

# WESTERN SAMOA

## INDECENT PUBLICATIONS AMENDMENT

### Arrangement of Provisions

1. Short Title
2. Interpretation
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1992/1993, No.15

### An Act to amend the Indecent Publications Ordinance 1960

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

1. **Short Title** - This Act may be cited as the Indecent Publications Amendment Act 1992/1993 and shall be read together with and deemed part of the Indecent Publications Ordinance 1960 (hereinafter referred to as the principal Ordinance).

2. **Interpretation** - (1) Section 2 of the principal Ordinance is amended by inserting in the definition of the term "Indecent document" immediately after the word "picture" the word "film".

(2) Section 2 of the principal Ordinance is further amended by inserting -

(a) immediately before the definition of the term "Court" the following definition:-

" "Censor" means the censor appointed under the Film Control Act 1978 and includes an assistant censor appointed under that Act"

(b) immediately after the definition of the term "Indecent document", the following definitions:

"Impressed" includes any physical, electronic or magnetic imprint or command which is made on or in any substance;

"Film" means a photographic film; and includes -

- (a) a cinematograph film; and
- (b) a videotape; and
- (c) any other material record of visual images that is capable of being used for the subsequent display of those images: but does not include a videotape or cinematograph film in respect of which a certificate of approval is in force under this Act or under the Film Control Act 1978;"

3. Offences - (1) Section 3 of the principal Ordinance is amended by-

- (a) omitting from subsection (2) the expression "\$50" and substituting the expression "\$100":
- (b) omitting from paragraph (a) of subsection (4) the expression "\$100" and substituting the expression "\$200":
- (c) omitting from paragraph (b) of subsection (4) the expression "\$400" and substituting the expression "\$800":

(2) Section 3 of the principal Ordinance is further amended by adding the following subsection:-

" (6) Notwithstanding the provisions of subsection (1) and subsection (3) of this section no person shall be convicted of an offence under this section on the grounds only that he has in his possession for sale or hire a videotape which is an indecent document, where the videotape has not been submitted to the censor and -

- (a) the videotape is in his possession in Western Samoa at the date of the commencement of this subsection and within 14 days after such date of

commencement he applies to the censor for a certificate of approval in respect of such videotape; or

(b) after the commencement of this subsection he enters Western Samoa with the videotape in his possession and within three days of such entry he applies to the censor for a certificate of approval in respect of such videotape; or

(c) after the commencement of this subsection the videotape comes into his possession in Western Samoa and within three days after it so has come into his possession he applies to the censor for a certificate of approval in respect of such videotape."

4. Voluntary referral of videotape to censor - The principal Ordinance is further amended by repealing section 11 and substituting the following section:

"11 Voluntary referral of videotape to censor - (1) Any person who owns or has in his possession any videotape and who wishes to ascertain whether the same is an indecent document within the meaning of this Act may apply to the censor for a certificate of approval in respect of such videotape and may from time to time apply for a renewal of such certificate.

(2) Subject to subsections (6) and (12) of this section, the provisions of sections 16 and 17 of the Film Control Act 1978 shall apply to every application under this section,

Provided that no fee shall be payable on any application for renewal of a certificate of approval.

(3) When any application is made under this section the censor shall consider the same and either -

(a) grant a certificate of approval; or

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- (b) refuse a certificate of approval, either unconditionally or until such alterations or excisions as he may specify have been made to the videotape,

Provided that the censor shall not refuse to grant a certificate of approval to a videotape without the videotape having first been exhibited to him under subsection (2) of this section.

(4) A certificate of approval under this section shall not be granted with respect to any videotape or any part of a videotape which in the opinion of the censor constitutes an indecent document or which is contrary to public order or the sale or hire of which would for any other reason be undesirable in the public interest.

(5) A certificate of approval if granted under this section shall be issued by the censor in such form as may be prescribed pursuant to this section, and shall apply to all copies or duplicates of the videotape to which it relates.

