

WESTERN SAMOA

VILLAGE FONO

Arrangement of Provisions

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1990, No 3

AN ACT to validate and empower the exercise of power and authority by Village Fono in accordance with the custom and usage of their villages and to confirm or grant certain powers; and to provide for incidental matters.

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

1. Short Title and Commencement - (1) This Act may be cited as the Village Fono Act 1990.

(2) This Act shall come into force on such date as shall be specified by the Head of State acting on the advice of Cabinet, by Order.

2. Interpretation - In this Act unless the context otherwise requires, -

"Village Fono" in relation to any village means the assembly of the Alii ma Faipule of that village meeting in accordance with the custom and usage of such village and includes the plural;

"Registrar" means the Registrar of the Land and Titles Court;

"Village land" does not include government land or freehold or leasehold land;

"Village misconduct" in relation to any village means any act conduct or behaviour which is or has been traditionally punished by the Village Fono of that village in accordance with its custom and usage and has the extended meaning required by section 6 of this Act.

3. Village Fono continued - (1) The Registrar shall compile and keep up to date a register of Village Fono in which shall be recorded the name of every village in which a Village Fono is functioning.

(2) Every Village Fono in the exercise of any power or authority shall exercise the same in accordance with the custom and usage of that village.

(3) The past and future exercise of power and authority by every Village Fono with respect to the affairs of its village in accordance with the custom and usage of that village is hereby validated and empowered.

(4) In addition to the power and authority preserved or granted under this Act, every Village Fono shall have such other powers, authorities and functions as may be provided in any other Act.

(5) A certificate under the hand of the Registrar to the effect that a Fono is entered on his register under this Act shall be prima facie evidence of the existence of such Fono.

4. Written records not required - No written record of any enquiry by a Village Fono into any allegation of village misconduct, or of any punishment imposed, need be kept and no person found by any Village Fono to have been guilty of village misconduct shall by reason only of that fact be deemed to be guilty of a crime or offence under any other enactment, nor except with the consent of that person shall evidence be given in any court of the decision of the Village Fono or of any punishment imposed by it.

5. Powers of Village Fono relating to hygiene and economic development - (1) Every Village Fono shall in respect to its village have the powers set out in subsection (2) of this section notwithstanding that such powers may not in a particular village form part of its custom and usage.

(2) The powers referred to in subsection (1) of this section are -

- (a) The power to make rules for the maintenance of hygiene in the village;
- (b) The power to make rules governing the development and use of village land for the economic betterment of the village;
- (c) The power to direct any person or persons to do any work required to be done pursuant to rules made in accordance with the powers granted or preserved by paragraphs (a) and (b) of this subsection.

(3) Every person is guilty of village misconduct and may be punished by his Village Fono who fails to obey any rule or direction made or given in accordance with the powers granted or preserved by this section.

6. Punishments - Without limiting the powers of Village Fono preserved by this Act to impose punishments for village misconduct the powers of every Village Fono to impose punishment in accordance with the custom and usage of its village shall be deemed to include the following powers of punishments:-

- (a) The power to impose a fine in money, fine mats, animals or food; or partly in one or partly in others of those things;
- (b) The power to order the offender to undertake any work on village land.

7. Power of Delegation - A Village Fono may delegate to a committee of its members all or any of its powers.

8. Courts to take account of penalty imposed by Village Fono - Where punishment has been imposed by a Village Fono in respect of village misconduct by any person and that person is convicted by a Court of a crime or offence in respect of the same matter the Court shall take into account in mitigation of sentence the punishment imposed by that Village Fono.

9. Limitation of jurisdiction of Village Fono - The jurisdiction of any Village Fono shall not extend to include

- (a) Any person who does not ordinarily reside in its village; or
- (b) Any person who not being a Matai of its village ordinarily resides in its village on Government, freehold, or leasehold land and is not liable in accordance with the custom and usage of that village to render tautua to a Matai of that village.

10. Exemption from Income Tax - The income of every Village Fono shall be wholly exempted from income tax.

11. Right of Appeal - (1) Subject to the provisions of subsection (6) of this section, every person adversely affected by a decision of a Fono (including a decision as to punishment) shall have a right of appeal to the Court against such decision and the Court shall have jurisdiction to hear and determine the matter.

