

# VILLAGE FONO AMENDMENT BILL 2016

## SAMOA

### Explanatory Memorandum

#### **Introduction:**

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

The Bill covers the following:

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

- Clause 1:** - states that, when enacted, the Bill will be called the Village Fono Amendment Act 2016, and will commence on the date of assent by the Head of State.
- Clause 2:** - amends section 2 by amending the definition of “village misconduct” and also provides for new definitions to be incorporated in the Act.
- Clause 3:** - inserts new section 2A which provides for the objects of the Act.
- Clause 4:** - substitutes section 4 of the Act.
- Clause 5:** - amends section 5 of the Act by providing for the powers of Village Fono to make *faiga faavae* or *i’ugafono*. This amendment will replace the reference to “rules” with “*faiga fa’avae* or *i’ugafono*” in the Act.
- Clause 6:** - inserts new sections 5A to 5F which will provide for the procedures, effect and mode of registration of the *faiga faavae* or *i’ugafono* as well as provisions relating to the Register of *faiga faavae* or *i’ugafono*.
- Clause 7:** - amends section 6 of the Act by giving the power to the Village Fono to order banishment but subject to procedures to be followed. These procedures are in line with Article 9 of the Constitution.
- Clause 8:** - substitutes section 9 of the Act so that a Village Fono will have some control over those who are living on the government land, freehold land or leasehold land within the village who disrupts or likely to disrupt the harmony within the village.

- Clause 9:** - inserts new section 12 which requires a person who proposes the construction of a building or structure of any kind or undertake an activity for community purpose in a village to consult with the Village Fono for their approval before such work is undertaken. The Village Fono must comply with factors provided before a decision is made under this new section.
- Clause 10:** - provides for consequential amendment and transitional provisions.

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(Hon FAIMALOTOA Kika Iemaima Stowers)  
**MINISTER FOR WOMEN, COMMUNITY  
AND SOCIAL DEVELOPMENT**