(6) Subject to subsection (7) of this section a certificate of approval shall be valid for such period of time as the censor may in that certificate specify and if no period of time is specified shall be of indefinite duration.

(7) Notwithstanding the provisions of subsection (6) of this section the censor may at any time by notice to be served on the holder of any certificate of approval issued under this section revoke such certificate if he is satisfied that such certificate ought not to have been issued in the first instance or that any condition subject to which such certificate was issued has not been complied with.

(8) Section 25 of the Film Control Act 1978 shall apply with any necessary modifications to any application or decision under this section as if the words "film or advertisement" wherever they appear in that section were omitted and the word "videotape" substituted.

(9) The censor shall keep a register of videotapes in which he shall record the

particulars of all applications made under this section together with the particulars of every decision made by him.

(10) For the purposes of this section and notwithstanding the provisions of the Film Control Act 1978, "prescribed" means prescribed by regulations made under this section.

(11) Notwithstanding anything contained in the Film Control Act 1978 where any form is to be used or fee paid in respect of any matter to which this section applies the form or fee shall be that prescribed pursuant to this section.

(12) The Head of State, acting on the advice of Cabinet, may make all such regulations as may be necessary or convenient for giving effect to the provisions of this section."

## SAMOA I SISIFO

### TEUTEUGA O LE TULAFONO O LOMIGA FAASALALAU MATAGA

#### Faatulagaina o Aiaiga

1. Igoa Puupuu.
2. Faamatalaina o uiga o Upu.
3. Solitulafono.
4. Tuuina atu i luga o le loto fuaitaifo ni lipine ata tifaga (videotapes) i le Pasi-ata.

1992/1993 Nu. 15.

O SE TULAFONO e teuteu ai le Tulafono o Lomiga Faasalalau Mataga 1960.

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

1. Igoa Puupuu - (1) E mafai ona taua leni Tulafono o Teuteuga o le Tulafono o Lomiga Faasalalau Mataga 1992/1993 ma e tatau ona faitauina faatasi ma avea ai o se vaega o le Tulafono o Lomiga Faasalalau Mataga 1960 (e pei ona faasinomia mulimuli ane iinei o le Tulafono autu).

2. Faamatalaina o uiga o Upu (1) O le fuaiupu 2 o le Tulafono autu ua teuteuina i le faaofiina i ai i le Faamatalaga o "Pepa mataga" ia upu "ata tifaga" ina ua tuanai le upu "ata."

(2) O le fuaiupu 2 o le Tulafono autu ua toe teuteuina i le faaofiina i ai -

(a) i luma mai o le faamatalaga o le faaupuga "Faamasinoga" le faamatalaga faapea:-

" Tagata pasi-ata" o lona uiga o le tagata pasi-ata ua tofia e tusa ai ma le Tulafono o le Pulea o Ata Tifaga 1978 ma e aofia ai se Tagata pasi-ata fesoasoani ua tofia

e tusa ai ma lena Tulafono"

(b) ia faaofiina ina ua tuanai le faamatalaga o le faaupuga "Pepa mataga", ia faamatalaga e faapea:

Faailoga vaaia " e aofia ai so o se foliga tino mai, lomiga faa-eletoroni po o faa-maneta po o se faatonuga ua faia i po o i so o se mataupu; "

"Ata Tifaga" o lona uiga o se ata tifaga ua pueina; ma e aofia ai -

(a) se ata e faaali i fale tifaga; ma

(b) se ata tifaga ua pueina i lipine (videotapes); ma

(c) so o se se mea ua pue ai ni ata vaaia e faapea e mafai ona faaogaina ma toe faaalua i se taimi mulimuli ane peitai e le aofia ai se lipine o se ata tifaga (videotape) po o se ata e faaalua i se fale tifaga e tusa ai ma se tusi faamaonia faatagaina o lo o faamamaluina e tusa ai ma lena Tulafono po o e tusa ai ma le Tulafono o le Pulea o Ata Tifaga 1978;"