(2) Every appeal shall be commenced by a petition in accordance with section 44 of the Land and Titles Act 1981.

(3) Every appeal shall be commenced within one month of the date on which the decision was made, or within such further time as the Court may allow on application made either before or after the expiration of that month.

(4) Notwithstanding anything contained in the Land and Titles Act the Court shall have jurisdiction to hear and determine every appeal under this section.

(5) The Court may determine the appeal in one of the following ways:-

(a) It may allow the appeal and the decision appealed from shall thereupon be null and void;

(b) It may dismiss the appeal;

(c) It may refer the decision back to the Fono for reconsideration -

but it shall not have power to impose any punishment or penalty to substitute one punishment or penalty for another.

(6) There shall be no right of appeal from a decision of a Fono given after reconsideration pursuant to paragraph (c) of subsection (5) of this section.

(7) In all other respects the procedure shall be as prescribed by the Land and Titles Act 1981 or as directed by the Court.

(8) For the purposes of this section, "Court" means the Land and Titles Court continued under the Land and Titles Act 1981.

SAMOA I SISIFO

TULAFONO O FONOA A NUU

Faatulagaina o Aiaiga

Igoa

- 1 Igoa Puupuu ma le Amataga
- 2 Faamatalaina o uiga o upu
- 3 Faaauauina o Fono a Nuu
- 4 Ua le manaomia faamaumauga tusitusia
- 5 Pule o le Fono a le nuu e faasino i le tumamā ma le  
atiina ae o le tamaoaiga
- 6 Faasalaga
- 7 Tuuina atu o le pule
- 8 Ia amanaia e Faamasinoga faasalaga ua faia e le  
Fono a Nuu
- 9 O le tapulaa o le aloaia faale-tulafono o Fono a le Nuu
- 10 Tuusaunoga mai Lafoga o Tupe Maua
- 11 Aia tatau e talosaga ai

1990, Nu 3

O SE TULAFONO e aloaia ma faamalosiina ai le faatinoga o le malosi ma le pule a Fono a Nuu e tusa ma aganuu ma le faaaogaina i o latou nuu ma faamaonia po o le tuuina o ni pule faapitoa; ma aiaia ai mo nisi mataupu e ono aliai mai.

UA FAIA e le Fono Aoaofaitulafono a Samoa i Sisifo i totonu o le Palemene ua potopoto e faapea:-

1. Igoa Puupuu ma le Amataga - (1) E mafai ona ta'ua lenei Tulafono o le Tulafono o Fono a Nuu 1990.  
(2) O le a tatau ona amata faamamaluina lenei Tulafono i se aso e pei ona o le a faatulagaina e le Ao o le Malo i le faia i luga o fautuaga a le Kapeneta, i se Tulafono Faa-poloaiga.

2. Faamatalaina o uiga o upu - I totonu o lenei Tulafono ae seia vagana ai ona ua manaomia e le faaupuga se tasi lava uiga e ese ai, -

"Fono a le Nuu" i le fesootaiga i so o se nuu o lona uiga o le faalapotopotoga o Alii ma Faipule o lea nuu o lo o fono e tusa ai ma tu ma aganuu ma le faaaogaina i lea nuu ma e aofia ai le numera tele;

"Resitala" o lona uiga o le Resitala o Faamasinoga o Fanua ma Suafa;

"Fanua o le Nuu" ua le aofia ai fanua tau le Malo po o fanua umia saoloto po o fanua e umia i lisi;

"Amio le taupulea i totonu o le Nuu" e faasino i so o se nuu o lona uiga o so o se gaioiga, amioga, po o aga lea o lo o faia pe sa faasalaina ai faale-aganuu e le Fono a le Nuu a lena nuu e tusa ma ana aganuu ma le faaaogaina, ma ua i ai le uiga faalautele e pei ona manaomia e le Fuaiupu 6 o lenei Tulafono.

3. Faaauauina o Fono a Nuu - (1) O le a faaputuputuina ma tausia mo aso taitasi e le Resitala se tusi o faamaumauga lea ua faamaumuina ai igoa o nuu taitasi o lo o galue ai le Fono a Nuu.

