

BANK OF WESTERN SAMOA

WESTERN SAMOA

Arrangement of Provisions

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1990, No. 15

AN ACT to enable Bank of Western Samoa to be constituted as a company incorporated and registered under the Companies Act 1955 (New Zealand) as the same applies pursuant to the Samoa Companies Order 1935 and to repeal the Bank of Western Samoa Ordinance 1959 and for purposes incidental thereto.

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

1. Short Title - (1) This Act may be cited as the Bank of Western Samoa Act 1990.

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

"Appointed day" means the date appointed by the Head of State in an Order made under section 4 of this Act:

"Articles" means the articles of association delivered to the Registrar under section 4 of this Act:

"The Companies Act" means the Companies Act 1955 (N.Z.) as it applies in Western Samoa pursuant to the Samoa Companies Order 1935:

"Government" means the Government of Western Samoa:

"Memorandum" means the memorandum of association delivered to the Registrar under section 4 of this Act:

"Minister" means the Minister of Finance:

"Registrar" means the Registrar of Companies and includes a Deputy Registrar.

(2) In this Act, depending on the context in which the term is used, "Bank" means either -

(a) Bank of Western Samoa constituted under the Bank of Western Samoa Ordinance 1959; or

(b) That bank deemed to be incorporated and registered as a company under the Companies Act by virtue of this Act.

3. Act to bind the Government - This Act shall bind the Government.

4. Incorporation of Bank as a company under the Companies Act 1955 (N.Z.) - (1) Notwithstanding anything contained in the Companies Act on a date to be appointed by the Head of State by Order the Bank shall be deemed to be a company limited by shares incorporated and registered under the Companies Act and under the name Bank of Western Samoa.

(2) The Order referred to in subsection (1) shall be made by the Head of State acting on the advice of the Registrar after the following documents have been delivered to the Registrar:

(a) A memorandum of association in a form approved by the holders of all of the shares in the capital of the Bank immediately before the appointed day, which states the name of the Bank and its objects and that the liability of its members is limited:

(b) Articles of association in a form approved by the shareholders:

(c) A notice of situation of registered office in Western Samoa as required by section 115 of the Companies Act.

(3) Nothing in sections 14, 15, and 25 of the Companies Act shall apply in respect of the memorandum.

(4) Nothing in sections 20 and 23(1)(c) of the Companies Act shall require the articles to be signed or attested.

(5) The memorandum of association and articles of association of the Bank shall be the memorandum and articles delivered to the Registrar under this section.

(6) Nothing in subsection (5) of this section shall prevent the memorandum and articles being altered, amended, or substituted in accordance with the Companies Act.

(7) On the appointed day the Registrar shall issue a certificate of incorporation in respect of the Bank.

(8) Without limiting subsection (1) of this section the certificate of incorporation shall be conclusive evidence that the Bank was, on the appointed day, registered as a company under Part II of the Companies Act.

(9) From the appointed day and until such time as the membership of the Bank first reaches seven members nothing in subsection (1) of section 13 of the Companies Act shall require the Bank to have a minimum of seven members and section 41 of the Companies Act shall not during that time apply to the Bank or to any member thereof.

(10) In the application of section 200 of the Companies Act to the Bank subsection (5)(a) of that section shall apply as if the directors of the Bank who held office as directors on the appointed day had been appointed as directors on that day.

5. Effect of registration under the Companies Act - (1) Notwithstanding any other enactment or rule of law, from the commencement of the appointed day the Bank shall be deemed to be a company incorporated and registered under part II of the Companies Act and, subject to sections 4 and 6 of this Act, the Companies Act shall apply to it accordingly.

(2) The Bank is, and shall continue to be, the same legal entity as the Bank originally incorporated under the Bank

of Western Samoa Ordinance 1959 and in particular, but without limiting the generality of the foregoing, -

(a) The deemed incorporation and registration of the Bank as a company shall not affect rights, interests, liabilities or obligations existing immediately before the appointed day:

(b) Real and personal property (including choses in action) belonging to or vested in the Bank immediately before the appointed day shall continue to belong to or vest in the Bank as so incorporated.

