



I assent,

TAUFA'AHAU TUPOU IV,

29th October, 1997.

AN ACT

TO AMEND THE FINANCIAL INSTITUTIONS ACT 1991

[1st October, 1997.]

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:-

1. (1) This Act may be cited as the Financial Institutions (Amendment) Act 1997.

(2) The Financial Institutions Act 1991 is in this Act referred to as the Principal Act.

2. Section 2 of the Principal Act is amended by adding the following definitions:

“**bank**” has the meaning given to it by the National Reserve Bank of Tonga Act 1988;

“**credit institution**” has the meaning given to it by the National Reserve Bank of Tonga Act 1988.”

3. Section 7 of the Principal Act is amended by:

(a) deleting the comma and the words “, in which case the application fee shall be refunded in full” in subsection (3)(b);

(b) adding the following new subsections:

“(8) The Ministry may from time to time, with the approval of His Majesty in Council and at the request of the Reserve Bank, specify new or additional conditions of a licence issued pursuant to this Act, or vary or remove any conditions already specified.

- (9) Before making a request under subsection (8) the Reserve Bank shall, by notice in writing to the licensed financial institution concerned, inform it of the changes proposed and afford it an opportunity to make submissions in writing to the Reserve Bank regarding such changes. The submissions must be received by the Reserve Bank no later than 14 days from the date of the notice. The Reserve Bank shall take into account any such submissions received in deciding whether or not to proceed with the request."

4. (1) Section 8(1)(a) of the Principal Act is amended by adding subparagraph (vi) as follows:

"(vi) was licensed on the basis of any information or document which is false or misleading in any material particular."

(2) Subsection (2) of section 8 of the Principal Act is repealed and substituted with a new subsection (2) as follows:

"(2) (a) The Ministry shall give the licensee notice in writing of its intention to revoke the licence, and shall afford the licensee an opportunity to submit to the Ministry, within 14 days of the date of the notice, reasons why the licence should not be revoked; provided that a licence may be revoked without notice in the circumstances specified in section 15.

(b) The Ministry shall, as soon as received, forward to the Reserve Bank for consideration any submission received under subsection (2)(a). After consideration of such submission the Reserve Bank may either confirm its recommendation made under subsection (1) or withdraw it."

5. Section 9(1) of the Principal Act is amended by deleting the words "in such minimum proportion of its liabilities to the public as the Reserve Bank may specify" and substituting therefor the words "in such minimum proportion in relation to its assets, liabilities or risk exposures, and in such amount, as the Reserve Bank may specify from time to time".

6. The Principal Act is amended by adding new sections 11A and 11B after section 11 as follows:

Information to be supplied to Reserve Bank "11A.(1) The information which may be required to be supplied by licensed financial institutions under section 11 is as follows -

(a) not later than 10 working days after the last business day to which it relates, a monthly statement of assets and liabilities in such form as is specified by the Reserve Bank;

(b) not later than 15 working days after the last business day to which it relates, a statement of profit and loss

for the quarter ended March, June, September and December, in such form as is specified by the Reserve Bank;

- (c) not later than 3 months after the end of each financial year of the licensed financial institution, a copy of its audited balance sheet and profit and loss account for that year;
- (d) a certificate that there has been compliance with section 13(1) of the Act and verifying that no director or manager (or person specified by the Reserve Bank as a person who, in the opinion of the Reserve Bank, is employed in a management capacity), holds office contrary to section 13;
- (e) such information regarding its business, or that of any related company in Tonga or elsewhere, as the Reserve Bank may require for the purposes of the Act;

(2) The Reserve Bank may require a certificate from the auditor of a licensed financial institution, verifying the accuracy of any information supplied under the Act.

(3) Not later than 4 months after the end of each financial year of each licensed financial institution, it shall publish in the Gazette and in the Tonga Chronicle or such other newspaper circulating in Tonga as the Reserve Bank may direct, a copy of its audited balance sheet and profit and loss account.

Auditing of information

11B.(1) A licensed financial institution must for each financial year appoint an auditor who is approved by the Reserve Bank.

(2) The auditor of a licensed financial institution shall -

- (a) carry out each year an audit of the accounts of the licensed financial institution, or if the licensed financial institution is a branch of a foreign company, an audit of the operations of the branch and of the operations of the company within Tonga;
- (b) provide to the Reserve Bank a certificate, to be attached to the balance sheet and profit and loss accounts of the licensed financial institution and verifying that such balance sheet and profit and loss accounts give a true and fair view of the financial position of the licensed financial institution;
- (c) perform such other functions as are required under this Act, any other Act, and under any regulations made under this Act;
- (d) disclose to the Reserve Bank any information relating to the affairs of the licensed financial institution that the auditor has obtained whilst acting as auditor, if

in the opinion of the auditor the licensed financial institution is insolvent or is in serious financial difficulties.

