

SAMOA

**TULAFONO FAATONUTONU O TIUTE
(ATINAE O TAGATA TAFALAO MAIMO
MA OLOA GAOSI) 2010**

Faatulagaina o Aiaiga

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E tusa ai ma fuaiupu 163A ma le 279 o le Tulafono o le Ofisa o Tiute 1977, **O AU, TUI ATUA TUPUA TAMASESE EFI**, o Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, **UA OU FAIA** ai tulafono faatonutonu e faapea:

FAIA i Apia i lenei aso 17 o Me 2010.

sainia: (Tui Atua Tupua Tamasese Efi)
O LE AO O LE MALO

TULAFONO FAATONUTONU

1. Igoa puupuu ma le amataga-(1) E mafai ona taua nei tulafono faatonutonu o Tulafono Faatonutonu o Tiute (Atinae o Tagata Tafafao Maimoa ma Oloa Gaosi) 2010.

(2) O nei tulafono faatonutonu e amata faamamaluina i le aso e faia ai.

2. Faamatalaina o uiga o upu - I totonu o nei tulafono faatonutonu, ae vagana ai ua manaomia e le mataupu se isi uiga e ese ai:

“Tulafono” o lona uiga o le Tulafono o le Ofisa o Tiute 1977;

“tagata talosaga” o lona uiga o se tagata ua talosaga mo se faamaoniga o se atinae ua agavaa i lalo o le fuaiupu 163A o le Tulafono ma nei tulafono faatonutonu;

“tagata ua faamaonia” o lona uiga o se tagata o ia lea ua na maua se faamaoniga mo se “atinae ua agavaa” e tusa ai o se galuega faapitoa tau atinae i lalo o le fuaiupu 163A o le Tulafono o le Ofisa o Tiute 1977;

“tagata ofisa faatagaina” o lona uiga o se Tagata Ofisa ua faatagaina e le Pule Sili o Tiute, le Ofisa Sili o Pulega o le Matagaluega o Pisinisi, Alamanuia ma Leipa po o le Ofisa Sili o Pulega o le Matagaluega o Tupe;

“Ofisa Sili o Pulega” o lona uiga o le Ofisa Sili o Pulega o le Matagaluega o nafa ma Pisinisi, Alamanuia ma Leipa;

“Pule Sili” o lona uiga o le Pule Sili o Tiute ma e aofia ai so o se tagata ofisa o lo o sui tulaga e tusa ai ma ala o le tulafono i le tulaga o le Pule Sili, e tusa lava po o le taimi a o faagasolo so o se avanoa i le tofi o le Pule Sili pe leai;

“Komiti o Tupe Teufaafaigaluega” o lona uiga o le Komiti o Tupe Teufaafaigaluega o aofia ai Ofisa Sili o Pulega o le Matagaluega o Tupe, Matagaluega mo Tupe Maua, Matagaluega o Pisinisi, Alamanuia ma Leipa, Matagaluega o Punaoa Faalenatura ma le Siosiomaga, Matagaluega o Tina ma Tamaitai, Atinae o Nuu ma Afioaga ma Agafesootai, o le Kovana o le Faletupe

Tutotonu, o le Loia Sili ma so o se tasi lava tagata e toatasi ua tofia i totonu o le Komiti o Tupe Teufaafaigaluega mo le iloiloga o se atinae ua agavaa ma oloa ua faamaonia;

“galuega tau atinae o oloa gaosi” o lona uiga o se atinae o le a mafai ona lelei sona sao i le itu tau le soifuaga lautele, tamaoaiga ma tulaga manuia tau le siosiomaga o Samoa.

3. Taiala faataatitia mo “atinae ua agavaa”-(1) Mo faamoemoega o le fuaiupu 163A o le Tulafono, e tatau ona fuafua ma faaogā taiala faataatitia mo se atinae ua agavaa e tusa ai ma nei tulafono faatonutonu.

(2) E tatau ona faatapulaa se atinae ua agavaa i atinae ua fautuaina e le Ofisa Sili o Pulega, ma ua fautuaina ai e le Kapeneta le Minisita o Tupe ina ia faamaonia mo le fausiaina po o le faalauteleina o:

(a) se faletalimalo laitiiti, faletalimalo tele po o se nofoaga tumatafaga mo tagata tafafao maimoa; po o

(b) se galuega tau atinae o oloa gaosi.