6. Supplementary provisions relating to share capital and other matters - (1) The Bank shall be deemed to have been incorporated on the appointed day with an authorised capital of \$1,500,000 divided into 7,500 shares of \$200 each.

(2) On the appointed day the Government and every person who was registered as the holder of shares in the capital of the Bank immediately before the appointed day shall continue to be registered as the holder of those shares paid up to the same extent and subject to the rights and obligations conferred or imposed by the articles and by law.

(3) Nothing in section 60 of the Companies Act applies in respect of the allotment and paying up of shares in the capital of the Bank issued before the appointed day.

(4) Nothing in sections 117 and 134 of the Companies Act and the proviso to subsection (1) of section 135 shall apply to the Bank.

(5) Nothing in subsection (1) of section 135 of the

Companies Act shall require the Bank to hold a general meeting as its annual meeting in the calendar year in which the appointed day falls.

(6) Nothing in subsection (1) of section 152 of the Companies Act shall require the directors of the Bank in the calendar year in which the appointed day falls to lay before the Bank in general meeting a profit and loss account if a copy of the accounts of the Bank of Western Samoa for the last complete financial year ending before the appointed day have, before the appointed day, been transmitted to each of the proprietors pursuant to the provisions of subsection (6) of section 31 of the Bank of Western Samoa Ordinance 1959.

(7) Nothing in subsection (2) of section 152 of the Companies Act shall apply in respect of the calendar year in which the appointed day falls if a copy of the accounts of the Bank of Western Samoa for the last complete financial year ending before the appointed day have, before the appointed day, been transmitted to each of the proprietors pursuant to the provisions of subsection (6) of section 31 of the Bank of Western Samoa Ordinance 1959.

(8) For the purposes of this section the words "preceding account" occurring in subsection (1) of section 152 of the Companies Act shall, if the accounts and balance sheet referred to in subsections (6) and (7) of this section have been transmitted to the proprietors before the appointed day, be construed as if those words were a reference to the accounts so transmitted.

(9) The Bank shall be deemed to be the holder of a

licence under section 24 of the Monetary Board of Western Samoa Act 1974 to carry on business as a Bank in Western Samoa, as if such licence had been issued on the appointed day.

(10) Every director of the Bank holding office immediately before the appointed day shall, subject to the articles, continue to hold office on and after the appointed day until he is replaced at a general meeting of the Bank.

(11) The Chairman and the Deputy Chairman of the Bank holding office immediately before the appointed day shall, subject to the articles continue to hold office as Chairman and Deputy Chairman respectively on and from the appointed day.

7. Auditors - The persons acting as the auditors of the Bank immediately before the appointed day shall continue as the auditors on and after the appointed day until they are reappointed or replaced at a general meeting of the Bank.

8. Repeals and savings - (1) The following enactments are hereby repealed on the appointed day:

- (a) The Bank of Western Samoa Ordinance 1959;
 - (b) Section 6 of the Enactments Amendment and Repeal Ordinance 1960
 - (c) The Bank of Western Samoa Amendment Ordinance 1961;
 - (d) Section 4 of the Financial Powers Amendment Act 1964;
 - (e) The Bank of Western Samoa Amendment Act 1975;
- (2) The following regulations are revoked:
- (a) The Certificate as to commencement of Business Notice 1959;
 - (b) The Date appointed for issue Proclamation 1961.

(3) Section 35 of the Bank of Western Samoa Ordinance shall, notwithstanding the repeal of that Act by subsection (1) of this section, continue to have effect as if it were still in force in respect of any act or default done or made before the appointed day.

