faoa faamalosi, i lalo o le puipuiga a le Malo mo le faamoemoe o le lē mafai ai ona toe faagaioia le vaalele.

(2) E ao i se vaega ua aveeseina mai i lalo o le faafuaiupu (1) ona teumaluina ma toe faafoi atu i le vaalele i le taimi e toe faamatuu faaetulafono atu ai mai le taofia ai.

(3) Unless acting under the authority of the Chief Executive Officer, a person may not:

- (a) possess or arrange to obtain any part removed under subsection (1);
- (b) possess or arrange to obtain or make a replacement or substitute part for those removed under subsection (1); or
- (c) fit or attempt to fit any part or a replacement or substitute part to the craft.

*Division 3 - Forfeitures*

**61. Forfeiture of property on conviction-**(1) If a person is convicted of an offence under this Act for which the maximum penalty is at least a fine of 100 penalty units, the Court may:

- (a) in addition to imposing the fine, order that any or more of the following is forfeited to the State -
  - (i) any property used in the commission of the offence (whether or not seized under section 55);
  - (ii) any fish found onboard a foreign vessel at the time the vessel was seized or detained under this Act and in any other case any fish for which the offence was committed (whether or not seized under section 55);

(3) Ae vagana ai ua faia i lalo o le pule faataga a le Ofisa Sili o Pulega, e lē mafai e se tagata:

- (a) ona umia pe faatulaga e na te mauaina so o se vaega ua aveeseina mai i lalo o le faafuaiupu (1);
- (b) ona umia po o le faatulaga ina ia maua mai po o le faia o se fesuiaiga, po o le suia o se vaega mo ia vaega na aveesea mai i lalo o le faafuaiupu (1); po o
- (c) le faapipii po o le taumafai e faapipii so o se vaega po o se fesuiaiga, po o le suia o se vaega o le vaalele.

*Vaevaega 3 - Aveesea faamalosi*

**61. Aveesea faamalosi o meatotino ina ua faamaonia faaletulafono le soligatulafono-**(1) Afai ua faamaonia faaletulafono se soligatulafono a se tagata i lalo o lenei Tulafono, o le maualuga o lona faasalaga a itiiti mai o se sala tupe e 100 iunite tau faasalaga, e mafai e le Faamasinoga:

- (a) e faaopoopo atu i le sala tupe ua tuuina atu, ona ia poloaia e faapea, e aveesea faamalosi se tasi po o le sili o mea nei i le Malo -
  - (i) so o se meatotino na faaaogāina i le faataunuaina o le soligatulafono (tusa lava pe na faoa faamalosi pe leai foi i lalo o le fuaiupu 55);
  - (ii) so o se i'a na maua i luga o se vaa fagota mai atunuu ese i le taimi na faoa faamalosi ai pe na taofia ai i lalo o lenei Tulafono, ma i so o se isi lava tulaga, o so o se i'a lea ua faia ai le soligatulafono (tusa lava pe na faoa faamalosi pe leai foi i lalo o le fuaiupu 55);

(iii) any proceeds from the sale of the property under section 58;

(iv) any illegal fishing gear for which the offence was committed (whether or not seized under section 55); or

(b) refuse to make an order under paragraph (a) if the Court has any special reason for not granting a forfeiture order.

(2) If a person is convicted of an offence under this Act (not being an offence of a kind referred to in subsection (1) or (3), the Court may, in addition to imposing a fine, order that any or more of the following are forfeited to the State:

(a) any property used to commit the offence (whether or not seized under section 55);

(b) any fish caught resulting in the commission of the offence (whether or not seized under section 55);

(c) any proceeds from the sale of the property under section 58;

(d) any illegal fishing gear used to commit the offence (whether or not seized under section 55).

(3) If a person is convicted for an offence under this Act for which the maximum penalty is a fine not exceeding 100 penalty units, the Court may, in addition to imposing the fine, order that any or more of the following be forfeited to the State:

(a) any fish for which the offence was committed;

(b) any proceeds from the sale of fish under section 58;

(iii) so o se tupe na maua mai le faatauina atu o le meatotino i lalo o le fuaiupu 58;

(iv) so o se mea fagota faasaina lea na faaogāina e faataunuina ai le soligatulafono (tusa lava pe na faoa faamalosi pe leai foi i lalo o le fuaiupu 55); po o

(b) ua teena le faia o se poloaiga i lalo o le parakalafa (a) pe afai e i ai se mafuaaga faapitoa i le Faamasinoga mo le lē tuuina atu o se poloaiga e aveesea faamalosi ai.

(2) Afai ua faamaonia faaetulafono moliaga o se tagata i se soligatulafono i lalo o lenei Tulafono (e le o se soligatulafono o se ituaiga ua taua i le faafuiau (1) po o le (3), e mafai e le Faamasinoga, e faapoopo atu i le sala tupe ua faaeeina atu, ona poloaia e faapea, ia aveesea faamalosi i le Malo se tasi po o le sili atu o mea nei:

(a) so o se meatotino na faaogāina e faia ai le soligatulafono (tusa lava pe na faoa faamalosi pe leai foi i lalo o le fuaiupu 55);

(b) so o se i'a na maua e ala i le faataunuina o le soligatulafono (tusa lava pe na faoa faamalosi pe leai foi i lalo o le fuaiupu 55);

(c) so o se tupe na maua mai le faatauina atu o le meatotino i lalo o le fuaiupu 58;

(d) so o se mea fagota faasaina na faaogā i le faataunuina o le soligatulafono (tusa lava pe ua faoa faamalosi pe leai foi i lalo o le fuaiupu 55).

(3) Afai e faamaonia faaetulafono se tagata i se soligatulafono i lalo o lenei Tulafono o le maualuga o le faasaga e le silia ma le 100 iunite tau faasalaga, e mafai e le Faamasinoga, e faapoopo i le sala tupe ua faaee atu, ona poloaia e faapea, ia aveesea faamalosi i le Malo se tasi po o le sili atu o mea nei:

(a) so o se i'a lea na faia ai le soligatulafono;

(b) so o se tupe e maua mai le faatauina atu o i'a i lalo o le fuaiupu 58;

- (c) any illegal fishing gear for which the offence was committed (whether or not seized under section 55).

**62. Application of bond or security-**(1) When making an order for forfeiture under section 61, the Court may, upon application of the Chief Executive Officer, make an order, that a bond or security given for that forfeited property or fish is to be committed in whole or in part in the following order:

- (a) the discharge of the property or fish forfeited by an order under section 61;
- (b) the payment of all fines or penalties imposed for the offences giving rise to the forfeiture order;
- (c) the discharge of all orders for restitution of any loss, damages or costs made under section 74.

(2) If any monies recovered on an order for restitution made under section 74 relate to fuel costs incurred by a government craft, the monies:

- (a) are to be paid into the appropriate fuel account maintained for that craft (or its replacement or substitute); and
- (b) must be used to replace the fuel.

**63. Removal of seized property** - A property held or forfeited under this Act that has been unlawfully removed from the custody of the Government may be seized within the fishery waters.

- (c) so o se mea fagota faasaina lea na faaaogā i le faataunuuina o le soligatulafono (tusa lava pe na faoa faamalosi pe leai foi i lalo o le fuaiupu 55).

**62. Faaaogāina o feagaiga e noatia ai po o faamalumaluga-**(1) I le faia ai o se poloaiga mo le aveesea faamalosi i lalo o le fuaiupu 61, e mafai e le Faamasinoga, i luga o le talosaga a le Ofisa Sili o Pulega ona faia se poloaiga e faapea, e ao ona faaaogāina atoa po o sona vaega, se feagaiga o noatia ai po o se faamalumaluga ua tuuina atu mo lea meatotino ua aveesea faamalosi i le faasologa lenei:

- (a) o le faamatuu atu o le meatotino po o i'a ua aveesea faamalosi e ala i se poloaiga i lalo o le fuaiupu 61;
- (b) o le totogiina o sala tupe uma po o faasalaga ua faae atu mo soligatulafono ua mafua ai le poloaiga e aveesea faamalosi ai;
- (c) o le faataunuuina o poloaiga uma mo le toe totogiina o so o se mea ua maimau, faaleagaina po o tau e totogi i lalo o le fuaiupu 74.

(2) Afai o ni tupe ua toe faaola mai i luga o se poloaiga mo le toe totogiina ua faia i lalo o le fuaiupu 74, e faasino i le faatupulaia o totogi o suauu o se vaa o le malo, o tupe:

- (a) e ao ona totogi atu i totonu o le teugatupe talafeagai o suauu o lo o tausia mo lea vaalele (po o le vaalele ua toe faaaogāina po o le vaa ua suitulaga ai); ma
- (b) e ao ona faaaogāina e toe faatumu ai suauu.

**63. Aveeseina o meatotino ua faoa faamalosi** - E mafai ona faoa faamalosi i ogasami o faiga faiva se meatotino ua umia po o ua aveese faamalosi i lalo o lenei Tulafono, lea na aveeseina faasolitulafono mai le puipuga a le Malo.

**64. Disposal of forfeited property-**(1) A property ordered to be forfeited under this Act may be disposed of in a manner directed by the Minister if:

- (a) no appeal is lodged; or
- (b) the appeal is finally determined.

(2) A property, fish or any other item seized under this Act or any monies held under this Act but not forfeited in any proceedings may be held by the Government until all fines, orders for restitution or costs and penalties imposed under this Act have been paid

(3) If the fines, orders for restitution or costs and penalties imposed under this Act are not paid within the time allowed, any property seized under this Act may be sold and the proceeds be paid out in the following priority:

- (a) to pay for any fines, orders for costs, penalties imposed under this Act and costs of sale; and
- (b) to the owner for the balance of the proceeds.

**65. Liability for loss, damage or deterioration of property in custody-**(1) The Government is not liable for any loss, damage to, spoilage or deterioration in the condition of any property seized or while in the custody of the Government under this Act.

(2) As an exception to section 59, an authorised officer who at the time of seizure returns to the water any fish seized under section 55, which the officer believes to be alive, is not under any civil or criminal liability to the person from whom the fish was seized if:

**64. Faamatuu atu o meatotino ua aveesea faamalosi-**(1) E mafai ona faamatuu atu se meatotino ua poloaia e aveese faamalosi i lalo o lenei Tulafono, i se faiga ua faatonuina e le Minisita pe afai:

- (a) e le i faatoai atu se talosaga tete; po o
- (b) ua faia le faaiuga mausali o le talosaga tete.

(2) E mafai ona umia e le Malo se meatotino, i'a po o so o se isi lava meafaitino ua faoa malosi i lalo o lenei Tulafono, po o so o se tupe ua umia i lalo o lenei Tulafono apeitai e le i aveesea faamalosi i so o se tualumaga, seia vagana ua totoigiina sala tupe, poloaiga mo le totoigiina po o tau ma faasalaga ua faaee atu i lalo o lenei Tulafono.