3. Solitulafono - (1) O le fuaiupu 3 o le Tulafono autu ua teuteuina i le-

(a) aveesea mai i le faafuaiupu (2) le faaupuga \$50.00 ma ia suia i le faaupuga "\$100":

(b) aveesea mai i le parakalafa (a) o le faafuaiupu (4) le "\$100" ma suia i le \$200.00:

(c) aveesea mai i le parakalafa (b) o le faafuaiupu (4) le "\$400" ma suia i le \$800.00":

(2) O le Vaega 3 o le Tulafono autu ua toe teuteuina i le faaopoopoina o le faafuaiupu e faapea:-

(6) E ese mai i aiaiga o le faafuaiupu (1) ma le faafuaiupu (3) o lena fuaiupu e leai se tagata e mafai ona faasalaina i se soligatulafono e tusa ai ma lena fuaiupu i luga o ni mafuaga e faapea o lo o umia e ia mo le faatauina atu po o le lisiina atu o se lipine pueata (video) o se lomiga mataga, pe a fai o lea lipine video e le i tuuina atu i le pasi-ata..

(a) o lo o ia te ia ma umia lea lipine ata video i totonu o Samoa i Sisifo i le aso e amata faamamaluina ai lena fuaiupu ma ua talosaga i le pasi-ata i totonu o le 14 aso ina ua tuanai le aso ua amata faamamaluina ai lena fuaiupu mo se pepa faamaonia o se faatagana e tusa ai ma lea lipine ata video; po o

(b) ina ua tuanai le amata faamamaluina o lenei faafuaiupu ua ia ulufale mai i totonu o Samoa i Sisifo ma lea lipine o ata video ma i totonu o le tolu aso talu ona ulufale mai ua talosaga i le pasi-ata mo se pepa faamaonia o se faatagana e tusa ai ma lea lipine ata video; po o

(c) e na te umia lea lipine ata tifaga (video tape) i totonu o Samoa i Sisifo ina ua tuanai le amata faamamaluina o lenei faafuaiupu ma i totonu o le tolu aso talu ona ia umia sea lipine ata tifaga (videotape) ua ia talosaga i le pasi-ata mo se pepa faamaonia o le faatagana e tusa ai ma sea lipine ata tifaga (videotape)."

4. Tuuina atu i le loto fuatiaifo o se lipine ata tifaga (videotape) i le Pasi-ata - O le Tulafono Autu ua toe teuteu i le soloia o le fuaiupu 11 ma suia i le fuaiupu e faapea:-

" 11 Tuuina atu i le loto fuatiaifo o se lipine ata tifaga (video) i le Pasi-ata - (1) So o se tagata o ia lea e ana po o ia umia so o se lipine ata tifaga (videotape) ma ua fia iloa po o o se lomiga mataga lea ata e tusa ai ma le faauigaina e lenei Tulafono o le a mafai ona talosaga i le pasi ata mo se pepa faamaonia o le faatagana e tusa ai ma sea ata ma e mafai i lea taimi i lea taimi ona talosaga mo le toe faafouina o sea pepa faamaonia.

(2) I le noatia ma le fai fuafua i faafuaiupu (6) ma le (12) o lenei fuaiupu, o aiaiga o fuaiupu 16 ma le 17 o le Tulafono o le Pulea o Ata Tifaga 1978 o le a faasino i tusi talosaga taitasi e tusa ai ma lenei fuaiupu.

Vagana ai e leai se tupe o le a totogiina mo so o se talosaga mo le toe faafouina o sea pepa faamaonia.

(3) Pe a fai e faia se talosaga e tusa ai ma lenei fuaiupu o le a iloiloina sea talosaga e le pasi-ata ma -

(a) tuuina atu se pepa faamaonia o le faatagana; po o.