TULAFONO O LE FALETUPE O SAMOA I SISIFO

SAMOA I SISIFO

Faatulagaina o Aiaiga

Igoa

1. Igoa Puupuu
2. Faamatalaina o uiga o upu
3. Tulafono e noatia ai le Malo
4. Tuufaatasia Faale-tulafono o le Faletupe e avea ai o se kamupani i lalo o le Tulafono o Kamupani 1955 (Niu Sila)
5. Aafiaga o le faamauina i lalo o le Tulafono o Kamupani
6. Aiaiga faaopopo e faasino i sea o tupe faavae ma isi mataupu
7. Suetusi
8. Soloia ma le faasaoina

1990 Nu 15

O SE TULAFONO ina ia mafai ai e le Faletupe o Samoa i Sisifo ona faavaeina e avea ai o se kamupani ua tuufaatasia faale-tulafono ma faamauina e tusa ai ma le Tulafono o Kamupani 1955 (Niu Sila) e pei ona faaaogaina ina ia tutusa ai ma le Tulafono Faa-Poloaiga o Kamupani o Samoa 1935 ma ia soloia ai le Tulafono o le Faletupe o Samoa i Sisifo 1959 ma mo nisi faamoemoga e ono aliai mai ai.

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

1. Igoa Puupuu - (1) O lenei Tulafono e mafai ona ta'ua o le Tulafono o le Faletupe o Samoa i Sisifo 1990.
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 mai ai, -

"Aso ua tofia" o lona uiga o le aso ua tofia e le Ao o le Malo i se Tulafono Faa-Poloaiga ua faia e tusa ai ma le fuaiupu 4 o lenei Tulafono:

"Pepa saunia faale-tulafono" o lona uiga o pepa ua saunia faale-tulafono a le faalapotopotoga ua auina atu i le Resitala e tusa ai ma le fuaiupu 4 o lenei Tulafono:

"Tulafono o Kamupani" o lona uiga o le Tulafono o Kamupani 1955 (Niu Sila) e pei ona faaoga i totonu o Samoa i Sisifo e tusa ai ma le Tulafono Faa-Poloaiga o Kamupani o Samoa 1935:

"Malo" o lona uiga o le Malo o Samoa i Sisifo:

"Tusi Faamaoni o le Faalapotopotoga" o lona uiga o le tusi faamaoni o le faalapotopotoga ua auina atu i le Resitala e tusa ai ma le fuaiupu 4 o lenei Tulafono:

"Minisita" o lona uiga o le Minisita o Tupe:

"Resitala" o lona uiga o le Resitala o Kamupani ma aofia ai se Sui Resitala:

(2) I totonu o lenei Tulafono, e fuafua i le faaogaina o lea upu i totonu o le mataupu, "Faletupe" o lona uiga pe -

(a) O le Faletupe o Samoa i Sisifo ua faavaeina e tusa ai ma le Tulafono o le Faletupe o Samoa i Sisifo 1959; po o

(b) O le Faletupe ua tuufaatasia faale-tulafono ma faamauina e avea ai o se kamupani i lalo o le

Tulafono o Kamupani e tusa ai ma lenei Tulafono.

3. Tulafono e noatia ai le Malo - O lenei Tulafono o le a noatia ai le Malo.

4. Tuufaatasia Faale-tulafono o le Faletupe e avea ai o se kamupani i lalo o le Tulafono o Kamupani 1955 (Niu Sila) - (1) E ese ai na i lo so o se mea o lo o aofia i totonu o le Tulafono o Kamupani i se aso o le a tofia e le Ao o le Malo i luga o se Tulafono Faa-Poloaiga e avea ai le Faletupe o se kamupani faatapulaaina ona sea ua tuufaatasia faale-tulafono ma faamauina e tusa ai ma le Tulafono o Kamupani ma i lalo o le igoa o le Faletupe o Samoa i Sisifo.