(3) No civil, criminal or disciplinary proceedings shall lie against any auditor arising from the disclosure in good faith of information to the Reserve Bank pursuant to this Act."

7. Section 12 of the Principal Act is amended by renumbering subsection (2) as subsection (4) and inserting the following new subsections:

- "(2) The Reserve Bank's powers of inspection under this section may be delegated to any person authorised by the Reserve Bank.
- (3) In exercise of its powers of inspection under subsection (1), the Reserve Bank or authorised person may -
- (a) conduct the inspection with or without notice;
 - (b) require explanations and the production of other material from the licensed financial institution;
 - (c) make copies of and take away for further scrutiny, any papers or electronically stored data it requires."

8. The Principal Act is amended by adding a new section 14A after section 14 as follows:

Unsound
or unsafe
practices -

- "14. A (1) Where the Reserve Bank is of the opinion, either as a result of an inspection carried out pursuant to section 12 or otherwise, that a licensed financial institution -
- (a) is following unsound or unsafe practices in the conduct of its business such that it is likely to jeopardise its obligations to its depositors or other creditors, or adversely affect the operation or stability of the financial system; or
 - (b) has contravened or failed to comply with the terms and conditions of its licence or the provisions of this Act,

the Reserve Bank may issue a directive to such licensed financial institution to -

- (i) cease and desist from such practice, contravention or non-compliance; and
- (ii) take such action as may be specified in the directive to correct the conditions resulting from such practice, contravention or non-compliance."

9. Section 15(2) of the Principal Act is amended by -

- (a) deleting paragraph (c);
- (b) deleting "or (c)" in paragraph (f).

10. The Principal Act is amended by adding new sections 15A and 15B after section 15 as follows:

Overseas
operations

"15A.(1) A licensed financial institution incorporated in Tonga shall not, without the approval in writing of the Reserve Bank, operate a branch office or subsidiary outside Tonga.

(2) The Reserve Bank shall not grant approval under subsection (1) unless it is satisfied that –

- (a) the Reserve Bank has the ability and resources to adequately supervise the branch or subsidiary situated outside Tonga;
- (b) the licensed financial institution has the administrative and financial capacity to conduct banking business at a branch or subsidiary outside Tonga, without affecting the stability of the financial system and the safety of the interests of depositors both within and outside Tonga.

Court
supervised
manage-
ment

15B. (1) If the Reserve Bank considers that it is proper to take control of and manage the banking business of a licensed financial institution in order to protect the stability of the financial system, the interest of depositors or in the public interest, it may apply to the Supreme Court under this section.

(2) The Supreme Court may, if it considers that in the circumstances of the case it is appropriate that the Reserve Bank or its nominee be appointed to take control of and manage the banking business of a licensed financial institution, make any or all of the following orders –

- (a) that the Reserve Bank, or a person nominated by the Reserve Bank and approved by the Court, be appointed as Court Appointed Manager, to take control of the banking business of a licensed financial institution;
- (b) that the Court Appointed Manager have such powers and authority as the Court specifies, including the following –
 - (i) power to carry on or cease to carry on, or sell the business of the financial institution and in so doing, to have and exercise all the powers, rights and authorities necessary so to do;
 - (ii) such of the powers of a liquidator under the Companies Act as are specified by the Court;
- (c) that any subsidiary of the licensed financial institution be subject to control and management under this section in like manner to the licensed financial institution;

- (d) any order in relation to the licensed financial institution that the Court would be able to make in relation to a company that is in liquidation under the Companies Act, including -
 - (i) a moratorium on actions or enforcement action against the licensed financial institution on such terms as the Court considers appropriate;
 - (ii) a prohibition against the removal or disposal of assets except with the consent of the Court Appointed Manager;
 - (e) that the Court Appointed Manager be entitled to apply to the Court to seek directions;
 - (f) such further or other orders as the circumstances may require.
- (3) If a licensed financial institution that is subject to management and control under this section is incorporated outside Tonga, this section applies to the operations of the licensed financial institution in Tonga and to its property, rights, assets and liabilities relating to its business in Tonga.
- (4) If a licensed financial institution or subsidiary that becomes subject to management and control under this section is already in liquidation or receivership -
- (a) the liquidation or receivership shall cease; and
 - (b) the person appointed as liquidator or receiver shall be discharged,
- provided that if the control and management of the licensed financial institution or subsidiary under this section is terminated, the Court may order that the liquidation or receivership shall be revived, upon such terms as the Court may specify.
- (5) The Court, on the application of the Reserve Bank or of its own motion, may terminate the appointment of a person as Court Appointed Manager for any reason, including the resignation of that person.
- (6) A licensed financial institution or subsidiary shall cease to be subject to control and management under this section if -
- (a) the Court, on the application of the Reserve Bank, so orders;
 - (b) the Reserve Bank presents a petition for the winding up of the licensed financial institution.