(3) Afai e lē totoigiina sala tupe, poloaiga mo le toe totoigiina, po o tau ma faasalaga ua faaee atu i lalo o lenei Tulafono i totonu o le taimi faatagaina, e mafai ona faatauina atu so o se meafaitino ua faoa faamalosi i lalo o lenei Tulafono, i le faasologa faamuamua lenei:

- (a) e totogi ai so o se sala tupe, poloaiga mo tau e totogi, faasalaga ua faaee atu i lalo o lenei Tulafono, ma tau o le faatauina atu; ma
- (b) i lē e ona, mo tupe o totoe o tupe na maua mai.

**65. Noataga mo mea ua maimau, faaleagaina po o meatotino ua faaitiitia le tulaga lelei o lo o taofia-**(1) E lē noatia le Malo mo so o se mea ua maimau, faaleagaina, faatamaia po o ua faaitiitia le tulaga lelei o so o se meatotino ua faoa faamalosi po o, a o i ai i lalo o le puipuiga a le Malo i lalo o lenei Tulafono.

(2) E avea ai ma tuusaunoaga i le fuaiupu 59, e leai se noataga tau le va o tagata po o se noataga tau solitulafono o se tagata ofisa faatagaina i le tagata lea na faoa mai ai i'a, o ia lea ua ia toe faafoi atu i le sami i le taimi na faoa faamalosi ai, so o se i'a ua faoa i lalo o le fuaiupu 55, lea e talitonu le tagata ofisa o lo o ola pea, pe afai:

- (a) a decision has been made not to proceed with the offence relating to the seized fish; or
- (b) the person has been acquitted of the charge.

**66. Removal of craft or property in custody** - A person who, without authority, removes a craft or property held in the custody of the Government under this Act commits an offence whether or not he or she knew the craft or property was held in the custody of the Government and is liable on conviction to a fine not exceeding 1,000 penalty units.

## PART 7 EVIDENCE, LIABILITIES AND OFFENCES

### *Division 1 - Evidence*

**67. Certificate evidence** - The Chief Executive Officer (or a person authorised in writing by the Chief Executive Officer) may give a certificate stating that:

- (a) a specified fishing vessel was or was not on a specified date licensed or a person was or was not on a specified date the holder of a licence, authorisation or certificate of registration;
- (b) an appended document is a true copy of the licence, authorisation or other document granted or issued under this Act and that specified conditions were attached to the document;

- (a) ua faia se faaiuga e aua ne i faaauauina le soligatulafono e faasino i i'a ua faoa faamalosi; po o
- (b) ua faamagaloina le tagata mai le moliaga.

**66. Aveeseina o vaalele po o meatotino o i lalo o puipuiga** - Ua faia e se tagata se soligatulafono, o ia lea e aunoa ma se pule faataga ua ia aveesea se vaalele po o se meatotino o lo o umia i le puipuigamalu a le Malo i lalo o lenei Tulafono, e tusa lava pe na ia iloa pe leai foi, o le vaalele po o le meatotino lea o lo o umia i lalo o le puipuigamalu a le Malo, ma e noatia i luga o moliaga ua faamaonia faauletulafono, i se sala tupe e lē silia le 1,000 iunite tau faasalaga.

## VAEGA 7 FAAMATALAGA MOLIMAU, NOATAGA MA SOLIGATULAFONO

### *Vaevaega 1 - Faamatalaga molimau*

**67. Faamatalaga molimau o tusi faamaonia** - E mafai e le Ofisa Sili o Pulega (po o se tagata ua faatagaina i se faiga tusitusia e le Ofisa Sili o Pulega) ona tuuina atu se tusi faamaonia e taua ai e faapea:

- (a) na laisene pe leai foi se vaa fagota faapito i le aso ua faamaoti mai po o, na umia e se tagata pe leai foi se laisene, faatagaga po o se tusi faamaonia o le faamauina i se aso na faamauina ai;
- (b) o se pepa aloaia faaopoopo o se ata moni o le laisene, faatagaga po o isi pepa aloaia ua faamatuu atu po o, ua tuuina atu i lalo o lenei Tulafono ma e faapea na faapipii i ai tuutuuga faapitoa i le pepa aloaia;

- (c) a particular location or area of water was, on a specified date, within the fishery waters, or within a closed, limited, restricted or in any other way controlled area of the fishery waters, or an area of the fisheries waters, subject to specified conditions;
- (d) an appended chart shows the boundaries, on a specified date, of the fishery waters, territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;
- (e) a particular item or piece of equipment is a fishing gear;
- (f) the cause and manner of death of or injury to any fish;
- (g) an appended document is a true copy of an access agreement, fisheries management agreement or plan or other treaty to which Samoa may be or is a party;
- (h) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;
- (i) that a specified vessel has good standing on the Regional Register or the Vessel Monitoring System Register, as evidenced by an appended certificate to that effect from the Director of the Pacific Islands Forum Fisheries Agency;
- (j) a particular position or catch report (appending a copy of the report) was given for a specified vessel;
- (c) se nofoaga faapitoa po o se vaega o ogasami sa i ai i se aso ua faamaotiina, i totonu o ogasami o faiga faiva, po o i totonu o se nofoaga ua tapunia, faatapulaaina, faasaina po o, i se isi lava auala, o se nofoaga o lo o faatonutonuina o ogasami o faiga faiva, po o se nofoaga o ogasami fagotaina, e noatia ma fai fuafua i tuutuuga faapitoa;
- (d) se siata faaopopo o lo o faaalua ai tuaoi, i se aso na faamaotiina o ogasami e fagotaina, sami o le atunuu ua tapunia, po o nofoaga faatapulaaina po o isi nofoaga po o sone ua faapitoa mo so o se faamoemoega maoti;
- (e) o mea fagota meafaitino faapitoa po o se vaega o meafaigaluega;
- (f) le mafuaaga ma le mafuaaga o le pe po o le lavea ai o so o se i'a;
- (g) o se pepa aloaia faaopopo o se ata moni o se feagaiga o ofi atu i ai, maliega tau le pulega o faiga faiva po o fuafuaga po o isi feagaiga e mafai ona aveai Samoa ma sui auai, po o lo o aveai Samoa ma sui auai;
- (h) se faailoilo o valaau, igoa po o le fuainumera ua faapea ona, po o ua vaevaeina i lalo o so o se faiga o le faaigoaina po o le faanumeraina o vaa i se vaa faapitoa;
- (i) e faapea e tauleleia se vaa ua faamaotiina i luga o le Tusi Resitala po o Tusi Resitala o Faiga e Mataituina ai Vaa, e pei ona molimauina i se tusi faamaonia i lea tulaga mai le Faatonu o Sooupu Tau Faiga Faiva a Fono o Atunuu o le Pasefika;
- (j) na tuuina atu se tulaga faapitoa po o lipoti o i'a o fagotaga (ia faaopopo atu se ata o le lipoti) mo se vaa ua faamaotiina;

- (k) any specified return, log, record or information required to be kept or provided under this Act was or was not kept or provided;
- (l) any specified interest in any specified fishing right was or was not held by a person named in the certificate.

**68. Certificate as to location of vessel-**(1) If, in any proceedings under this Act, the place or area in which a vessel is alleged to have been:

- (a) at a particular date and time; or
- (b) during a particular period of time is material to an offence charged,

the place or area stated in a certificate given by an authorised officer is evidence, unless the contrary is proved, of the place or area in which the vessel was at the date and time or during the period of time stated.

(2) An authorised officer must state in a certificate made under subsection (1) any or more of the following:

- (a) the officer's name, address, official position, country of appointment and empowering provision for the appointment;
- (b) the name and, if known, call sign of the fishing vessel concerned;
- (c) the date and time or period of time the vessel was in the place or area;
- (d) the place or area in which it is alleged the vessel was located;
- (e) the position fixing instruments used to fix the place or area stated in paragraph (d) and their accuracy within specified limits;

- (k) sa teuina pe leai foi po o le tuuina atu so o se lipoti aloaia, tusi e faamau ai Malaga, faamaumauga po o faamatalaga e manaomia le teuina pe tuuina atu i lalo o lenei Tulafono;

- (l) sa umia pe leai foi so o se aia faapitoa i so o se aia tau faiga faiva ua faamaotiina, e se tagata ua faaigoaina i le tusi faamaonia.

**68. Tusi faamaonia e uiga i le nofoaga o i ai le vaa-**(1) Afai, i so o se taualumaga i lalo o lenei Tulafono, ua tuuaia le i ai o se vaa i le nofoaga po o le ogasami:

- (a) i se aso faapitoa ma le taimi; po o
- (b) a o faagasolo se vaitaimi maoti e ogaoga se soligatulafono e molia ai,

ua aveia ma molimau le nofoaga po o le ogasami ua taua i se tusi faamaonia ua tuuina atu e se tagata ofisa faatagaina, vagana ai ua faamaonia i se faiga e ese mai ai, o le nofoaga po o le ogasami lea na i ai le vaa i le aso ma le taimi po o, a o faagasolo le vaitaimi ua taua.

(2) E ao i se tagata ofisa faatagaina ona taua i se tusi faamaonia ua faia i lalo o le faafuaiupu (1) so o se tasi po o le sili atu o mea nei:

- (a) le igoa o le tagata ofisa, tuatusi, tulaga tofi aloaia, atunuu o le tofiga ma aiaiga ua tuuina atu ai le malosiaga mo le tofiga;
- (b) le igoa ma, afai o iloa, le faailoilo o valaau a le vaa ua aafia;
- (c) le aso ma le taimi po o vaitaimi na i ai le vaa i le nofoaga po o le ogasami;
- (d) le nofoaga po o le ogasami lea na taua le vaa o i ai;
- (e) o meafaigaluega na faaaogā e faatulagaina ai le nofoaga po o le ogasami ua taua i le parakalafa (d) ma le latou sao atoatoa i totonu o tapulaa ua faamaotiina;



- (f) a declaration that the authorised officer checked the position fixing instruments at a reasonable time before and after the instruments were used to fix the position and they appeared to be working correctly;
- (g) if a position fixing instrument which is not judicially recognised as notoriously accurate or a designated machine is used, a declaration that the officer checked the instrument, as soon as possible, after the time concerned against the instrument.

(3) In this section, “authorised officer” includes:

- (a) a fisheries enforcement officer, surveillance officer or an officer charged with similar responsibilities in another country; or
- (b) a high seas inspector authorised under a fisheries treaty or access agreement to which Samoa is party.

**69. Validity and procedures for certificates-**(1) Unless the contrary is proved, a document purporting to be a certificate given under section 67 or 68 is taken to be the certificate and to have been duly given.