(2) O le Tulafono Faa-Poloaiga e pei ona faasinomia ai ai le faafuaiupu (1) o le a tatau ona faia e le Ao o le Malo i luga o le fautuaga a le Resitala ina ua maea ona auina atu pepa aloaia e pei ona ta'ua i lalo, i le Resitala:

(a) O se tusi faamaonia o le faalapotopotoga ua faia i se pepa ua faamaonia e le aufai-sea, ma faamatalaina ai le igoa o le Faletupe ma ona sini autu ma e faapea o noataga o ona sui e faatapulaaina:

(b) Pepa saunia faale-tulafono o le faalapotopotoga ua faia i se pepa ua faamaonia e le aufai-sea:

(c) O se faasilasilaga e tusa ai ma le ofisa faamauina i Samoa i Sisifo e pei ona manaomia e le fuaiupu 115 o le Tulafono o Kamupani.

(3) E leai se mea i totonu o fuaiupu 14, 15 ma le 25 o le Tulafono o Kamupani o le a tatau ona faaogaina e tusa ai ma le tusi faamaonia o le faalapotopotoga.

(4) E leai se mea i totonu o fuaiupu 20 ma le 23(1)(c) o le Tulafono o Kamupani o le a tatau ona manaomia ai pepa saunia faale-tulafono e ao ona sainia po o le faamaonia.

(5) O le tusi faamaonia o le faalapotopotoga ma pepa saunia faale-tulafono o le faalapotopotoga o le Faletupe o le a avea o le tusi faamaonia ma pepa saunia faale-tulafono e auina atu i le Resitala e tusa ai ma lenei fuaiupu.

(6) E leai se mea i totonu o le faafuaiupu (5) o lenei fuaiupu o le a toafia ai le tusi faamaonia ma pepa saunia faale-tulafono e toe suia, teuteu, po o le faia i ai o ni fesuiaiga e tusa ai ma le Tulafono o Kamupani.

(7) I le aso ua tofia o le Resitala o le a tatau ona ia tuuina atu se tusi faamaonia o le tuufaatasia e tusa ai ma le Faletupe.

(8) E aunoa ma le faatapulaaina o le faafuaiupu (1) o lenei fuaiupu o le tusi faamaonia o le tuufaatasia o le a tatau ona avea ma molimau mausali e faapea o le Faletupe na, i le aso na tofia, faamauina e avea ai o se kamupani e tusa ai ma le Vaega II o le Tulafono o Kamupani.

(9) Mai le aso ua tofia ma seia oo i le taimi o le a uluai atoa ai sui e toafitu o le Faletupe e leai se mea i le faafuaiupu (1) o le fuaiupu 13 o le Tulafono o Kamupani e tatau ona manaomia ai le Faletupe e i ai ni ona sui e le itiiti ifo na i lo le toafitu ma o le fuaiupu 41 o le Tulafono o Kamupani o le a le tatau a o faagasolo lena vaitaimi ona faaoga i le Faletupe po o i so o se sui o lo o i ai.

(10) I le faaaogaina o le fuaiupu 200 o le Tulafono o Kamupani i le Faletupe o le faafuaiupu (5)(a) o lena fuaiupu o

le a tatau ona faaaoga e avea ai e faapei o faatonu o le Faletupe o i latou ia o lo o umia ia tofi i le aso ua tofia o ni faatonu na tofia i lena lava aso.

5. Aafiaga o le Faamauina i lalo o le Tulafono o Kamupani -

(1) E ese mai ai na i lo so o se isi Tulafono po o pule faale-tulafono, mai le amataga o le aso ua tofia o le Faletupe o le a tatau ona avea o se kamupani tuufaatasia faale-tulafono ma ua faamauina e tusa ai ma le Vaega II o le Tulafono o Kamupani ma, i le noatia ma fai fuafua i fuaiupu 4 ma le 6 o lenei Tulafono, o le Tulafono o Kamupani o le a tatau ona faaaogaina i le Faletupe i tulaga tatau ma talafeagai ai.