(b) teena se pepa faamaonia o se faatagana faatasi ai ma ni tuutuuga po o seia faia ni suiga po o le aveeseina o ni vaega e pei ona o le a ia faatonuina mai lea lipine ata tifaga (videotape).

Vagana ai o le a le teena e le pasi-ata le tuuina atu o se pepa faamaonia o le faatagana mo se lipine ata tifaga e aunoa ma le faaaliina muamua o sea ata ia te ia e tusa ai ma le fuaiupu (2) o lenei vaega.

(4) O se pepa faamaonia o le faatagana e tusa ai ma lenei vaega o le a le tuuina atu mo se lipine ata tifaga, (videotape) po o so o se vaega o se "lipine" ata tifaga (videotape) ua manatu le pasi-ata e faapea o sea ata o se lomiga mataga po o le le talafeagai ai ma le nofo lelei o tagata lautele po o le faatauina atu po o le lisiina o sea lipine o le a le talafeagai ma le manaoga o tagata lautele.

(5) O se pepa faamaonia o se faatagana pe afai e tuuina atu e le pasi-ata e tusa ai ma lenei fuaiupu i le faiga e pei ona fuafuaina e tusa ai ma lenei fuaiupu, o le a faasino i kopi uma po o nisi lipine ua pueina iai lea lava ata o lo o faasino iai lea pepa faamaonia.

(6) I le noatia ma le faia fuafua i le faafuaiupu (7) o lenei fuaiupu o se pepa faamaonia o se faatagana o le a aoga mo le vaitaimi e pei ona o le a aiaia e le pasi-ata i totonu o lea pepa faamaonia ma pe afai e leai se vaitaimi o aiaia o le a aoga mo se vaitaimi le faamutaina .

(7) E ese mai i aiaiga o le faafuaiupu (6) o lenei fuaiupu o le a mafai e le pasi-ata i so o se taimi i se faaaliga o le a tuuina atu i le na te umia sea pepa faamaonia e tusa ai ma lenei fuaiupu, ona faaleaogaina lea pepa faamaonia pe a fai ua ia faamalieina o lea pepa faamaonia sa le tatau ona tuuina atu i le uluai taimi po o ua le tausisia so o se tuutuuga lea na tuuina atu ai lea pepa faamaonia.

(8) O le Fuaiupu 25 o le Tulafono o le Pulea o Ata Tifaga 1978 o le a faaoga faatasi ai ma so o se suiga talafeagai e tusa ai ma so o se talosaga po o se faaiuga e tusa ma lenei fuaiupu e pei lava o upu "ata tifaga po o faasalalauga faalauaitete" po o fea lava o le a faaogaina ai i totonu o lea fuaiupu ua aveesea ma suia i le upu "lipine o ata tifaga".

(9) O le a tausia e le pasi-ata se tusi resitala o lipine ata tifaga (videotape) lea o le a ia faamauina ai faamatalaga auiliili o talosaga ma ua faia e tusa ma lenei fuaiupu faatasi

ai ma faamatalaga auiliili o se faaiuga taitasi ua ia faia.

(10) Mo aano moni o lenei tulafono ma e ese mai i aiaiga o le Tulafono o le Pulea o Ata Tifaga 1978, "Fuafuaina" o lona uiga ua fuafuaina e tulafono faatonutonu ua faia e tusa ai ma lenei fuaiupu.

(11) E ese mai i so o se mea ua aofia i le Tulafono o le Pulea o Ata tifaga 1978 lea o le a faaogaina ai so o se pepa po o se totogi e totogiina e tusa ai ma so o se mataupu e faasino iai lenei fuaiupu o le pepa po o le tupe totogi e totogiina o le a fuafuaina e tusa ai ma lenei fuaiupu.

(12) O le Ao o le Malo, i luga o le fautuaga a le Kapeneta, o le a mafai ona faia ni tulafono faatonutonu uma e manaomia po o le talafeagai mo le faatinoina o aiaiga o lenei fuaiupu."