(3) Mo faletalimalo laiti taitasi, faletalimalo tele taitasi po o nofoaga tumatafaga taitasi mo tagata tafafao maimoa, e tatau ona tuuina atu o se talosaga i le Kapeneta mo le taliaina e avea o se atinae ua agavaa pe afai e faamaonia e le Ofisa Sili o Pulega e faapea o le atinae a le tagata talosaga:

(a) a le o se galuega fou tau atinae e fausia a itiiti ifo o le 12 potu po o fale taitasi e aofia ai vaega uma moomia, po o se galuega tau atinae ua faateleina mo le fausia ai o potu a itiiti ifo o le fa (4) potu faaopoopo po o le lua (2) fale taitasi ua faaopoopo e aofia ai vaega uma moomia, po o se toe fausaga e faaolaola ai o se galuega tau atinae na faaleagaina e le tsunami o le aso 29 o Setema 2009; ma

(b) e i ai se tupe faavae faafaigaluega i le galuega fou tau atinae e tutusa ma po o le sili atu na i lo le \$1 miliona tala e pei ona faamaonia i se faiga

tusitusia e le Ofisa Sili o Pulega o le Matagaluega o Tupe; ma

- (c) o le a manuia ai le tamaoaiga o Samoa; ma
- (d) e mo le manuia o tagata lautele; ma
- (e) o le a faafoeina e se tagata ua faamaonia e i ai se laisene tau pisinisi ua tuuina atu i lalo o le Tulafono o Laisene o Pisinisi 1998; ma
- (f) e i ai o se sini autu ina ia saunia fale apitaga mo tagata tafafao maimoa mo vaitaimi pupuu ae le o nofoaga faalisi mo vaitaimi uumi e pei o potu nofo ma fale nofo laiti; ma
- (g) e le o se galuega tau atinae mo le fausia o fale tumatafaga; ma
- (h) pe afai e talafeagai ai, o lo o ogatasi ma le Fuafuaga o le Atinae o Tagata Tafafao Maimoa ua faamaonia mai lea taimi i lea taimi e le Pulega o Tagata Tafafao Maimoa a Samoa.

(4) I le tulaga o faletalimalo laiti taitasi, faletalimalo tele taitasi po o nofoaga tumatafaga mo tagata tafafao maimoa, e lē tatau ona tuuina atu se talosaga i le Kapeneta mo le taliaina e aveia o se atinae ua agavaa mo se toe fausaga e faaolaola ai se galuega tau atinae i tulaga na faaleagaina mai le tsunami o le aso 29 o Setema 2009, i le tuanai ai o le aso 31 o Tesema 2012.

(5) Mo galuega tau atinae taitasi o oloa gaosi, e tatau ona tuuina atu i se tagata talosaga le tulaga o se atinae ua agavaa pe afai e faamaonia e le Ofisa Sili o Pulega e faapea o le atinae a le tagata talosaga:

- (a) e i ai lona sini autu o le gaosiina, faagaoioiga, po o le tuufaatasia o oloa mo maketi tau lotoifale ma maketi i fafo atu o Samoa; ma
- (b) o le a manuia ai le tamaoaiga o Samoa; ma
- (c) o lo o i ai i le tulaga e manuia ai tagata lautele; ma
- (d) o le a faafoeina e se tagata ua faamaonia e i ai se laisene tau pisinisi ua tuuina atu i lalo o le Tulafono o Laisene o Pisinisi 1998.

4. Talosaga mo atinae ua agavaa-(1) O se tagata o ia lea o lo o saili ina ia maua se tuusaunoaga mai tiute i lalo o le fuaiupu 163A o le Tulafono e ao ona faia muamua o se talosaga i le Ofisa Sili o Pulega.

(2) E tatau i le Ofisa Sili o Pulega ona faagaoioi ma iloilo talosaga uma ma saunia se lipoti tusitusia e tusa o ana sailiga ma fautuaga e tuuina atu i le Komiti o Tupe Teufaafaigaluega.

(3) I le faia i luga o le lipoti ma fautuaga a le Ofisa Sili o Pulega, e tatau i le Komiti o Tupe Teufaafaigaluega ona iloilo talosaga uma ma faia se fautuaga talafeagai i le Kapeneta.

(4) Afai e faasino tonu le poloketi ua fuafuaina i le alamanuia o tagata tafafao maimoa, o se sui o le Pulega o Tagata Tafafao Maimoa a Samoa e tatau ona tofia ina ia auai i totonu o le Komiti o Tupe Teufaafaigaluega, a o faagasolo le iloiloga o sea atinae.