(2) So o se malosi po o se pule e faatinoina e Fono a Nuu taitasi o le a faatinoina ai lava pule e tusa ai ma ana agaifanua ma le faaaogaina.

(3) O le faatinoina o le malosi ma le pule i taimi ua tuana'i ma taimi o i luma e Fono a Nuu taitasi uma e tusa ma taualumaga o le nuu e tusa ai ma aganuu ma lona faaaogaina i lena lava nuu ua aloaia nei ma ua faamalosia.



(4) E faaopoopo i le pule ma pulega ua tausisia po o ua faamatuuina atu i lalo o lenei Tulafono, ua tatau i Fono a Nuu taitasi uma ona i ai isi lava pule, pulega ma galuega e pei ona o le a tuuina mai e so o se isi lava Tulafono.

(5) O se tusi faamaonia i lalo o le lima o le Resitala e faamatalaina ai e faapea ua faamauina lea Fono i lana tusi o faamaumauga i lalo o lenei Tulafono o le a avea ma molimau maumaututu i le i ai o lea lava Fono.

4. Ua le manaomia faamaumauga tusitusia - E leai se faamaumauga tusitusia o so o se suesuega a se Fono a le Nuu i so o se moliaga i amioga le taupulea i totonu o se nuu, po o so o se faasalaga ua tuuina i ai, e tatau ona tausia ma e leai se tagata ua mauaina e so o se Fono a le Nuu ua faia se solitulafono i amioga le taupulea i totonu o le nuu o le a i le na o se mafuaaga o lena itu ona avea o se agasala o se moliaga po o se solitulafono i le faia o lea gaioiga po o le solia foi o le Tulafono i lalo o so o se Tulafono, po o seia vagana ai, i le maliega o lea lava tagata o le a mafai ai ona tuuina atu ai ni faamatalaga molimau i so o se faamasinoga e faia ai faaiuga o Fono a Nuu po o so o se faasalaga e faaeeina i ai e le Fono a le Nuu.

5. Pule o le Fono a le Nuu e faasino i le tumama ma le atiina ae o le tamaoaiga - (1) So o se Fono a le Nuu o le a tatau e tusa ai ma tulaga o lea nuu ona i ai le pule e pei ona faatulagaina atu i totonu o le faafuaiupu (2) o lenei fuaiupu e ese mai ai na i lo nisi pule o le a i se tulaga faapitoa o se nuu o lo o avea ma vaega o le aganuu ma lona faaaogaina i totonu o sea nuu.

(2) O pule e pei ona faasinomia i ai le faafuaiupu (1) o lenei fuaiupu o -

(a) Le pule e faia ai tulafono mo le tausia o le tumama i totonu o le nuu;

- (b) Le pule e faia ai tulafono e faatonutonuina ai le atiina ae ma le faaaogaina o fanua i nuu mo le faaleleia o le tamaoaiga o nuu;
- (c) Le pule e faatonuina ai so o se tagata po o ni tagata ia faia so o se galuega ua manaomia ina ia faia e tusa ma tulafono ua faia e tusa ai ma pule ua faamatuuina atu po o ua tausisia e parakalafa (a) ma le (b) o lenei faafuaiupu.

(3) Ua mafai ona faasalaina so o se tagata i amioga le taupulea i totonu o nuu ma ua mafai ona faasalaina e le Fono ale Nuū lē ua le usitai i so o se tulafono po o se faatonuga ua faia po o ua tuuina atu e tusa ai ma nei pule e pei ona tuuina atu po o ua tausisia e lenei fuaiupu.

6. Faasalaga - E aunoa ma le faatapulaaina o pule o Fono a Nuū ua tausia e lenei Tulafono ina ia tuuina atu faasalaga mo amio le taupulea i totonu o nuu o pule o Fono a Nuū taitasi e tuuina atu ai se faasalaga e tusa ai ma aganuu ma le faaaogaina o sea nuu o le a tataua ona avea ma aofia ai pule e faia ai faasalaga e pei ona ta'ua:-

- (a) Le pule e tuuina atu ai se sala tau tupe, ietoga, manu po o mea'ai, po o se vaega i le tasi ma se vaega i le isi o mea na;
- (b) Le pule e poloaia ai lē ua solitulafono e faia so o se galuega i fanua o le nuu;

7. Tuuina atu o le pule - Ua mafai e so o se Fono a le Nuū ona tuuina atu i se komiti e avea ma ona sui le pule atoa po o se vaega o lana pule.