- (7) In the exercise of its powers, the Court Appointed Manager shall have regard to -
- (a) the need to avoid significant damage to the financial system;
 - (b) the preservation, subject to paragraph (a), of the position of creditors and the maintenance of the ranking of claims of creditors.
- (8) A Court Appointed Manager shall comply with any written directions of the Reserve Bank relating to the exercise of his powers under this Act unless -
- (a) such directions conflict with any order of the Court;
or
 - (b) the Reserve Bank is the Court Appointed Manager.
- (9) A Court Appointed Manager, and any employee, director or assistant thereof, shall not incur any personal liability by virtue of the exercise, in good faith, of any power or duty under this Act.
- (10) An application to the Supreme Court under subsection (1) shall be by notice of motion and thereafter the form of the proceedings shall be as directed by the Court."

11. The Principal Act is amended by repealing section 21(b).

12. The Principal Act is amended by adding a new section 21A after section 21 as follows:

Offences
under this
Act

"21A. Every person who contravenes or fails to comply with any of the provisions of this Act for which no specific penalty is imposed, or fails to comply with any regulation, order or directive issued pursuant to this Act, commits an offence and shall be liable on conviction to a fine not exceeding \$10,000."

Passed by the Legislative Assembly this 1 day of October, 1997.



'Oku ou loto ki ai,

TAUFA'AHAU TUPOU IV,

29 'o 'Okatopa, 1997.

KO E LAO

KE FAKATONUTONU 'A E LAO KI HE NGAahi KAUTAHA FAKAPA'ANGA 1991

[1 'o 'Okatopa, 1997.]

'OKU TU'UTU'UNI 'e he Tu'i mo e Fale Alea 'o Tonga 'i he Fakataha Alea 'a e Pule'anga 'o pehe:-

1. (1) 'E ui 'a e Lao ni ko e Lao (Fakatonutonu) ki he Ngaahi Kautaha Faka-pa'anga 1997.

(2) 'Oku ui 'i he Lao ni 'a e Lao ki he Ngaahi Kautaha Faka-pa'anga 1991 ko e Tefito'i Lao.

2. 'Oku fakatonutonu 'a e kupu 2 'o e Tefito'i Lao 'aki hono tanaki atu ki ai 'a e faka'uhinga ko 'eni:

""**pangike**"" 'oku tatau pe mo hono 'uhinga 'oku ha 'i he Lao ki he Pangike Pule Fakafonua 'o Tonga 1988;

""**kautaha kuletiti**"" 'oku tatau pe mo hono 'uhinga 'oku ha 'i he Lao ki he Pangike Pule Fakafonua 'o Tonga 1988."

3. 'Oku fakatonutonu 'a e kupu 7 'o e Tefito'i Lao 'aki hono:

(a) tamate'i 'a e koma mo e ngaahi fo'i lea ", 'a ia kuo pau ke fakafoki kakato leva 'ene totongi kole laiseni", 'i he kupusi'i (3)(b);

(b) tanaki atu 'a e ongo kupusi'i fo'ou ko 'eni:

""(8) 'E ngofua ki he Potungaue mei he taimi ki he taimi 'i he finangalo ki ai 'Ene 'Afio 'i he Fakataha Tokoni pea 'i ha kole 'e he Pangike Pule, ke ne fakamahino'i ha ngaahi tu'unga fo'ou pe fakalahi ha ngaahi tu'unga ki ha laiseni 'e 'atu 'i he Lao ni, pe liliu pe to'o ha ngaahi tu'unga kuo 'osi fakamahino'i.

- (9) Ki mu'a pea ne fakahu atu ha kole 'i he kupusi'i (8) kuo pau ke fakaha 'e he Pangike Pule, 'i ha fanongonongo tohi ki he kautaha faka-pa'anga 'oku kau ki ai 'a e kole, ke ne 'ilo 'a e ngaahi liliu 'oku 'amanaki ke fakahoko mo tukuange hano faingamalie ke ne fakahu atu ha'ane tohi tali ki he Pangike Pule fekau'aki mo e ngaahi liliu ko ia. Kuo pau ke ma'u 'a e tohi tali 'e he Pangike Pule 'o 'ikai to e tomui ange 'i he 'aho 'e 14 mei he 'aho 'o e fanongonongo. Kuo pau ke kau 'a e tohi tali kuo 'atu 'i hono fakakaukau'i 'e he Pangike Pule pe te ne kei fakahu atu 'a e kole pe 'ikai."