(2) If:

- (a) a certificate given under section 67 or 68 is served on a defendant at least 28 days before its production in Court in any proceedings under this Act; and
- (b) the defendant does not, within seven (7) days of the date of service, serve a written notice of objection and its grounds on the prosecution,

- (f) se tautinoga e faapea na siakiina e le tagata ofisa faatagaina meafaigaluega e faatulaga ai i se taimi talafeagai i le lumanai ai ma le tuanai ai ona faaaogāina ma foliga mai o lo o lelei atoatoa;

- (g) afai na faaaogāina se meafaigaluega e le o aloaia faaletulafono le sao atoatoa po o le filifilia o se masini ua filifilia, ia faia se tautinoga e faapea na maea ona siakiina meafaigaluega i se taimi vave lava i le maea o le taimi ua taua.

(3) I totonu o lenei fuaiupu, “tagata ofisa faatagaina” e aofia ai:

- (a) se tagata ofisa e faamamaluina faiga faiva, tagata ofisa e mataituina gaoioiga masalomia po o se tagata ofisa ua faaee i ai matafaioi faapena i se isi atunuu; po o
- (b) se tagata asiasi o le sami loloto ua faatagaina i lalo o se feagaiga tau faiga faiva po o maliega ua ofi atu ai Samoa ma ua aveai ai ma vaega auai.

**69. Tulaga aloaia ma taualumaga mo tusi faamaonia-**(1) Ae vagana ai ua faamaonia i se isi faiga e ese, o se pepa aloaia ua aveai e faapea o se tusi faamaonia ua tuuina atu i lalo o le fuaiupu 67 po o le 68, ua faatatauina lava o se tusi faamaonia ma ua tuuina aloaia atu.

(2) Afai:

- (a) ua faaooina atu se tusi faamaonia i lalo o le fuaiupu 67 po o le 68 i se tagata ua molia a itiiti mai e 28 aso a o lumanai ai ona tuuina atu i le Faamasinoga i so o se taualumaga i lalo o lenei Tulafono; ma
- (b) e le i faaooina atu e le tagata ua molia i totonu o le fitu (7) aso mai le aso na tuuina atu ai, se faasilasilaga tusitusia o le tetee ma mafuaaga e faavae ai le moliaga,

the certificate is conclusive proof of the facts stated in it, unless the Court finds the defendant is unduly prejudiced by the failure to object.

(3) If:

(a) a certificate is served less than 28 days before its production in Court; or

(b) written notice of objection and its grounds is served on the prosecution within seven (7) days of service of the certificate on the defendant; or

(c) the Court finds the defendant is not unduly prejudiced by the failure to object,

the certificate is sufficient evidence of the matters in it, unless the contrary is proved.

(4) An omission or mistake made in a certificate issued under section 67 does not render the certificate invalid unless the Court considers that the omission or mistake is material to an issue in the proceeding, or the defendant is unduly prejudiced by the omission or mistake.

**70. General presumptions-**(1) Any fish found on board of a fishing vessel which has been used in the commission of an offence under this Act is presumed to have been caught in the commission of that offence, unless the contrary is proved.

(2) If, in any legal proceedings under this Act, the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of an enforcement vessel or aircraft as being the place in which the event took place is presumed to be the place in which the event took place, unless the contrary is proved.

o le tusi faamaonia, o le molimau maumaututu lea o mea moni ua taua ai i totonu, vagana ai ua maua e le Faamasinoga e lē soona aafia le tagata ua molia ona ua ia lē tetee atu.

(3) Afai:

(a) ua faaoo atu se tusi faamaonia i se taimi e itiiti mai le 28 aso a o lumanai ai ona tuuina atu i le Faamasinoga; po o

(b) ua faaoo atu se faasilasilaga tusitusia o le tetee ma ona mafuaaga i le faamasinoga i totonu o le fitu (7) aso talu ona tuuina atu le tusi faamaonia i le tagata ua molia; po o

(c) ua maua e le Faamasinoga e le o soona aafia le tagata ua molia ona o le lē tetee,

ua lava atoatoa le tusi faamaonia e fai ma molimau o mataupu o lo o i ai vagana ai ua faamaonia i se isi faiga e ese ai.

(4) O le a lē faapea e lē aloaia le tusi famaonia ona o se mea ua lē faia po o se mea sese ua faia i se tusi faamaonia, vagana ai ua manatu le Faamasinoga e faapea o le mea ua lē faia po o se mea sese o le a matua aafia ai se mataupu o tualumaga, po o ua afaina ai i se tulaga lē tatau le tagata ua molia e ala i le mea ua lē faia po o mea sese.

**70. Manatu taulagi faalauaitete-**(1) Ua avea e faapea so o se i'a ua maua i luga o se vaa fagota lea na faaaogāina e faataunuu ai le soligatulafono i lalo o lenei Tulafono, o i'a lava ia na maua i le faataunuuina o lea soligatulafono vagana ai ua faamaonia i se isi faiga e ese ai.

(2) Afai, i so o se tualumaga faaletulafono i lalo o lenei Tulafono, ua avea ma mataupu o tualumaga le nofoaga lea ua tuuaia na tupu ai lea tulaga, o le nofoaga lava ua taua i le tusitusiga talafeagai i le tusi o Malaga a le vaa, po o isi faaumauga aloaia o se vaa po o se vaalele, o le nofoaga lava lena na tupu ai lea tulaga vagana ai ua faamaonia i se isi faiga e ese ai.

(3) An entry in a logbook or other official record of an enforcement vessel or aircraft:

- (a) is *prima facie* evidence of the matters in the logbook or official record; and
- (b) may be given by the production of a written copy or extract of the entry certified by an authorised officer as a true copy of accurate extract.

(4) For the purposes of any proceedings under this Act, the act of any member of the crew of a fishing vessel while aboard that vessel or engaged in fishing activity related to that vessel is taken to be also that of the operator and master of the vessel.

(5) An entry in writing or other mark in or on a log, chart or other document required to be maintained under this Act or used to record the activities of a fishing vessel is to be taken to be that of the operator of the vessel.

(6) If, in any legal proceedings for an offence under this Act:

- (a) an authorised officer gives evidence on reasonable grounds to believe that any fish to which the offence relates were taken by -
  - (i) the use of driftnets; or
  - (ii) in a specified area of the fishery waters; and
- (b) the Court considers that, having regard to the evidence, the grounds are reasonable,–

the fish is presumed to have been so taken, unless the contrary is proved.

(3) O se tusitusiga i se tusi o malaga a le vaa po o isi faamaumauga aloaia a se vaa po o se vaalele o lo o faamalosia tulafono:

- (a) o uluai molimau aloaia ia o mataupu i le tusi o malaga a le vaa po o faamaumauga aloaia; ma
- (b) e mafai ona tuuina atu e ala i le faaooina o se ata tusitusia po o se faamatalaga ootoo o le ulufale atu ua faamaonia e se tagata ofisa faatagaina, e aveia ma ata moni o le oototoga sao atoatoa.

(4) Mo faamoemoega o so o se tualumaga ua faia i lalo o lenei Tulafono, ua faapea foi ona faatatauina se gaoioiga a so o se sui o le auvaa o se vaa fagaota a o i ai i luga o lea vaa, po o auai i gaoioiga tau faiga faiva e faasino i lea vaa, e faapea, o gaoioiga lava a tagata faafoe ma le Kapeteni o le vaa.

(5) O se tusitusiga ua faia po o isi faailoga i totonu po o i luga o se tusi o malaga a le vaa, siata po o isi pepa aloaia e manaomia le tausia i lalo o lenei Tulafono po o, ua faaogāina e faamaunia ai gaoioiga a se vaa fagota, ua faatatauina e faapea, ua faia e le tagata faafoe o le vaa.

(6) Afai, i so o se tualumaga mo se soligatulafono i lalo o lenei Tulafono:

- (a) ua tuuina atu e se tagata ofisa faatagaina faamatalaga molimau i luga o mafuaaga talafeagai ua talitonuina ai e faapea, o so o se i'a ua faasino i ai le soligatulafono na aveina e ala -
  - (i) i le faaogāina o upega faatafea; po o
  - (ii) i se nofoaga maoti o ogasami o faiga faiva; ma
- (b) ua manatu le Faamasinoga e faapea, i le amanaia ai o faamatalaga molimau, e matua talafeagai mafuaaga,

e faapea ai na aveina ia, vagana ai ua faamaonia i se isi faiga e ese ai.

(7) In any proceedings for an offence under this Act, an allegation made by the informant in any information or charge on whether or not a person was the operator of a vessel is presumed to be true, unless the contrary is proved.

**71. Presumption on photographs-(1) If:**

- (a) a photograph is taken of any fishing or related activity; and
- (b) simultaneously the date and time on which and position from which the photograph is taken are superimposed upon the photograph,

it is presumed that the photograph was taken on the date and time and in the position so appearing, unless the contrary is proved.

(2) The presumption in subsection (1) arises only if:

- (a) the camera used to take the photograph was connected directly to the instruments which provide the date, time and position concerned; and
- (b) the instrument which provides the date, time and position is judicially noticed as being notoriously accurate or were checked as soon as possible after the taking of the photograph against the instruments.

(3) An authorised officer who takes a photograph of the kind described in subsection (1) may give a certificate appending the photograph stating any or more of the following:

- (a) the officer's name, address, official position, country of appointment and the empowering provision of appointment;
- (b) the name and call sign, if known, of a fishing vessel appearing in the photograph;

(7) I so o se tualumaga mo se soligatulafono i lalo o lenei Tulafono, ua faatatauina e moni se tuuaiga ua faia e lē na tuuina atu faamatalaga i so o se tagi po o moliaga e uiga i, po o le tagata lea pe leai foi na avea ma tagata faafoe o se vaa, vagana ai ua faamaonia i se isi faiga e ese ai.

**71. Tulaga lē mautinoa i ata pue-(1) Afai:**

- (a) ua pueina se ata o so o se faiga faiva po o se gaoioiga e fesootai i ai; ma
- (b) le aso ma le taimi lava lea ma le tulaga na pueina ai le ata lea o lo o tusia i luga o le ata,

ua faatatauina lava e faapea, na pueina le ata i le aso ma le taimi ma le tulaga o lo o tulai mai ai, vagana ai ua faamaonia i se isi faiga e ese ai.

(2) O manatu lē mautinoa o lo o i le faafuaiupu (1) e faatoa tulai mai pe afai:

- (a) o le mea pueata na pueina ai le ata na fesootai tuusao i meafaigaluega ia e tuuina mai ai le aso, taimi ma le tulaga tonu o aafia ai; ma
- (b) o le meafaigaluega lea o lo o tuuina mai ai le aso, taimi ma le tulaga tonu o i ai ua aloaia e le faamasinoga e avea o se meafaigaluega sao atoatoa po o, sa siakiina i se taimi vave lava ina ua maea ona pueina le ata nei meafaigaluega.