(2) O le Faletupe e, ma o le a faaaauau pea ona i ai, o le vaega tutusa faale-tulafono e pei ai o le Faletupe na uluai tuufaatasia faale-tulafono e tusa ai ma le Tulafono o le Faletupe o Samoa i Sisifo 1959 ma ona tulaga faapitoa, peitai e aunoa ma le faatapulaaina o tulaga aoao o mataupu e pei ona uluai ta'ua, -

(a) O le tuufaatasia ma le faamauina o le Faletupe e avea ai o se Kamupani o le a le aafia ai aia tatau, manaoga, noataga po o matafai oi o lo o i ai i le taimi a o le'i oo i le aso o le a tofia mo lea suiga:

(b) Mea totino tumau ma mea totino tau i le tagata (e aofia ai mea ua filifilia e faagaoioi) e faasino i po o taofia i totonu o le Faletupe a o le'i oo atu i le aso ua tofia o le a faaaauau pea i ai i po o le taofia e le Faletupe lea ua tuufaatasia faale-tulafono.

6. Aiaiga faaopopo e faasino i sea o tupe faavae ma isi mataupu - (1) O le Faletupe o le a tatau ona avea o se faalapotopotoga tuufaatasia faale-tulafono i le aso e pei ona o le a tofia faatasi ai ma se tupe faavae faatagaina e \$1,500,000 ua vaevaeina i ni sea e 7,500 e tai \$200 i le sea.

(2) I le aso na tofia o le Malo ma tagata uma o i latou ia na faamauina o lo o umia ni sea i tupe faavae o le Faletupe i se taimi vave lava ae lei oo i le aso na tofia o le a faaauau pea ona faamauina e avea ma e o lo o umia ni sea ua uma ona totogi i le tulaga tutusa ma i le noatia ma fai fuafua i aia tatau ma matafaioi ua faaeeina i ai po o ua tuuina i ai i pepa saunia faale-tulafono ma pule faale-tulafono.

(3) E leai se mea i le fuaiupu 60 o le Tulafono o Kamupani e faaoga e tusa ai ma le faasoasoina ma le totogiina uma o sea i tupe faavae o le Faletupe ua tuuina atu a o lei oo i le aso e pei ona tofia.

(4) E leai se mea i fuaiupu 117 ma le 134 o le Tulafono o Kamupani ma o le aiaiga e faasino i le faafuaiupu (1) o le fuaiupu 135 o le a tatau ona faaoga i le Faletupe.

(5) E leai se mea i le faafuaiupu (1) o le fuaiupu 135 o le Tulafono o Kamupani o le a tatau ona manaomia ai le Faletupe e faia se fonotaga aoao i ana fonotaga faale-tausaga i le tausaga faale-kalena lea o le a pa'u i ai le aso e pei ona tofia.

(6) E leai se mea i le faafuaiupu (1) o le fuaiupu 152 o le Tulafono o Kamupani o le a tatau ona manaomia ai faatonu o le Faletupe i totonu o le tausaga faale-kalena lea o le a pa'u ai le aso na tofia e faataatia i luma o le fonotaga aoao a le Faletupe se faamatalaga tau tupe o ana tupe pa'u ma tupe mama pe

afai o se kopi o le faamatalaga tau tupe o le Faletupe o Samoa i Sisifo mo le tausaga atoa faale-tupe ua faaiuina a o lei oo i le aso ua tofia ua tuuina atu, a o lei oo atu i le aso ua tofia i e taitasi e ona le Faletupe e tusa ai ma aiaiga o le faafuaiupu (6) o le fuaiupu 31 o le Tulafono o le Faletupe o Samoa i Sisifo 1959.