4. (1) 'Oku fakatonutonu 'a e kupu 8(1)(a) 'o e Tefito'i Lao 'aki hono tanaki atu 'a e palakalafi si'i (vi) fo'ou ko 'eni:

"(vi) na'e laiseni 'o makatu'unga 'i ha fa'ahinga fakamatala pe tohi 'a ia 'oku loi pe takihala 'i ha fa'ahinga me'a mahu'inga."

(2) 'Oku fakapekia 'a e kupusi'i (2) 'o e kupu 8 'o e Tefito'i Lao pea fetongi 'aki 'a e kupusi'i (2) fo'ou ko 'eni:

"(2) (a) Kuo pau ke 'atu 'e he Potungaue ki he ma'u laiseni ha fanongonongo 'i he tohi fekau'aki mo 'ene te u fakafoki 'a e laiseni, pea kuo pau ke ne tukuange ki he taha ma'u laiseni ha faingamalie ke fai ha'ane tali ki he Potungaue, 'i loto 'i he 'aho 'e 14 mei he 'aho na'a ne ma'u ai 'o e fanongonongo, ki ha ngaahi 'uhinga 'oku 'ikai totonu ai ke fakafoki 'a e laiseni; ka 'e ngofua ke fakafoki ha laiseni ta'e to e fai ha fanongonongo 'i he ngaahi me'a ko ia 'oku fakamahino'i 'i he kupu 15,

(b) Kuo pau ke 'oatu 'e he Potungaue ki he Pangike Pule ke ne fakakaukau'i ha tali 'i he kupu si'i (2)(a) 'i he taimi pe ko ia 'oku ne ma'u ai. Hili ha'ane fakakaukau'i 'a e tali ko ia 'e ngofua ki he Pangike Pule ke ne fakapapu'i ai pe 'ene fokotu'u 'i he kupusi'i (1) pe ko 'ene fakafoki ia."

5. 'Oku fakatonutonu 'a e kupu 9(1) 'o e Tefito'i Lao 'aki hono tamate'i 'a e ngaahi fo'i lea ko e "'i he tu'unga fakafehoanaki si'isi'i taha 'o hono ngaahi mo'ua ki he kakai 'a ia 'e fakamahino'i 'e he Pangike Pule" pea fetongi 'aki 'a e ngaahi fo'i lea "'i he tu'unga si'isi'i taha 'o fekau'aki mo 'ene ngaahi koloa, ngaahi mo'ua pe 'e ala mo'ua ki ai (risk exposures), 'i he lahi, 'a ia 'e fakamahino'i 'e he Pangike Pule mei he taimi ki he taimi."

6. 'Oku fakatonutonu 'a e Tefito'i Lao 'aki hono tanaki atu 'a e ongo kupu 11A mo e 11B fo'ou hili 'a e kupu 11 'o pehe ni:

Fakamatala "11A (1) Ko e ngaahi fakamatala 'eni 'e ala fiema'u ke 'atu 'e he ke 'atu ki ngaahi kautaha faka-pa'anga kuo laiseni 'o fakatatau ki he he Pangike kupu 11, 'oku pehe ni -

Pule

(a) ha fakamatala fakamahina 'o e ngaahi koloa mo e ngaahi mo'ua 'i he foomu 'a ia 'e fakamahino'i 'e he Pangike Pule, 'o 'ikai to e tomui ange 'i he 'aho ngaue 'e 10 mei he 'aho pisinisi fakamu'imui taha 'oku fekau'aki mo ia;