(3) E mafai e se tagata ofisa faatagaina o ia lea ua ia pueina se ata o le ituaiga lea o lo o faamatalaina i le faafuaiupu (1), ona tuuina atu se fusi faamaonia e faaopoopo atu ai i le ata o lo o taua ai se tasi po o le sili atu o itu nei:

- (a) le igoa o le tagata ofisa, tuatusi, tulaga tofi aloaia, atunuu o le tofiga ma le aiaiga o malosiaga o le tofiga;
- (b) le igoa ma faailoilo o valaau, pe afai o iloa o se vaa fagota o lo o i le ata;

(c) the name of the camera, watch or clock or any other instrument supplying the date and time and the position fixing instrument and a declaration that the officer checked the instrument at a reasonable time before and after the taking of the photograph and, if necessary, under subsection (2)(b) and that the instruments appeared to be working correctly;

(d) the matters set out in subsection (2)(a);

(e) the accuracy of the fixing instrument used within specified limits;

(f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

(4) Sections 67 and 68 apply to a certificate given under this section as if it were a certificate given under those sections.

(5) In this section “authorised officer” includes:

(a) a fisheries enforcement officer, surveillance officer or any officer carrying out similar functions, duties or powers in another country; or

(b) a high seas inspector authorised under a fisheries treaty or access agreement to which Samoa is party.

**72. Presumptions as to authority** - Any information, including a return, log or record purporting to be made, kept or provided by or on behalf of a person is, for the purposes of this Act, taken to have been made, kept or provided by that person or under that person’s authority, unless the contrary is proved.

(c) le igoa o le mea pueata, uati taulima po o le uati tautau po o so o se isi lava meafaigaluega o tuuina atu ai le aso ma le taimi, ma le meafaigaluega o faatulaga ai le nofoaga tonu, ma se tautinoga e faapea, na maea ona siakiina e le tagata ofisa le meafaigaluega i se taimi talafeagai a o lumanai ai po o le tuana'i ai ona pueina le ata ma, afai e talafeagai ai, i lalo o le faafuaiupu (2)(b), ma o lo o faapea ona foliga mai o lo o sao atoatoa;

(d) o mataupu o lo o faatulaga mai i le faafuaiupu (2)(a);

(e) o le tulaga sao atoatoa o meafaigaluega o faaaogāina i totonu o tapulaa faapitoa;

(f) le mamao talafeagai ma le itu o i ai le autu o le ata e mamao mai le mea pueata i le taimi na pueina ai le ata.

(4) E faaaogā le fuaiupu 67 ma le 68 i se tusi faamaonia ua tuuina atu i lalo o lenei fuaiupu e faapei ai, o se tusi faamaonia na tuuina atu i lalo o ia fuaiupu.

(5) I totonu o lenei fuaiupu “tagata ofisa faatagaina” e aofia ai:

(a) se tagata ofisa e faamalosiā tulafono tau faiga faiva, tagata ofisa e mataituina gaoioiga masalomia po o so o se tagata ofisa o lo o faatinoina matafaioi faapena, tiute po o malosiaga i se isi atunuu; po o

(b) se tagata asiasi o ogasami maualuluga ua faatagaina i lalo o se feagaiga tau faiga faiva po o maliega ua ofi atu i ai, lea ua avea ai Samoa ma sui auai.

**72. Manatu lē mautinoa e uiga i le pule faataga** - So o se faamatalaga, e aofia ai se tupe maua, tusitusiga po o faamaumauga ua avea e faapea na faia, teuina po o ua aiaia e po o, e avea ai ma sui o se tagata mo faamoemoega o lenei Tulafono, ua faatatauina lava, e faapea na faia, teuina po o na tuuina atu e lea tagata po o, i lalo o le pule faataga a lea tagata, vagana ai ua faamaonia i se isi faiga e ese ai.

*Division 2 - Liabilities*

**73. Liability for non-payment of penalties-**(1) Any or more of the following:

- (a) a forfeiture incurred or imposed under this Act;
- (b) a liability to forfeit a craft or property seized under this Act;
- (c) a rent, charge, expense, duty or any other money payable under this Act,

may be sued for, determined, enforced and recovered in the name of the Attorney General as the nominal plaintiff.

(2) Proceedings under subsection (1) are taken to be civil proceedings, and the fact that a bond or other security has been paid are not pleaded or made use of in answer to or in stay of the proceedings.

**74. Liability for loss, damage or costs incurred** - A person who commits an offence under this Act may, on conviction, be held liable to the Government for any or more of the following:

- (a) any loss or damage caused by the offence;
- (b) any costs incurred in detecting, apprehending, investigating or prosecuting the offence;
- (c) any costs incurred in detaining or seizing a craft or property for that offence,

and the amount of compensation for the loss, damage or costs may be awarded by the Court as restitution in addition to (and may be recovered in the same manner as) a fine.

*Vaevaega 2 - Noataga*

**73. Noataga mo le lē totogiina o faasalaga-**(1) So o se tasi po o le sili atu o mea nei:

- (a) o le aveesea faamalosia ua tulai mai po o ua faaee atu i lalo o lenei Tulafono;
- (b) o se noataga e aveese faamalosia ai se vaa po o meatotino ua faoa faamalosia i lalo o lenei Tulafono;
- (c) se lisi, tau faaee atu, tupe alu, tiute po o isi lava tupe e totogi i lalo o lenei Tulafono,

e mafai ona molia ai, fuafuaina, faamalosia ma toe faaola mai i lalo o le igoa o le Loia Sili e avea ma itu tagi e ala i le igoa.

(2) Ua avea tualumaga ua faia i lalo o le faafuuiupu (1) ma tualumaga tau le va o tagata, ma e lē faatagisia pe faaogāina le mea moni e faapea, ua maea ona totogi se feagaiga tau tupe po o isi faamalumaluga, e tali atu ai po o e taofia ai tualumaga.

**74. Noataga mo mea ua maimau, faaleagaina po o tau ua faatupulaia** - E mafai ona noatia se tagata o ia lea ua faia se soligatulafono i lalo o lenei Tulafono, ina ua faamaonia faaletulafono moliaga, i le Malo mo se tasi po o le sili atu o tulaga nei:

- (a) o so o se mea ua maimau pe faaleagaina e mafua mai le soligatulafono;
- (b) o so o se tupe totogi ua faatupulaia i le mauaina, iloa, sutesueina po o le faia o moliaga o le soligatulafono;
- (c) o so o se tupe totogi ua faatupulaia i le taofia ai po o le faoa faamalosia o se vaalele po o meatotino mo lea soligatulafono,

ma le aofaiga o tau mo mea ua maimau, faaleagaina po o tau e mafai ona tuuina atu e le Faamasinoga e avea ma tulaga e toe faaleleia ai e faaopopo atu i (ma e mafai ona toe faaolaina i le faiga lava lea e avea), o se sala tupe.

**75. Strict liability and defence-**(1) In any prosecution for an offence under this Act, it is not necessary for the prosecution to prove that the defendant intended to commit an offence except for any offence that is a serious violation under this Act.

(2) It is a defence for the defendant to prove that if it is alleged that anything:

- (a) required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
- (b) prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.

**76. Liability of directors and managers** - If a body corporate is convicted of an offence under this Act, a director or a person concerned in the management of the body corporate commits the same offence if it is proved that:

- (a) the act that constituted the offence took place with the person's authority, permission, or consent; or
- (b) the person knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

**77. Liability of principal for actions of agent in relation to records and returns-**(1) If a person ("principal") is required by or under this Act to do any or more of the following:

- (a) keep an account, log or record;

**75. Noataga faamalositia ma tetee-**(1) I so o se moliaga mo se soligatulafono ua faia i lalo o lenei Tulafono, e lē talafeagai mo le faamasinoga le faamaonia e faapea na faamoemoe le tagata ua molia e faia se soligatulafono vagana ai mo so o se soligatulafono lea o se soliga matuia i lalo o lenei Tulafono.

(2) O se tetee mo le tagata ua molia le faamaonia e faapea, afai ua tuuaia e faapea so o se mea:

- (a) na manaomia le faia ae ua lē faia, na uia e le tagata ua molia laasaga talafeagai uma e faamautinoa ai ua faia; po o
- (b) na faasaina ae ua faia, e faapea na uia e le tagata ua molia laasaga talafeagai uma e faamautinoa ai e aua ne i faia.

**76. Noataga o faatonu ma pule** - Afai ua faamaonia faaletulafono moliaga o se faalapotopotoga ua tuufaatasia faaletulafono i se soligatulafono i lalo o lenei Tulafono, ua faia foi e se faatonu po o se tagata ua aafia ai i le pulega o le faalapotopotoga ua tuufaatasia faaletulafono le soligatulafono lava lea pe afai ua faamaonia e faapea:

- (a) o le gaoioiga lea na faia ai le soligatulafono na tulai mai i lalo o le pule faataga, faatagaga, po o le maliega a le tagata; po o
- (b) na iloa lelei e le tagata po o, na tataua ona ia iloa e faapea o le a faia po o, na faia le soligatulafono ma ua ia lē faia laasaga talafeagai uma e puipui ai pe taofia ai.

**77. Noataga o tagata ofisa autu mo gaoioiga a soupu e uiga i faamaumauga ma tupe maua-**(1) Afai ua manaomia se tagata ofisa "autu" e po o i lalo o lenei Tulafono, ina ia faia so o se tasi po o le sili atu o itu nei:

- (a) tausia se teugatupe, tusi o malaga a le vaa po o faamaumauga;

- (b) provide any return, log or information;
- (c) complete a form;
- (d) take action to keep an account, log or record or to provide any return, log or information or the completing of a form,

an act of a person acting or purporting to act as agent for the principal for the requirement is taken to be the act of the principal, unless the principal proves that the person purporting to act as agent has no express or implied authority to act as the principal's agent.

(2) A defence specified in section 75(2) is available to a principal prosecuted for the act of an agent if the principal satisfies the Court that it would be in the interests of justice to allow the principal the benefit of the defence, having regard to any or more of the following:

- (a) any likely or possible benefit or detriment arising to the principal from the act for which the prosecution is brought if the alleged offence had remained undetected;
- (b) the purpose or motive of the agent whose act it was appears or likely to benefit from the alleged offence;
- (c) the relationship between the principal and the agent whose act it was, or between the principal and a person appearing or likely to benefit from the alleged offence;

- (b) tuuina atu so o se tupe maua, faamaumauga o malaga a le vaa po o faamatalaga;
- (c) faamaeaina se pepa faatumu;
- (d) faia se gaoioiga e tausia ai se teugatupe tusi o faamaumauga o malaga a le vaa po o faamaumauga, po o le tuuina atu so o se tupe maua, faamaumauga o malaga a vaa, po o faamatalaga, po o le faatumuina o se pepa faatumu,

ua faatatauina se gaoioiga a se tagata o lo o galue po o ua faamoemoe e galue e aveva ma sooupu a le tagata ofisa autu mo manaoga e faapea, o le gaoioiga lava a le tagata ofisa autu, vagana ai ua faamaonia e le tagata ofisa autu e faapea, e le i ai se pule faataga manino po o se malosiaga na tuuina atu e galue ai lea tagata e aveva ma ana sooupu.