8. Ia amanaia e Faamasinoga faasalaga ua faia e le Fono a Nuū - I le faia e le Fono a le Nuū se faasalaga e tusa ma amioga le taupulea i totonu o le nuu e so o se tagata ma o lenei tagata ua faasalaina e le Faamasinoga i le faia po o le soliga o le tulafono o lea lava moliaga e tasi o le a fetuunai e le Faamasinoga le faamamaina o le uiga o le faasalaga ua faia e

9. O le tapulaa o le aloaia faale-tulafono o Fono a le Nuu - O le aloaia faale-tulafono o Fono a so o se Nuu o le a le oo atu i le aofia ai o, -

(a) So o se tagata e le masani ai ona nofo mau i lea nuu; po o

(b) So o se tagata o ia lea e le se matai i lea nuu ae nofomau i lea nuu i totonu o fanua o le Malo, fanua umia saoloto, po o fanua umia i lisi ma ua le ono aafia e tusa ai ma aganuu ma le faaaogaina e lena nuu ina ia faia ai se tautua i se matai o lena nuu.

10. Tuusaunoaga mai Lafoga o Tupe Maua - O tupe maua o Fono a Nuu taitasi uma o le a tuusaunoaina atoatoa mai lafoga o tupe maua.

11. Aia tatau e talosaga ai - (1) I le noatia ma fai fuafua i aiaiga i le faafuaiupu (6) o lenei fuaiupu, o tagata uma e tetee i se aafiaga i luga o se faaiuga a se Fono (e aofia ai se faaiuga e faasaga i se faasalaga) e tatau ona i ai se aia tatau e talosaga ai i le Faamasinoga faasaga i sea faaiuga ma e tatau i le Faamasinoga ona i ai aia faale-tulafono e faafofoga ai ma fuafuaina lea mataupu.

(2) O talosaga uma e tatau ona amata i se talosaga ina ia tusa ai ma le fuaiupu 44 o le Tulafono o Fanua ma Suafa 1981.

(3) O talosaga uma e tatau ona amata i totonu o le masina e tasi mai le aso e pei ona faia ai sea faaiuga, po o i totonu o se isi taimi faaopoopo o le a ono faatagaina e le Faamasinoga i luga o se tusi talosaga ua faia i luma mai po o ina ua tuanai le faaiuga o lena masina.

(4) E ese ai na i lo se isi mea o lo o aafia i totonu o le Tulafono o Fanua ma Suafa e tatau i le Faamasinoga ona i ai aia tatau faale-tulafono e faafofoga ai ma fuafuaina talosaga uma e tusa ai ma lenei fuaiupu.

(5) E mafai e le Faamasinoga ona fuafuaina se talosaga i so o se tulaga e pei ona ta'ua:-

(a) E mafai e le Faamasinoga ona ia faatagaina le talosaga ma o le faaiuga e pei ona sa talosagaina o le a tatau loa ona le amanaia ma faaleaogaina;

(b) E mafai e le Faamasinoga ona le taliaina le talosaga;

(c) E mafai e le Faamasinoga ona ia toe tuuina atu le faaiuga i le Fono mo le toe iloiloaina - peitai e le tatau i le Faamasinoga ona i ai se pule e na te tuuina atu ai so o se faasalaga po o se sala i se isi mea.

(6) O le a leai se aia e talosaga ai mai se faaiuga a se Fono e tuuina atu ina ua maea ona toe iloiloaina sea faaiuga e tusa ai ma le parakalafa (c) o le faafuaiupu (5) o lenei fuaiupu.

(7) I nisi tulaga uma, o taualumaga e tatau ona tagofia ai se talosaga e tatau ona faia e pei ona faatonuina e le Tulafono o Fanua ma Suafa 1981 po o e pei ona o le a faatonuina e le Faamasinoga.

(8) Ma o le aano moni o lenei fuaiupu, "Faamasinoga" o lona uiga o le Faamasinoga o Fanua ma Suafa e pei ona faaauau i lalo o le Tulafono o Fanua ma Suafa 1981.