- (b) ha fakamatala 'o fekau'aki mo e tupu mo e mole ki he kuata 'o ngata mei Ma'asi, Siune, Sepitema mo Tisema, 'i he foomu 'a ia 'e fakamahino'i 'e he Pangike Pule, 'o 'ikai to e tomui ange 'i he 'aho ngaue 'e 15 hili 'a e 'aho pisinisi fakamuimui taha 'oku fekau'aki mo ia;
 - (c) ha tatau 'o 'ene tohi palanisi mo e 'akauni tupu mo e mole kuo 'osi 'atita'i ki he ta'u ko ia, 'o 'ikai to e tomui ange 'i he mahina 'e 3 mei he ngata'anga 'o e ta'u fakapa'anga takitaha 'a e kautaha fakapa'anga;
 - (d) ha tohi fakamo'oni ke fakamo'oni'i kuo 'osi fakahoko 'a e kupu 13(1) 'o e Lao mo fakamo'oni'i ai 'oku 'ikai ke 'i ai ha talekita pe pule (pe ha taha 'oku pehe 'e he Pangike Pule, 'oku fakangaue'i 'i he va'a pule'i ngaue), 'oku fepaki 'ene ma'u 'a e lakanga mo e kupu 13;
 - (e) ha fa'ahinga fakamatala pe 'o fekau'aki mo 'ene pisinisi, pe ko ha pisinisi 'a ha kautaha 'oku na fekau'aki 'i Tonga pe ha fonua kehe, 'a ia 'e fiema'u 'e he Pangike Pule ki he ngaahi taumu'a 'o e Lao;
- (2) 'E ngofua ke fekau 'e he Pangike Pule ke 'omai ha tohi fakamo'oni mei he 'atita 'o ha kautaha faka-pa'anga kuo 'osi laiseni, 'o fakamo'oni'i ai 'oku tonu 'a e fakamatala 'oku 'atu 'i he Lao.
- (3) Kuo pau ke pulusi 'e he kautaha faka-pa'anga kuo laiseni kotoa pe 'i he Kasete mo e Kalonikali Tonga pe ha nusipepa kehe 'oku tufaki 'i Tonga ni 'o hange ko ia 'e tu'utu'uni 'e he Pangike Pule, ha tatau 'o 'ene tohi palanisi mo 'ene ngaahi 'akauni tupu mo e mole kuo 'osi 'atita'i, 'o 'ikai to e tomui ange 'i he mahina 'e 4 mei he ngata'anga 'o 'ene ta'u fakapa'anga.

'Atita' 'a e fakamatala

- 11B.(1) Kuo pau ki he kautaha faka-pa'anga kotoa pe kuo laiseni ke ne fokotu'u ha 'atita 'a ia 'e loto ki ai 'a e Pangike Pule ki he ta'u fakapa'anga takitaha.
- (2) Kuo pau ki he 'atita 'o ha kautaha faka-pa'anga kuo laiseni -
- (a) ke ne 'atita'i 'i he ta'u takitaha 'a e ngaahi 'akauni 'a e kautaha faka-pa'anga kuo laiseni, pea kapau ko e kautaha faka-pa'anga ko ha va'a 'o ha kautaha muli, ke ne 'atita'i 'a e ngaahi ngaue 'a e va'a ko ia mo e ngaahi ngaue 'a e kautaha ko ia 'i Tonga ni;
 - (b) ke ne 'atu ki he Pangike Pule ha tohi fakamo'oni, 'o fakapipiki ki he tohi palanisi mo e ngaahi 'akauni tupu mo e mole 'a e kautaha faka-pa'anga kuo laiseni 'o fakamo'oni'i ai ko e totonu mo e mo'oni 'o e tu'unga faka-pa'anga 'a e kautaha faka-pa'anga kuo laiseni 'a ia 'oku ha 'i he tohi palanisi mo e 'akauni tupu mo e mole;

- (c) ke ne fakahoko ha ngaahi fatongia kehe 'oku fiema'u 'e he Lao ni, 'e ha Lao kehe, pea mo e ngaahi tu'utu'uni ni kuo fa'u mei he Lao ni;
- (d) ke ne fakaha ki he Pangike Pule ha fa'ahinga fakamatala 'o fekau'aki mo e ngaahi ngaue 'a e kautaha faka-pa'anga kuo laiseni na'e 'ilo ki ai 'e he 'atita lolotonga 'ene 'atita ai, kapau 'oku pehe 'e he 'atita 'e 'ikai to e lava ke totongi 'e he kautaha faka-pa'anga kuo laiseni hono ngaahi mo'ua pe 'oku ne fekuki mo ha faingata'a faka-pa'anga lahi.
- (3) Kuo pau 'e 'ikai faka'ilo sivile, hia pe fakangaue ha 'atita koe'uhi ko ha'ane fakaha 'i he tui totonu (good faith) ki he Pangike Pule ha fa'ahinga fakamatala 'o fakatau ki he Lao ni."