(2) E avanoa se tagata ofisa autu ua molia i se tetea ua faamaoti mai i le fuaiupu 75(2), mo le gaoioiga a se sooupu pe afai ua faamalieina e le tagata ofisa autu le Faamasinoga e faapea, o le a faia ai le amiotonu o le faamasinoga pe a tuuina atu le avanoa i le tagata ofisa autu e tetea ai, i le amanaia ai o se tasi po o le sili atu o itu nei:

- (a) so o se tulaga e ono faamanuia ai pe talafeagai ona faamanuiaina ai po o se tulaga e aafia ai, ua tulai mai i le tagata ofisa autu, mai le gaoioiga lea ua faia ai moliaga pe a na faapea e tumau pea ona lē iloa le soligatulafono ua tuuaia ai;
- (b) o le faamoemoe po o le mafuaaga lilo a le sooupu e ana le gaoioiga e foliga mai po o e faaono faamanuiaina ai mai le soligatulafono ua tuuaia ai;
- (c) o le sootaga i le va o le tagata ofisa autu ma le sooupu e ana le gaoioiga, po o le va o le tagata ofisa autu ma se tagata e foliga mai, pe faaono faamanuiaina ai mai le soligatulafono ua tuuaia ai;



(d) if the principal is a body corporate, whether or not a person responsible for or closely associated with the management of the body corporate appears to have benefited from the act, or would have been likely to so benefit if the alleged offence had remained undetected;

(e) any action taken by the principal, once aware of the act, for the agent whose act it was or a person appearing likely to benefit from the alleged offence.

(3) For the purposes of this section, a person may act as an agent for a principal whether or not that person is employed by the principal and whether or not acting for reward.

**78. Liability of companies and persons for actions of officers and employees-**(1) An act of an officer or employee of a person, or of the master or a member of the crew of a vessel that is owned, chartered or leased by the person for the purpose of engaging in fishing, is taken to be the act of the person.

(2) Subject to subsection (3), a defence under section 75(2) is available to a person only to the extent that it can be proved in respect of the officer, employee, master, or crew member whose act the prosecution is brought.

(3) A defence specified in section 75(2) is available to a person prosecuted for the act of the officer, employee, master, or crew member if the person satisfies the Court that it would be in the interests of justice to allow the person the benefit of the defence, having regard to any or more of the following:

(d) afai o le tagata ofisa autu o se faalapotopotoga tuufaatasia faaletulafono, pe foliga mai e faamanuiaina ai po o, le a ono faamanuiaina ai mai le gaoioiga le tagata e nafa ma, po o e soofaatasi vavalalata ma le pulega o le faalapotopotoga tuufaatasia faaletulafono, pe a na faapea e tumau pea ona lē iloa le soligatulafono ua tuuaia ai;

(e) so o se gaoioiga ua faia e le tagata ofisa autu, i le taimi lava lea ua ia iloina ai le gaoioiga, mo le sooupu e ana le gaoioiga lea na faia po o se tagata ua foliga mai e ono faamanuiaina ai mai le soligatulafono ua tuuaia ai.

(3) Mo faamoemoega o lenei fuaiupu, e mafai e se tagata ona galue e avea o se sooupu mo se tagata ofisa autu, tusa lava pe o faafaigaluega pe leai foi lea tagata e le tagata ofisa autu ma, tusa lava foi po o galue mo se tau pe leai foi.

**78. Noataga o kamupani ma tagata mo gaoioiga a tagata ofisa ma tagata faigaluega-**(1) Ua faatatauina se gaoioiga a se tagata ofisa po o se tagata faigaluega a se tagata, po o le aliivaa po o se sui o le auvaa o se vaa lea o lo o umia, totonu faalisi po o ua lisiina e le tagata mo le faamoemoe e auai atu i faiga faiva, e faapea o le gaoioiga lava a lea tagata.

(2) I le noatia ma le fai fuafua i le faafuuiupu (3), e faatoa avanoa se tagata e tetee i lalo o le fuaiupu 75(2), i le tulaga lautele e faapea e mafai ona faamaonia, e tusa ai o le tagata ofisa, tagata faigaluega, aliivaa, po o se sui o le auvaa e ana le gaoioiga lea ua faia ai le moliaga.

(3) O se tetee ua faamaoti mai i le fuaiupu 75(2) o le a avanoa i ai se tagata ua molia mo le gaoioiga a le tagata ofisa, tagata faigaluega, aliivaa, po o se sui o le auvaa pe afai ua faamalieina e le tagata le Faamasinoga e faapea, o le a faia ai le amiotonu a le Faamasinoga pe a faatagaina le tagata e tetee, i le amanaia ai o se tasi po o le sili atu o itu nei:

- (a) any likely or possible benefit or detriment arising to the person from the act for which the prosecution is brought if the alleged offence had remained undetected;
- (b) the purpose or motive of the person whose act it was appears or likely to benefit from the alleged offence;
- (c) the relationship between the person and the person whose act it was, or between the person and a person appearing or likely to benefit from the alleged offence;
- (d) if the person is a body corporate, whether or not a person responsible for or closely associated with the management of the body corporate appears to have benefited from the act, or would have been likely to so benefit if the alleged offence had remained undetected;
- (e) any action taken by the person, or, if the person is a body corporate, by a person responsible for its management, once aware of the act, for the person whose act it was or a person appearing or likely to benefit from the alleged offence.

**79. Liability of master** - If an offence under this Act has been committed by a person on board or employed on a fishing vessel, the master of the vessel also commits the same offence.

- (a) so o se faamanuiaga e ono maua pe talafeagai ona maua po o e afaina ai le tagata, mai le gaoioiga lea ua faia ai moliaga pe a na faapea e tumau pea ona lē iloa le soligatulafono ua tuuaia ai;
- (b) o le faamoemoe po o le mafuaaga lilo a le tagata e ana le gaoioiga lea e foliga mai e faaono faamanuiaina ai o ia mai le soligatulafono ua molia ai;
- (c) le sootaga i le va o le tagata ma le tagata e ana le gaoioiga, po o le va o le tagata ma se tagata ua foliga mai, po o e faaono faamanuiaina ai mai le soligatulafono ua molia ai;
- (d) afai o le tagata o se faalapotopotoga ua tuufaatasia faaletulafono, tusa lava po o se tagata e mafai ma po o, e soofaatasi vavalalata ma le pulega o le faalapotopotoga ua tuufaatasia faaletulafono pe leai foi, ua foliga mai na faamanuiaina mai le gaoioiga, pe sa faaono tataua ona faamanuiaina i le soligatulafono ua molia ai pe a na tumau pea ona lē iloa le soligatulafono na molia ai;
- (e) so o se gaoioiga ua faia e le tagata, po o, afai o le tagata o se faalapotopotoga ua tuufaatasia faaletulafono, ua faia e se tagata e nafa ma lona pulega, i le taimi lava na iloa ai le gaoioiga, mo le tagata e ana le gaoioiga lea na faia, po o se tagata ua foliga mai po o e faaono faamanuia ai mai le soligatulafono ua molia ai.

**79. Noataga o le aliivaa** - Afai ua faia se soligatulafono i lalo o lenei Tulafono e se tagata i luga o le vaa, po o faafaigaluega ai i luga o se vaa fagota, ua faia foi e le aliivaa le soligatulafono lava lea.

*Division 3 - Offences, penalties and other orders*

**80. General offences and penalties-**(1) A person who contravenes a provision this Act, or a notice, direction, restriction, requirement, or condition given, made, or imposed under this Act (other than a requirement to pay a sum of money) commits an offence.

(2) A person convicted of an offence under this Act for which no penalty is provided is liable on conviction:

- (a) to a fine not exceeding 1,000 penalty units or imprisonment for a term not exceeding 12 months, or both; and
- (b) if the offence is a continuing one, to a further fine not exceeding 10 penalty units for each day after the first day on which the offence has continued.

(3) Subsection (1) does not apply to a person carrying out any functions, duties or powers under this Act as an employee, agent or representative of the Government.

**81. Offence of tampering with evidence**(1) A person must not destroy, throw overboard, conceal or abandon any fish, fish product, fishing gear, net, log, return, record, document, electric shock device, explosive, poison or other noxious substance, or any other thing with intent to avoid seizure or the detection of an offence under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units.

*Vaevaega 3 - Soligatulafono, faasalaga ma isi poloaiga*

**80. Soligatulafono lautele ma faasalaga-**(1) Ua faia se soligatulafono e se tagata o ia lea ua ia lē usitaia se aiaiga o lenei Tulafono, po o se faasilasilaga, faatonuga, tulaga faasaina, manaoga, po o tuutuuga ua tuuina atu, faia, po o ua faaee atu i lalo o lenei Tulafono (e ese ai na i lo se manaoga e totogi ai se aofaiga o tupe).

(2) E noatia i luga o moliaga ua faamaonia faaletulafono se tagata ua faamaonia le nofosala i se soligatulafono i lalo o lenei Tulafono, lea e le o aiaia ai se faasalaga:

- (a) i se sala tupe e lē silia le 1,000 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le 12 masina, po o faasalaga uma e lua; ma
- (b) afai o le soligatulafono o se soligatulafono faaauau pea, o se isi sala tupe e lē silia le 10 iunite tau faasalaga mo aso taitasi uma i le tuanai ai o le aso muamua lea ua faaauau ai le soligatulafono.

(3) E lē faaaogāina le faafuaiupu (1) i se tagata o lo o faatinoina so o se galuega tauave, tiute po o malosiaga i lalo o lenei Tulafono, e avea ai ma tagata faigaluega, sooupu po o se sui o le Malo.

**81. O le soligatulafono o le satia o faamatalaga molimau-**(1) E lē tataua i se tagata ona ia faaleagaina, lafoina i le sami, nana po o le lafoai o so o se i'a, oloa tau i'a, mea fagota, upega, faamaumauga tusitusia o malaga a le vaa, tala o tupe maua, faamaumauga, pepa aloaia, masini tau eletise, fanai'a, vailaau oona po o isi ituaiga vailaau oona, po o so o se isi lava mea, ma le faamoemoe e alofia ai le faoa faamalosi, po o le mauaina ai o se soligatulafono i lalo o lenei fuaiupu.

(2) Ua faia se soligatulafono e se tagata o ia lea ua ia lē usitaia le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 10,000 iunite tau faasalaga.