(7) E leai se mea i totonu o le faafuaiupu (2) o le fuaiupu 152 o le Tulafono o Kamupani o le a tatau ona faaoga e tusa ai ma le tausaga faale-kalena lea o le a pa'u i ai le aso ua tofia pe afai o se kopi o le faamatalaga tau tupe o le Faletupe o Samoa i Sisifo mo le tausaga atoa faale-tupe ua faaiuina a o lei oo i le aso ua tofia ua tuuina atu, a o lei oo atu i le aso ua tofia i e taitasi e ona le Faletupe e tusa ai ma aiaiga o le faafuaiupu (6) o le fuaiupu 31 o le Faletupe o Samoa i Sisifo 1959.

(8) Mo aano moni o lenei fuaiupu o upu "uluai faamatalaga tau tupe" e pei ona faaalia i totonu o le faafuaiupu (1) o le fuaiupu 152 o le Tulafono o Kamupani e tatau, pe afai o faamatalaga tau tupe ma faamatalaga o paleni o tupe e pei ona faasinomia i ai i faafuaiupu (6) ma le (7) o lenei fuaiupu ua uma ona tuuina atu i e e ona le Faletupe a o lei oo atu i le aso ua tofia, ina ia faauigaina ai ia upu e faasino i faamatalaga tau tupe e pei ona tuuina atu.

(9) O le Faletupe o le a tatau ona avea o le na te umia se laisene e tusa ai ma le fuaiupu 24 o le Tulafono o le Komiti Faatino o Tupe a Samoa i Sisifo 1974 e tauaveina pisinisi e avea ai o se Faletupe i Samoa i Sisifo, e avea ai e faapei o sea laisene sa tuuina atu i le aso e pei ona tofia.

(10) O faatonu uma o le Faletupe o lo o umia tofi i se taimi vave a o lei oo atu i le aso ua tofia e tatau, i le noatia ma le fai fuafua i pepa saunia faale-tulafono, ona faaauau le umia o le tofi i, ma ina ua tuanai le aso ua tofia seia toe suia o ia i se fonotaga aoao a le Faletupe.

(11) O le Taitaifono ma le Sui Taitaifono o le Faletupe o lo o umia ia tofi i le aso mulimuli e sosoo ma le aso atofaina e tatau, i le noatia ma le fai fuafua i pepa saunia faale-tulafono ona faaauau pea ona umia le tofi o le Taitaifono ma le Sui Taitaifono i ma mai le aso ua atofaina.

7. **Suetusi** - O ni tagata o lo o avea ma suetusi o le Faletupe i se taimi vave lava a o lei oo atu i le aso ua tofia e tatau ona faaauau pea ona avea ma suetusi i ma ina ua tuanai le aso ua tofia seia toe tofia i latou po o le toe suia i se fonotaga aoao o le Faletupe.

8. **Soloia ma le Faasacina** - (1) O Tulafono e pei ona ta'ua ua soloia nei i le aso e pei ona o le a tofia:

(a) Tulafono o le Faletupe o Samoa i Sisifo 1959;

(b) Fuaiupu 6 o Teuteuga o Tulafono ma le Tulafono Soloia 1960;

(c) Tulafono o Teuteuga o le Faletupe o Samoa i Sisifo 1961;

(d) Fuaiupu 4 o le Tulafono o Teuteuga o le Tulafono o Pulega Tau Tupe 1964;

(e) Tulafono o Teuteuga o le Faletupe o Samoa i Sisifo 1975;

(2) O tulafono faatonutonu e pei ona ta'ua ua soloia:

(a) O le Tusi Faamaonia o Amataga o Faasilasilaga

tau Pisinisi 1959;

(b) O le Aso ua tofia mo le tuuina atu o Faasilasilaga
Tautino 1961.

(3) O le Fuaiupu 35 o le Tulafono o le Faletupe o Samoa i
Sisifo o le a tatau, e ese mai ai na i lo le soloia o lena
Tulafono e le faafuaiupu (1) o lenei fuaiupu, ona faaauau pea ona
i ai o latou malosiaga e avea ai faapei o lo o faamamaluina pea
e tusa ai ma so o se gaioiga po o se tupe ua le mafai ona
totogiina po o ua faia a o lei oo i le aso ua tofia.