7. 'Oku fakatonutonu 'a e kupu 12 'o e Tefito'i Lao 'aki hono fakafika fo'ou 'a e kupusi'i (2) ko e kupusi'i (4) pea fakahu atu 'a e ongo kupusi'i fo'ou ko 'eni:

- (2) Ko e ngaahi mafai sivi ko ia 'o e Pangike Pule 'i he kupu ni 'oku malava ke foaki ia ki ha taha 'e fakamafai'i 'e he Pangike Pule.
- (3) 'I he'ene ngaue'aki 'a hono ngaahi mafai sivi ko ia 'i he kupu si'i (1), 'e ngofua ki he Pangike Pule pe ha taha kuo fakamafai'i ke ne -
- (a) fakahoko 'a e sivi 'o tomu'a fanongonongo'i pe 'ikai tomu'a fanongonongo'i;
- (b) tu'utu'uni ke 'ange ha ngaahi fakamatala mahino mo e ngaahi me'a kehe mei he kautaha faka-pa'anga kuo laiseni;
- (c) hiki ha ngaahi tatau mo 'ave ke fai hano vakai'i fakalelei, ha ngaahi pepa pe ngaahi fakamatala 'oku tauhi faka'elekitulonika 'a ia te ne fiema'u."

8. 'Oku fakatonutonu 'a e Tefito'i Lao 'aki hono tanaki atu ha kupu 14A fo'ou, hili 'a e kupu 14 'o pehe ni -

Ngaahi
ngaue
la'etotonu
mo faka-
tu'utamaki

14A.(1) Kapau 'oku pehe 'e he Pangike Pule, koe'uhi ko e ola 'o ha sivi na'e fakahoko 'o fakatau ki he kupu 12 pe ko ha 'uhinga kehe, 'oku 'i ai ha kautaha faka-pa'anga kuo laiseni -

- (a) 'oku ne muimui ki ha ngaahi ngaue 'oku ta'epau pe fakatu'utamaki 'i he'ene fakalele 'a 'ene pisinisi 'o ngalingali ke uesa ai 'a hono ngaahi fatongia ki he'ene kau fakahu pa'anga pe ko kinautolu kehe 'oku ne mo'ua ki ai, pe ke uesa kovi ai 'a e anga hono fakalele pe ma'uma'uluta 'o e founga ngaue fakapa'anga; pe
- (b) 'oku ne maumau'i pe ta'e fai ki he ngaahi tu'unga 'o 'ene laiseni pe ngaahi tu'utu'uni 'a e Lao ni,

'e ngofua ki he Pangike Pule ke ne 'atu ha tu'utu'uni (directive) ki he kautaha faka-pa'anga kuo 'osi laiseni ke -

- (i) ta'ofi pea faka'ehi'ehi mei ha ngaue, maumau lao pe ta'e fai pehe; pea
- (ii) ne fakahoko leva ha fa'ahinga ngaue 'a ia 'e fakamahino'i 'i he tu'utu'uni ke fakalelei'i ha ngaahi tu'unga kuo hoko mei he fa'ahinga ngaue, maumau lao pe ta'e muimui pau ko ia."

9. 'Oku fakatonutonu 'a e kupu 15(2) 'o e Tefito'i Lao 'aki hono –

- (a) tamate'i 'a e palakalafi (c);
- (b) tamate'i 'a e "pe (c)" 'i he palakalafi (f).

10. 'Oku fakatonutonu 'a e Tefito'i Lao 'aki hono tanaki atu 'a e kupu 15A mo e 15B fo'ou hili 'a e kupu 15 'o pehe ni:

Ngaahi
Ngaue 'i
tu'apule'anga

"15A.(1) Kuo pau 'e 'ikai ke fakalele 'e ha kautaha faka-pa'anga kuo laiseni 'oku fokotu'u 'i Tonga ni, hano va'a 'ofisi pe konga si'i 'i tu'apule'anga, ta'e tomu'a fakangofua 'e he Pangike Pule 'i he tohi.

- (2) Kuo pau 'e 'ikai 'atu 'e he Pangike Pule ha ngofua 'i he kupu-si'i (1) tukukehe ka 'oku ne fiemalie –
 - (a) 'oku ma'u 'e he Pangike Pule 'a e mafai mo e ivi fe'unga ke ne tokanga'i fakalelei 'aki 'a e va'a pe konga si'i ko ia 'oku tu'u 'i tu'apule'anga;
 - (b) 'Oku ma'u 'e he kautaha faka-pa'anga kuo laiseni 'a e mafai fakahoko ngaue mo e mafai faka-pa'anga fe'unga ke fakahoko 'aki 'a e pisinisi fakapangike 'i ha va'a pe konga si'i 'i tu'apule'anga, 'o 'ikai uesia ai 'a e ma'uma'uluta 'a e founga ngaue faka-pa'anga pea mo e malu 'a e ngaahi totonu 'a e kau fakahu pa'anga 'i Tonga ni mo tu'apule'anga fakatou'osi.