**82. Serious violation-**(1) A person commits an offence of serious violation if the person:

- (a) conducts fishing without a licence, authorisation or fishing right;
- (b) fails to maintain accurate records of catch and catch-related data, as required by this Act or a licence, including serious misreporting of catch contrary to this Act or to a licence;
- (c) conducts fishing -
  - (i) in a closed area;
  - (ii) during a closed season; or
  - (iii) without, or after attainment of, a quota established in the fishery waters or by an applicable sub-regional or regional fisheries management organisation or arrangement;
- (d) conducts fishing directed at a stock, which is subject to a moratorium or for which fishing is prohibited;
- (e) uses prohibited fishing gear;
- (f) falsifies or conceals the markings, identity or registration of a fishing vessel;
- (g) conceals, tampers with or disposes of evidence relating to an investigation or anticipated investigation;
- (h) commits multiple violations, which together constitute a serious disregard of conservation and management measures;

**82. Soliga matuia-**(1) Ua faia e se tagata se soligatulafono o le soliga matuia pe afai:

- (a) ua ia faatautaia faiga faiva e aunoa ma se laisene, faatagaga po o aia tatau tau faiga faiva;
- (b) ua ia lē tausia faamaumauga tonu o i'a o fagotaga ma faamatalaga e faasino i i'a e maua e pei ona manaomia e lenei Tulafono po o se laisene, e aofia ai le lipoti sese o i'a e maua i fagotaga e feteenai ma lenei Tulafono po o, i se laisene;
- (c) faatautaia faiga faiva -
  - (i) i se nofoaga ua tapunia;
  - (ii) a o faagasolo le vaitaimi e tapunia ai; po o
  - (iii) e aunoa, po o i le maea ai ona maua se aofai faatonuina ua faamautuina i ogasami o faiga faiva po o, e ala i se faalapotopotoga laititi talafeagai faaitulagi po o faalapotopotoga faaitulagi tau pulega o faiga faiva po o faatulagaga;
- (d) faatautaia faiga faiva tuusao o oloa tau i'a ia o lo o noatia i se tapu lē tumau po o, ia o lo o faasaina ai faiga faiva;
- (e) faaaogāina o mea fagota faasaina;
- (f) ua faaseseina po o le natia o faailoga e iloa ai, tulaga e iloagofie ai po o le faamauina o se vaa fagota;
- (g) natia, satiaina po o le lafoai o faamatalaga molimau e faasino i se suesuega po o suesuega ua fuafuaina le faia;
- (h) ua solia soo, lea ua mafai ai ona tulai mai se tulaga matuia e lē amanaia ai auala e faasaoina ma puleaina ai faiga faiva;

(i) commits any other serious violations specified under this Act or prescribed by regulations.

(2) A person convicted for a serious violation offence is liable on conviction to a fine not exceeding 100,000 penalty units.

**83. Limitation for prosecution** - Despite any other enactment, any information or charge for an offence under this Act may be filed in Court within two (2) years of the commission of the offence except with leave of the Court, in special circumstances (including availability of evidence or witness), to prosecute the offence after the two (2) years expire.

**84. Forfeiture and suspension of fishing rights, licences, authorisation** - If a person is convicted of an offence under this Act, the Court may make an order to suspend for any period as the Court considers appropriate or to forfeit, any fishing right, licence, authorisation or approval.

**85. Prohibition orders**-(1) If a person:

(a) is convicted of an offence under this Act; and

(b) within seven (7) years from the date of that conviction, is again convicted of the same or any other offence under this Act,

(i) ua faia so o se isi lava tulaga o le solia matuia ua faamaoti mai i lalo o lenei Tulafono, po o ua faatonuina e ala i tulafono faatonutonu.

(2) E noatia se tagata ua faamaonia le nofosala mo se soliga matuia o le tulafono i se sala tupe e lē silia le 100,000 iunite tau faasalaga.

**83. Taimi faatapulaaina mo moliaga** - E ui lava i so o se isi tulafono, e mafai ona faatoai atu so o se tagi po o moliaga mo se soligatulafono i lalo o lenei Tulafono, i totonu o le lua (2) tausaga talu ona faia le soligatulafono, vagana ai se faatagaga a le Tulafono i se tulaga faapitoa e aliae mai (e aofia ai le i ai o faamatalaga molimau po o molimau), e faia ai moliaga o le soligatulafono i le tuana'i ai ona muta le lua (2) tausaga.

**84. Aveesea faamalosi ma le taofia lē tumau o aia tatau, laisene ma faatagaga tau faiga faiva** - Afai e faamaonia faaletulafono se tagata i se soligatulafono i lalo o lenei Tulafono, e mafai e le Faamasinoga ona faia se poloaiga e taofia lē tumau ai mo so o se vaitaimi e pei ona manatu le Faamasinoga ua talafeagai ai, po o le aveesea faamalosi, so o se aia tatau, laisene, faatagaga po o faamaoniga tau faiga faiva.

**85. Poloaiga e faasaina ai**-(1) Afai o se tagata:

(a) ua faamaonia faaletulafono i se soligatulafono i lalo o lenei Tulafono; ma

(b) ua toe faamaonia faaletulafono i ni moliaga i totonu o le fitu (7) aso mai le aso o lea faamaoniga faaletulafono o moliaga i le soligatulafono lava lea, po o so o se isi lava soligatulafono i lalo o lenei Tulafono,

the Court may (in addition the penalty imposed for the offence) order that person be prohibited, for up to three (3) years from the date of conviction, from engaging in fishing, related activities or any other activity as under this Act.

(2) A person who contravenes the order of the master of a fishing vessel who has aboard another person whom the person knows is banned under subsection (1) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units, or to imprisonment for a term not exceeding 15 years, or both.

## **PART 8 VILLAGE FISHERIES BYLAWS**

**86. Making of fisheries bylaws-**(1) A village Fono may make village fishery bylaws, consistent with this Act, for the purpose of conserving, protecting, managing, developing and sustaining harvest of fish in the village fisheries management area, including any or more of the following matters:

- (a) prohibit harvest of certain type of fish;
- (b) prohibit fishing methods that are destructive or damaging;
- (c) provide periodic closure of fishing in certain areas;
- (d) restrict or limit size of fish to be caught or harvested;
- (e) restrict mesh size fishing nets;

e mafai e le Faamasinoga (e faaopoopo atu i le faasalaga ua faaee atu mo le soligatulafono) ona poloaia le faasaina o lea tagata mo le vaitaimi e oo atu i le tolu (3) tausaga, mai le aso na faamaonia faaletulafono ai moliaga, mai le auai atu i faiga faiva, gaoioiga e fesootai i ai po o so o se isi lava gaoioiga e pei ona i ai i lalo o lenei Tulafono.

(2) O se tagata o ia lea ua ia solia le poloaiga a le aliivaa o se vaa fagota, o lo o i ai i ona luga se isi tagata lea e iloa lelei e lea tagata e faasaina i lalo o le faafuaiupu (1), ua ia faia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 10,000 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le 15 tausaga, po o faasalaga uma e lua.

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

**86. O le faia o tulafono laiti o faiga faiva-**(1) E mafai e se Fono a Nuu ona faia tulafono laiti o faiga faiva i nuu ma afioaga, e ogatasi ma lenei Tulafono, mo le faamoemoe o le faasaoina, puipuia, puleaina, atiaeina ma le gafataulimaina o le fagotaina o i'a lapopoa ma talafeagai i nofoaga o faiga faiva e pulea e nuu, e aofia ai so o se tasi po o le sili atu o mataupu nei:

- (a) o le faasaina o le fagotaina o nisi ituaiga o i'a;
- (b) o le faasaina o auala o faiga faiva ia e faaleagaina ai pe faatamaia ai i'a;
- (c) e aiaia ai le tapunia faavaitaimi o faiga faiva i nisi ogasami;
- (d) e faasaina ai pe faatapulaa le lapopoa o i'a e pueina pe fagotaina;
- (e) e faasaina ai faiga faiva i upega;

- (f) restrict importation or exportation of fish;
  - (g) regulate any activity that would cause adverse effects on marine environment and coastal fisheries;
  - (h) provide any other matter necessary to protect coastal fisheries.
- (2) Fisheries bylaws are to be:
- (a) prepared under the guidelines issued under section 6; and
  - (b) vetted by the Attorney General; and
  - (c) approved by Cabinet; and
  - (d) signed by the Chief Executive Officer; and
  - (e) published in the Savali after they are signed; and
  - (f) effective on the 14<sup>th</sup> day after they are first published in the Savali; and
  - (g) distributed (copies of bylaws) by the Chief Executive Officer to stakeholders, including neighbouring village communities.

**87. Monitoring of bylaws** - The village fisheries management committee must monitor its village fisheries bylaws.

**88. Breach of bylaws**-(1) A person who breaches a village fisheries by-law commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units or to 12 months imprisonment, or both.

(2) When a Court imposes a fine under by-laws, the Court may order that the fine be deposited into a fund of the village Fono whose fisheries bylaws are breached.

- (f) e faasaina ai le faaulufale mai po o le auina atu i fafo o i'a;
  - (g) e faatonutonu faaletulafono ai so o se gaoioiga lea e afaina tele ai le siosiomaga o le gataifale ma faiga faiva i le talafeagai;
  - (h) e aiaia ai so o se isi lava mataupu e talafeagai mo le puipuiga o faiga faiva i le talafatai.
- (2) E ao i tulafono laiti o faiga faiva ona:
- (a) saunia i lalo o taiala ua tuuina atu i lalo o le fuaiupu 6; ma
  - (b) iloilo maeaea e le Loia Sili; ma
  - (c) faamaonia e le Kapeneta; ma
  - (d) sainia e le Ofisa Sili o Pulega; ma
  - (e) lomia faasalalau i le Savali i le maea ai ona sainia; ma
  - (f) faamamaluina i le aso 14 i le maea ai ona lomina faasalalau muamua i le nusipepa o le Savali; ma
  - (g) tufatufaina (ata o tulafono laiti) e le Ofisa Sili o Pulega i tagata e i ai aia, e aofia ai nuu ma afioaga tuaoi.

**87. Mataituina o tulafono laiti** - E ao i Komiti o pulega o faiga faiva a nuu ma afioaga ona mataitu ana tulafono laiti o faiga faiva.

**88. Solia o tulafono laiti o faiga faiva**-(1) Ua faia se soligatulafono e se tagata o ia lea ua ia solia se tulafono laitiiti o faiga faiva a nuu, ma e noatia i luga o moliaga ua faamaonia faaletulafono, i se sala tupe e lē silia le 1,000 iunite tau faasalaga po o, i le 12 masina e nofosala ai i le falepuipui, po o faasalaga uma e lua.

(2) Afai e faaee atu e se Faamasinoga se sala tupe i lalo o tulafono laiti o faiga faiva, e mafai ona ia poloia ina ia totogiina le sala tupe i se faaputugatupe a le Fono a le Nuū e ona tulafono laiti ia ua solia.

(3) A penalty imposed by a Village Fono under its powers under the Village Fono Act 1990 must be taken into account by:

- (a) the Chief Executive Officer or the Commissioner of Police when considering to prosecute a breach of by-laws; and
- (b) a Court, as a mitigating factor, when passing sentence or dealing with the defendant.

**89. Suspension and revocation of bylaws** - The Chief Executive Officer may, acting on the advice of the relevant village Fono, suspend or revoke bylaws pursuant to the procedures set out in section 86(2) with necessary adaptation.

## PART 9 MISCELLANEOUS

**90. Activities contrary to laws of another country**-(1) A person must not, within Samoa or in the fishery waters:

- (a) cause or permit another person acting on the person's behalf; or
- (b) use or permit a vessel,  
to fish or to import, export, land, transport, sell, receive, acquire or buy any fish or fish product taken, possessed, transported or sold in contravention of any law of another country or of international conservation and management measures.

(2) This section does not apply to the taking of fish on the high seas that contravenes the law of another country if Samoa does not recognise the jurisdiction of that country over those fish.

(3) E ao ona amanaia se faasalaga e faaee atu e se Fono a se Nuu i lalo o ona malosiaga o lo o i le Tulafono o Fono a Nuu 1990 e:

- (a) le Ofisa Sili o Pulega po o le Komesina o Leoleo i le auiliiliina ai mo le faia o moliaga o le solia ai o tulafono laiti o faiga faiva; ma
- (b) se Faamasinoga, e avea ma itu e foia ai, pe a tuuina atu le faasalaga po o le tagofia ai o le faasalaga o le tagata ua molia.

**89. Taofia lē tumau ma le faalēaogāina o tulafono laiti o faiga faiva** - E mafai e le Ofisa Sili o Pulega, i le faia i luga o le fautuaga a le Fono a le Nuu talafeagai, ona taofia lē tumau pe faalēaogāina tulafono laiti e tusa ai ma taulumaga ua faatulaga atu i le fuaiupu 86(2), faatasi ai ma suiga talafeagai.

## VAEGA 9 AIAIGA ESEESE

**90. Gaoioiga e feteenai ma tulafono a se isi atunuu**-(1) E lē tatau i se tagata, o i totonu o Samoa po o i ogasami o faiga faiva:

- (a) ona taulamua pe faatagaina se isi tagata o lo o galue e avea ma sui o lea tagata; po o
- (b) le faaaogāina pe faatagaina se vaa,  
e fagota po o le faaulufale mai, auina atu i fafo, faatulaeleeleina, felauai, faatau atu, taliaina, maua mai po o le faatau mai so o se i'a, po o oloa tau i'a ua aveina, umia, felauai po o ua faatau atu, e lē usitaia ai so o se tulafono a se isi atunuu po o, faasao faava o malo ma auala tau pulega o faiga faiva.

(2) E lē faaaogāina leni fuaiupu i i'a na aveina i luga o ogasami maualuluga ia ua lē usitaia ai le tulafono a se isi atunuu, pe afai e lē aloaia e Samoa puleaga a lea atunuu e uiga i ia i'a.



(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 10,000 penalty units, or to imprisonment for a term not exceeding 15 years, or both.

(4) If an international agreement with another country provides for a fine, penalty or other determination or a portion of it to be remitted to that country on conviction or other process under subsection (1), the remittance is made after all costs and expenses incurred by the country have been deducted.

**91. Protection from personal liability-**(1) This section applies to the following persons:

- (a) the Minister;
- (b) the Chief Executive Officer;
- (c) authorised officers and observers;
- (d) an officer, employee or agent of the Ministry;
- (e) a person acting under any authority conferred to by the Minister or the Chief Executive Officer;
- (f) any other person required to carry out or assist in carrying any function, duty or power under this Act.

(2) A person to whom this section applies is not personally liable for any act done in good faith when carrying out any function, duty or power under this Act.

**92. Regulations and approved forms-**(1) The Head of State, acting on the advice of Cabinet, may make regulations to give effect to the provisions or for the purposes of this Act, and in particular may make the following regulations:

(3) Ua faia e se tagata se soligatulafono, o ia lea ua lē usitaia le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 10,000 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le 15 tausaga, po o faasalaga uma e lua.

(4) Afai o aiaia i se maliega faava o malo ma se isi atunuu se sala tupe, faasalaga po o isi faaiuga, po o sona vaega e ao ona lafoina atu i lea atunuu ina ua faamaonia faaletulafono moliaga, po o isi faagasologa i lalo o le faafuaiupu (1), e lafoina atu pe a maea ai ona toesea tau ma tupe alu ua faatupulaia e lea atunuu.

**91. Puipuiga mai noataga tau le tagata lava ia-**(1) O lenei fuaiupu e faaaogā i tagata nei:

- (a) o le Minisita;
- (b) o le Ofisa Sili o Pulega;
- (c) o tagata ofisa faatagaina ma tagata e mataituina;
- (d) se tagata ofisa, tagata faigaluega po o se sooupu a le Matagaluega;
- (e) se tagata o lo o galue i lalo o so o se pule faataga ua faaee atu i ai e le Minisita po o le Ofisa Sili o Pulega;
- (f) so o se isi lava tagata e manaomia lona faatinoina po o le fesoasoani i le faatinoga o so o se galuega tauave, tiute po o malosiaga i lalo o lenei Tulafono.

(2) E lē noatia toatasi se tagata o lo o faasino i ai lenei fuaiupu mo so o se gaoioiga ua faia i le loto lelei pe a faatinoina so o se galuega tauave, tiute po o malosiaga i lalo o lenei Tulafono.

**92. Tulafono faatonotonu ma pepa faatumu faamaonia-**(1) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, ona faia tulafono faatonotonu e aloaia ai aiaiga po o, mo faamoemoeaga o lenei Tulafono, ma aemaise lava, e mafai ona ia faia tulafono faatonotonu nei:

- (a) prescribing measures for the conservation, management, development, licensing and regulation of fisheries or a particular fishery both within and beyond the fishery waters;
  - (b) further regulating of vessels or class or category of vessels to be used for fishing, related activities or any other purpose under this Act, including the issue requirements, grounds for refusal, terms and conditions, any fees, charges, royalties or other form of compensation relating to licence, authorisation, approvals or registration;
  - (c) regulating of fishers or class of fishers, fishing gears and other equipment or devices used for fishing;
  - (d) regulating the operation of, and conditions and procedures observed by a fishing vessel while in the fishery waters or by Samoan fishing vessels beyond the fishery waters;
  - (e) regulating the operation of, and conditions and procedures to be observed by any other vessel which may enter the fishery waters for any purpose under this Act;
  - (f) regulating the catching, loading, landing, handling, transshipping, transporting, possession and disposal of fish;
  - (g) regulating the import, export, distribution and marketing of fish and fish products, including live fish;
- (a) faatonuina auala mo le faasaoina, puleaina, atiaeina, laiseneina ma le faatonutonuina o faiga faiva po o, se faiga faiva faapitoa i totonu ma tua atu o ogasami o faiga faiva;
  - (b) faatonu atili vaa po o se vasega po o se vaega o vaa e ao ona faaaogāina mo faiga faiva, gaioioiga e fesootai i ai po o, so o se isi lava faamoemoe i lalo o lenei Tulafono, e aofia ai manaoga o le mataupu, mafuaaga mo le teena, aiaiga ma tuutuuga, so o se totogifuapauina, tau faaee atu, totogi o le faaaogāina o mea po o isi faatulagaga o tau i e fesootai ma laisene, faatagaga, faamaoniga po o le faamauina;
  - (c) faatonutonuina faaletulafono o le aufai faiva po o se vasega o le aufai faiva, mea fagota ma isi meafaigaluega po o masini e faaaogāina mo faiga faiva;
  - (d) faatonutonu faaletulafono le faagaioioiga o, ma tuutuuga ma taualumaga ua mataituina e se vaa fagota a o i ai i ogasami o faiga faiva po o, e vaa fagota o Samoa o lo o fagogota i tua atu o ogasami maualuluga;
  - (e) faatonutonu faaletulafono le faagaioioiga o, ma tuutuuga ma taualumaga e ao ona mataituina e so o se isi vaa fagota lea e mafai ona ulufale atu i ogasami o faiga faiva mo so o se faamoemoe i lalo o lenei Tulafono;
  - (f) faatonutonu faaletulafono i'a o fagotaga, utaina i luga o vaa, tagofiaina, toe utaina i luga o isi vaa, felauaiga, umiaina ma le lafoaia;
  - (g) faatonutonu faaletulafono le faaulufale mai, auina atu i fafo, tufatufaina ma le maketiina o i'a ma oloa tau i'a, e aofia ai i'a ola;

- (h) regulating stowing of fishing gears;
- (i) prescribing the procedures to appoint or to carry out powers and duties of authorised officers and observers;
- (j) prescribing the procedures and other duties of masters and crews of vessels relating to authorised officers and observers;
- (k) providing rewards for providing information on the operations of foreign vessels leading to a conviction of an offence under this Act;
- (l) regulating fish aggregating devices and the rights to the aggregated fish, and prescribing times and the minimum distances from those devices where vessels may fish;
- (m) regulating or prohibiting the use of self-contained underwater breathing apparatus;
- (n) regulating or prohibiting the use of spear guns or other similar devices;
- (o) prescribing standards and measures for the safety of local fishers and fishing vessels;
- (p) regulating aquaculture and access to any land used for aquaculture and to the waters superjacent to the land;
- (q) prescribing the terms and conditions of leases for aquaculture;
- (r) requiring the provision of statistical and other information related to fisheries;
- (s) regulating the prevention of marine pollution;
- (h) faatonutonu faaletulafono le teuina o mea fagota;
- (i) faatonuina tualumaga e tofia ai po o le faatino ai o malosiaga ma tiute o tagata ofisa faatagaina ma i latou e mataituina;
- (j) faatonuina tualumaga ma isi tiute o aliivaa ma le auvaa o vaa fagota e faasino i tagata ofisa faatagaina ma i latou e mataituina;
- (k) aiaia ai tau mo le tuuina atu o faamatalaga e uiga i faiva o vaa fagota mai atunuu ese e oo ai i le faamaoniga faaletulafono i se soligatulafono i lalo o lenei Tulafono;
- (l) faatonutonu faaletulafono ai pole fagota e faaputupu ai i'a ma aia tatau i i'a ua faaputuina, ma taimi faatonuina ma le mamao aupito maualalo mai ia pole fagota e mafai e vaa ona fagota faataamilo ai;
- (m) faatonutonu faaletulafono pe faasaina ai le faaaogāina o masini manava i lalo o le sami;
- (n) faatonutonu ai pe faasaina le faaaogāina o fana matatao po o isi mea fagota faapena;
- (o) faatonuina ai tulaga faataatitia ma auala mo le saogalemu o le aufai faiva a le atunuu ma vaa fagota;
- (p) faatonutonu faaletulafono ai faatoaga faaolaivai ma avanoa i so o se fanua ua faaaogāina mo faatoaga faaolaivai i luga ae o le sami;
- (q) faatonuina ai aiaiga ma tuutuuga o lisi mo faatoaga faaolaivai;
- (r) manaomia ai le tuuina atu o faamatalaga tau fuainumera ma isi faamatalaga e fesootai i faiga faiva;
- (s) faatonutonu faaletulafono ai le puipuiga o le filogia o le gataifale;