Pule'i
Faka-
lele'anga

15B.(1) Kapau 'oku pehe 'e he Pangike Pule 'oku totonu ke pule'i mo fakalele 'a e pisinisi fakapangike 'a ha kautaha fakapa'anga kuo laiseni koe'uhi ke malu'i 'a e ma'uma'uluta 'o e founga ngaue fakapa'anga, ngaahi totonu 'a e kau fakahu pa'anga pe ko e lelei 'a e kakai, 'e ngofua ke ne kole ki he Fakamaau'anga Lahi 'i he kupu ni.

- (2) 'E ngofua ki he Fakamaau'anga Lahi, kapau 'oku ne pehe koe'uhi ko e ngaahi me'a ko ia 'oku hoko 'oku taau ke fokotu'u 'a e Pangike Pule pe ha taha te ne fili (nominee) ke ne pule'i mo fakalele 'a e pisinisi fakapangike 'a ha kautaha faka-pa'anga kuo laiseni, ke ne fakahoko ha taha pe kotoa 'o e ngaahi tu'utu'uni ko 'eni –
 - (a) ke ne fokotu'u 'a e Pangike Pule, pe ha taha 'e fili 'c he Pangike Pule pea loto ki ai 'a e Fakamaau'anga, ke hoko ko ha Pule Fokotu'u Faka-fakamaau'anga, ke ne pule'i 'a e pisinisi fakapangike 'o ha kautaha faka-pa'anga kuo laiseni;

- (b) ke ma'u 'e he Pule Fokotu'u Faka-fakamaau'anga 'a e ngaahi mafai 'a ia 'e fakamahino'i 'e he Fakamaau'anga, 'o kau ai 'eni -
- (i) mafai ke ne hoko atu pe fakangata 'a hono fakalele, pe fakatau atu 'a e pisinisi 'a e kautaha faka-pa'anga pea 'i he taimi 'oku ne fakahoko ai, te ne ma'u mo ngaue'aki 'a e ngaahi mafai mo e ngaahi totonu kotoa pe 'oku fiema'u ke ne fakahoko 'aki ia;
- (ii) 'a e ni'ihii 'o e ngaahi mafai 'o e likuiteta 'o fakatatau ki he Lao ki he Ngaahi Kautaha 'o hange ko ia 'oku fakamahino'i 'e he Fakamaau'anga;
- (c) ke fakakau ha fa'ahinga kongasii pe 'o e kautaha faka-pa'anga kuo laiseni 'i hono pule'i mo fakalele 'o fakatatau ki he kupu ni 'o tatau pe mo hono pule'i ko ia 'o e kautaha faka-pa'anga kuo laiseni;
- (d) ha fa'ahinga tu'utu'uni pe fekau'aki mo e kautaha faka-pa'anga kuo laiseni 'a ia 'oku lava 'e he Fakamaau'anga 'o fakahoko fekau'aki mo ha kautaha 'oku veteki 'o fakatatau ki he Lao ki he Ngaahi Kautaha, 'o kau ai -
- (i) ha ta'ofi fakataimi 'o ha hopo pe fakamalohi'i 'o ha tu'utu'uni ki he kautaha fakapa'anga kuo laiseni 'o fakatatau ki he ngaahi tu'unga 'e pehe 'e he Fakamaau'anga 'oku taau;
- (ii) ha ta'ofi 'a hono 'ave pe tukuatu 'o e ngaahi koloa tukukehe kapau 'e loto ki ai 'a e Pule Fokotu'u Faka-fakamaau'anga;
- (e) ke 'i ai 'a e totonu 'a e Pule Fokotu'u Faka-fakamaau'anga ke ne kole ki he Fakamaau'anga ha ngaahi fakahinohino;
- (f) ha ngaahi tu'utu'uni pe me'a kehe 'o hange ko ia 'e fiema'u 'i he ngaahi me'a 'oku hoko.
- (3) Kapau ko ha kautaha fakapa'anga kuo laiseni 'a ia 'oku fakalele mo pule'i 'o fakatatau ki he kupu ni 'oku fokotu'u 'i tu'a pule'anga, 'e ngaue'aki 'a e kupu ni ki he ngaahi ngaue 'i Tonga ni 'a e kautaha faka-pa'anga kuo laiseni pea mo 'ene ngaahi koloa, ngaahi totonu, ngaahi koloa mo e ngaahi mo'ua 'oku fekau'aki mo 'ene pisinisi 'i Tonga ni.
- (4) Kapau ko ha kautaha fakapa'anga kuo laiseni 'oku fakalele mo pule'i fakatatau ki he kupu ni 'oku lolotonga veteki pe fakalele 'e ha taha tanaki (receivership) -
- (a) kuo pau ke ngata 'a e veteki pe fakalele 'e he taha tanaki (receivership) ko ia; pea

- (b) kuo pau ke tukuange leva 'a e taha ko ia kuo fokotu'u ko e taha likuiteta pe taha tanaki (receiver);
- ka 'okapau 'e ngata hono pule'i mo tokanga'i 'o e kautaha faka-pa'anga kuo laiseni pe ko hano kongā si'i 'o fakatatau ki he kupu ni, 'e ngofua ki he Fakamaau'anga ke ne tu'utu'uni ke to e fakamo'ui 'a hono veteki pe fakalele 'e he taha tanaki (receivership), 'o fakatatau pe ki he ngaahi tu'unga 'e fakamahino'i 'e he Fakamaau'anga.
- (5) 'E ngofua ki he Fakamaau'anga 'iate ia pe, pe 'i ha kole 'a e Pangike Pule, ke ne fakangata 'a e fokotu'u 'o ha taha Pule Fokotu'u Faka-fakamaau'anga koe'uhi ko ha fa'ahinga 'uhinga pe, 'o kau ai 'a e fakafisi 'a e tokotaha ko ia.
- (6) Kuo pau ke ngata 'a hono pule'i pe fakalele 'o ha kautaha faka-pa'anga kuo laiseni pe ko hano kongā si'i 'o fakatatau ki he kupu ni kapau -
- (a) 'e tu'utu'uni pehe, 'e he Fakamaau'anga, 'i ha kole ki ai 'a e Pangike Pule;
- (b) 'e 'atu 'e he Pangike Pule ha tohi tangi ke veteki 'a e kautaha faka-pa'anga kuo laiseni.
- (7) 'I he'ene ngaue'aki hono ngaahi mafai, kuo pau ke tokanga'i 'e he Pule Fokotu'u Faka-fakamaau'anga -
- (a) 'a e fiema'u ke 'oua 'e hoko ha maumau lahi ki he founga ngaue faka-pa'anga;
- (b) ke malu'i, fakatatau ki he palakalafi (a), 'a e tu'unga 'o e kau kuletitoa pea mo hono tauhi 'o e fakahokohoko 'o e ngaahi 'eke 'a e kau kuletitoa.
- (8) Kuo pau ke muimui 'a e Pule Fokotu'u Faka-fakamaau'anga ki he ngaahi tu'utu'uni tohi 'a e Pangike Pule 'o fakau'aki mo e anga 'o 'ene ngaue'aki hono ngaahi mafai 'i he Lao ni tukukehe -
- (a) kapau 'oku fepaki 'a e ngaahi tu'utu'uni ko ia mo ha tu'utu'uni 'a e Fakamaau'anga; pe
- (b) kapau ko e Pangike Pule 'a e Pule Fokotu'u Faka-fakamaau'anga.
- (9) Kuo pau 'e 'ikai ke mo'ua fakatautaha ha Pule Fokotu'u Faka-fakamaau'anga, pe ko ha'ane taha ngaue, talekita pe ko hano tokoni, koe'uhi ko ha'ane ngaue'aki 'i he tui totonu hano fa'ahinga mafai pe fatongia 'i he Lao ni.
- (10) Ko ha kole ki he Fakamaau'anga Lahi 'i he kupusi'i (1), kuo pau ke fai 'aki 'a e tohi fanongonongo 'o e fokotu'u (notice of motion) pea hili ia 'e tu'utu'uni leva 'e he Fakamaau'anga 'a e founga 'e hoko atu 'aki 'a e hopo."

11. 'Oku fakatonutonu 'a e Tefito'i Lao 'aki hono fakapekia 'a e kupu 21(b).

12. 'Oku fakatonutonu 'a e Tefito'i Lao 'aki hono tanaki atu ha kupu 21A fo'ou hili 'a e kupu 21 'o pehe ni:

Ngaahi Hia "21A. Ko e taha kotoa pe 'oku ne maumau'i pe ta'e fai ki ha taha
 'i he Lao 'o e ngaahi tu'utu'uni 'a e Lao ni 'a ia 'oku 'ikai ke 'i ai
 ni. hano tauteau tukupau, pe ta'e fai ki ha fa'ahinga tu'utu'uni
 (regulation), tu'utu'uni (order) pe tu'utu'uni (directive) kuo
 'atu 'o fakatatau ki he Lao ni, 'oku ne maumau lao pea kuo
 pau 'e tautea pa'anga 'i ha'ane halaia 'o 'ikai to e lahi hake
 'i he \$10,000."

Na'e fakahoko 'e he Fale Alea 'i he 'aho 1 'o 'Okatopa, 1997.

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