- (t) regulating the appointment, maintaining of and procedures for agents appointed to receive and respond to process under this Act;
  - (u) regulating the implementation of any access or related agreement or other agreement or arrangement entered into under this Act;
  - (v) regulating or prohibiting, either generally or in a specified fishery -
    - (i) the taking of coral and shells;
    - (ii) the setting of fish fences or nets;
    - (iii) the taking of aquarium fish; or
    - (iv) aquaculture operations;
  - (x) prescribing measures for the protection of trochus, pearl and pearl-shell, turtles, green snails, clams and lobsters;
  - (y) regulating or prohibiting fishing of all kinds within a lagoon or a part of any lagoon, the time or times of year during which the fishing may occur or is prohibited, and approving, restricting or prohibiting the equipment or methods which may be used in connection with fishing;
  - (z) regulating or prohibiting the use of fish aggregating devices;
  - (aa) regulating test or exploratory fishing;
  - (bb) setting out the requirements for the contents of fisheries management plans, and the procedures to be followed in their implementation;
- (t) faatonutonu faaletulafono ai le tofiaina, tausia o ma tualumaga mo sooupu ua tofia e taulimaina ma tali atu i faagasologa i lalo o lenei Tulafono;
  - (u) faatonutonu faaletulafono ai le faatinoga o so o se avanoa po o maliega e fesootai i ai, po o isi maliega po o, faatulagaga ua sainia i lalo o lenei Tulafono;
  - (v) faatonutonu faaletulafono pe o le faasaina ai, a le o le tulaga faalauaitele po o, i se faiga faiva ua faamaotiina -
    - (i) le aveina o amu ma atigi figota;
    - (ii) le faatuina o pa i'a po o upega;
    - (iii) le aveina o i'a i totonu o tane mo maimoaga;
    - (iv) faagaoioiga o faatoaga faolaivai;
  - (x) faatonutonuina ai auala mo le puipuiga o aliao, penina ma tifa, laumei, sisi sami, faisua ma ula;
  - (y) faatonutonuina ai pe faasaina faiga faiva o so o se ituaiga i totonu o se aloalo po o se vaega o so o se aloalo, le taimi po o vaitaimi o le tausaga lea e mafai ai ona faia faiga faiva pe faasaina ai, ma le faamaonia, faatapulaaina po o le faasaina o meafaigaluega po o auala e mafai ona faaogāina e fesootai ma faiga faiva;
  - (z) faatonutonuina faaletulafono pe faasaina ai le faaogāina o pole fagota e faaputupu ai i'a;
  - (aa) suesuega e faatonutonu ai po o faiga faiva e suesueina mea fou;
  - (bb) faatulagaina o manaoga mo mea o aofia ai i fuafuaga o pulega tau faiga faiva, ma tualumaga e ao ona mulimulitaia i o latou faatinoga;

- (cc) prescribing offences for regulations and penalties for the offences, not exceeding a fine of 1,000 penalty units or imprisonment for a term not exceeding three (3) years, or both and, if the offence is a continuing one, a further fine not exceeding 5 penalty units for every day that the offence has continued;
  - (dd) defining the conditions or circumstances under which Samoan fishing vessels may be chartered;
  - (ee) regulating the development of or giving effect to fishing rights system;
  - (ff) regulating exploratory or test fishing;
  - (gg) subject to the prior approval of the National Revenue Board, prescribing fees and charges for the purposes of this Act;
  - (hh) prescribing matter required to be prescribed by this Act.
- (2) Prescribed fees or charges are non-refundable unless the Minister, subject to any directive issued by Cabinet, approves the refund.
- (3) A refund approved under subsection (2) is:
- (a) statutory charge on the Treasury Fund; and
  - (b) to be paid out without further appropriation than this section.
- (4) The Chief Executive Officer may approve forms for the purpose of this Act.

- (cc) faatonuina o soligatulafono mo tulafono faatonutonu ma faasalaga mo soligatulafono, e lē silia se sala tupe e 1,000 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le tolu (3) tausaga, po o faasalaga uma e lua ma, afai o se soligatulafono o faaauau pea, o se isi sala tupe e lē silia le 5 iunite tau faasalaga mo aso taitasi uma e faaauau ai le soligatulafono;
  - (dd) faamatalaina o tuutuuga po o tulaga aliae mai ia e mafai ai i lalo ona totogifuapauina vaa fagota o Samoa;
  - (ee) faatonutonuina faaletulafono le atinae o po o le faamamaluina o aia tatau tau faiga faiva;
  - (ff) faatonutonu faaletulafono suesuega po o suesuega o mea fou;
  - (gg) i le noatia ma le fai fuafua i le uluai faamaoniga a le Komiti Faatino o Tupe Maua a le Malo, ua faatonuina ai totogifuapauina ma tau faaee atu mo faamoemoega o lenei Tulafono;
  - (hh) faatonuina ai mataupu e manaomia le faatonutonuina i lenei Tulafono.
- (2) E lē mafai ona toe faafoi atu se totogifuapauina faatonuina po o tau faaee atu vagana ai le Minisita, i le noatia ma le fai fuafua i so o se iugafono ua tuuina mai e le Kapeneta, e faamaonia tupe toe faafoi.
- (3) O se tupe toe faafoi ua faamaonia i lalo o le faafuaiupu (2) o:
- (a) se tau ua faaee atu faaletulafono i le Faaputugatupe o Tupe a le Malo; ma
  - (b) e ao ona totogi atu e aunoa ma le toe faatatauina na i lo lenei fuaiupu.
- (4) E mafai e le Ofisa Sili o Pulega ona faamaonia pepa faatumu mo le faamoemoe o lenei Tulafono.

**93. Acts repealed** - The Fisheries Act 1988 and the Fisheries (Ban of Driftnet Fishing) Act 1999 are repealed.

**94. Saving and transitional provisions**-(1) A reference in any enactment or a document:

(a) to the “Fisheries Division” or “Fisheries Department” is amended and to be read as reference to the “Ministry responsible for Fisheries”; and

(b) to the “Head of Fisheries” is amended and to be read as reference to the “Chief Executive Officer of the Ministry responsible for Fisheries”.

(2) A licence, authorisation, treaty, access agreement, other agreement, registration, appointment, approval, cancellation, suspension, condition, declaration, petition, permit, prohibition, exemption, order, advice, direction or act of authority made or issued under the Fisheries Act 1988, so far as they are subsisting or in force at the commencement of this Act, continues to have effect as if they were issued or done under this Act until they expire or are amended, renewed or cancelled under this Act.

(3) Employees of the Ministry holding an office under the Fisheries Division at the commencement of this Act continue to hold that office.

(4) Despite this Act, any applications, prosecutions, and other matters arising out of or under the Fisheries Act 1988 which are commenced under that Act continue and to be determined under the Fisheries Act 1988 despite its repeal.

(5) Legal proceedings to which the Fisheries Division is a party as at the commencement of this Act continue as if they were instituted under this Act.

**93. Tulafono ua soloia** - Ua soloia nei le Tulafono o Faiga Faiva 1988 ma Tulafono o Faiga-Faiva (Faasaina o Faiga-Faiva i Upega Faatafea) 1999.

**94. Aiaiga faasaoina ma aiaiga tau soloaiga**-(1) O se faasinomaga i so o se tulafono po o se pepa aloaia:

(a) i le “Vaega o Faiga Faiva” po o le “Ofisa o Faiga Faiva” ua teuteuina nei ma e ao ona faitauina e aveva o se faasinomaga i le “Matagaluega e fitoitonu ma Faiga Faiva”; ma

(b) i le “Faauluuluga o Faiga Faiva” ua teuteuina ma e ao ona faitauina e aveva ma faasinomaga i le “Ofisa Sili o Pulega o le Matagaluega e fitoitonu ma Faiga Faiva”.

(2) So o se laisene, faatagaga, feagaiga, maliega ua sainia, o isi maliega, faamauina, tofiga, faamaoniga, faalēaogāina, taofiga lē tumau, tuutuuga, tautinoga, tagi, pemitā, faasaina, tuusaunoaga, poloaiga, fautuaga, faatonuga po o gaoioiga i le pule faataga ua faia po o, ua tuuina atu i lalo o le Tulafono o Faiga Faiva 1988, e tusa ai ma le tulaga e oo i ai lona aloaia po o lona faamamaluina i le taimi e amata faamamaluina ai lenei Tulafono, e faaauau pea ona aloaia e faapei ai na tuuina atu pe na faia i lalo o lenei Tulafono, seia vagana ua muta po o ua teuteuina, faafou po o ua faalēaogāina i lalo o lenei Tulafono.

(3) E faaauau pea ona umia e tagata faigaluega o le Matagaluega tofiga i lalo o le Vaega o Faiga Faiva i le taimi e amata faamamaluina ai lenei Tulafono.

(4) E ui lava i lenei Tulafono, so o se talosaga, moliaga, ma isi mataupu e tulai mai i, po o i lalo o le Tulafono o Faiga Faiva 1988 ia na amataina i lalo o lea Tulafono, e faaauau pea ma e ao ona fuafuaina i lalo o le Tulafono o Faiga Faiva 1988, e ui lava ina ua soloia lea tulafono.

(5) O tualumaga faaletulafono o lo o aveva ai le Vaega o Faiga Faiva ma vaega auai i le taimi e amata faamamaluina ai lenei Tulafono, e faaauau pea e faapei ai na faia i lalo o lenei Tulafono.

(6) Regulations made under the Fisheries Act 1988 continue as if they have been made under this Act until they are amended or replaced under this Act.

(7) Regulations may be made under section 92 within two (2) years of commencement of this Act to deal with any other saving or transitional matters.

(8) In this section, unless the context otherwise requires, Fisheries Act 1988 includes the Fisheries (Ban of Driftnet Fishing) Act 1999.

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(6) E faaaauau pea Tulafono Faatonutonu na faia i lalo o le Tulafono o Faiga Faiva 1988 e faapei ai na faia i lalo o lenei Tulafono seia vagana ua teuteuina po o ua toe suia i lalo o lenei Tulafono.

(7) E mafai ona faia Tulafono Faatonutonu i lalo o le fuaiupu 92 i totonu o le lua (2) tausaga talu ona amata faamamaluina lenei Tulafono, e tagofia ai so o se isi lava mataupu faasaina po o mataupu tau soloaiga.

(8) I totonu o lenei fuaiupu ae vagana ai ua manaomia e le mataupu se isi uiga e ese ai, o le Tulafono o Faiga Faiva 1988 e aofia ai le Tulafono o Faiga-Faiva (Faasaina o Faiga-Faiva i Upega Faatafea) 1999.

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