(5) O se talosaga e faia i lalo o nei tulafono faatonutonu e tatau ona aofia ai ia mea taitasi e pei ona mafai ona manaomia e le Ofisa Sili o Pulega, ma e tatau ona aofia ai:

- (a) le igoa atoa, tuatusi ma le galuega i le taimi nei po o le pisinisi autu a le tagata talosaga, ma, pe afai o lē o talosaga, o se kamupani a le Malo po o e kamupani tumaoti, o faamatalaga auiliili atoa e uiga i tagata ofisa ma tagata e umia sea o le kamupani ma lona ofisa faamauina; ma
- (b) igoa atoa o faatonu autu po o faatonu ua fuafuaina, o latou tuatusi, faletupe ma isi faasinomaga tau tupe, talaaga ma agavaa talu ai i le oloa o le a gaosia pe tuuina atu, po o auaunaga o le a tuuina atu; ma
- (c) le uiga o le atinae a le tagata talosaga, o le oloa po o le auaunaga e maua mai ai, le tele o le galuega fuafuaina a o faagasolo tausaga taitasi o le uluai 10 tausaga o le gaosiga o oloa, le nofoaga ma pe faapefea foi ona maketiina le oloa po o le auaunaga, ma le tau ua fuafuaina e le tagata talosaga o le a mafai ai ona maketi atu le oloa po o le auaunaga; ma

- (d) le aofaiga o pisinisi o i ai nei i Samoa o lo o gaosia oloa faapena ma o latou tulaga faaletausaga i le gaosiga o oloa, pe afai e silafia; ma
- (e) o punaoa fuafuaina, aofaiga, mai tupe po o se isi faiga e ese ai ma faamoemoega o le tupe faavae ua faamoemoe e faaluina i galuega ua agavaa a o faagasolo tausaga taitasi o le uluai 10 tausaga o le gaosiga o oloa; ma
- (f) se faamatalaga ma le fuafuaga o le tau o fausaga faatino o le a faatuina pe faaopopo, ma meafaigaluega faavae o le a faatau mai; ma
- (g) so o se meafaitino fau fale, nofoaga o masini, masini, ma isi mea taitasi ua manatu le tagata talosaga e tataua ona manaomia mo le atinae ua agavaa, ma o mea ua latou saili ina ia faatagaina ona maua i se tulaga atoatoa po o se vaega e tuusaoloto ai mai tiute o oloa ma i le itu i vaega taitasi o ia mea, tusa lava po o i se tulaga atoatoa pe na o se vaega ua faaaogā mo na faamoemoega ma, pe afai ua na ona faaaogāina i se vaega, le tulaga o lea vaega ua faaaogā; ma
- (h) le nofoaga o le a faatuina ai le atinae ua agavaa, ma le vaega eleele o le a faatuina ai so o se fausaga, e aofia ai ata o fale, ma faamaoniga tusitusia mo lena nofoaga ma vaega eleele mai le Ofisa o Fuafuaga ma Pulega o Nofoaga i Taulaga; ma
- (i) le uiga o le pule o le fanua o lo o umia lena vaega eleele po o ua faamoemoe e mauaina e le tagata talosaga, ma pe afai o le a fausia le atinae a le tagata talosaga i luga o fanua faaleaganuu, o se ata o le maliega faalisi talafeagai; ma
- (j) tuutuuga ma aiaiga ia o le a faafaigaluegaina ai tagata faigaluega, e aofia ai totogi, totogi aso ma so o se aiaiga mo nofoaga ma fale e faaaogāina e le afaigaluega, ma le aofaiga o tagata Samoa isi tagata faigaluega ua fuafuaina e amata ona faafaigaluegaina, ma i le faagasologa o tausaga taitasi o le uluai 10 tausaga o le gaosia o oloa,

ma se faamatalaga o tiute tauave o ia tagata faigaluega; ma

- (k) faatulagaga ua fuafuaina mo tagata e faafaigaluega ma aoao po o mo isi aoaoga o tagata faigaluega Samoa, ina ia faateleina ai le tulaga talafeagai o ia tagata faigaluega o le a faafaigaluegaina i le atinae a le tagata talosaga; ma
- (l) le aso ua faamoemoe po o a o lumanai ai -
 - (i) le amatalia o galuega o le atinae; ma
 - (ii) le aofaiga o oloa e mafai ona maketiina ua faamoemoe o le a gaosia po o le faatinoina i se isi faiga e ese ai, po o le auaunaga ua faamoemoe ina ia tuuina atu; ma
- (m) se iloiloga o tau fuafuaina o oloa gaosi e aofia ai tau o le faatinoga, ma se ata o le oloa gaosi po o se suesuega o le tulaga o le mafai ona maketiina o le auaunaga; ma
- (n) mo se faletalimalo laitiiti, faletalimalo tele ma nofoaga tumatafaga mo tagata tafafao maimoa, o se ata o fale mo le atinae ua fuafuaina ina ia faamautinoa ai le aofaiga atoa o vaega taitasi po o potu o le a fausiaina; ma
- (o) nisi lava faamatalaga faapea e mafai ona manaomia e le Ofisa Sili o Pulega.

(6) O se talosaga ua fautuaina mo le faamaoniga e tatau ona tuuina atu e le Komiti o Tupe Teufaafaigaluega i le Kapeneta ma o le Kapeneta o le a fautuaina le Minisita o Tupe ina ia faamaonia i lalo o le fuaiupu 163A o le Tulafono.

(7) E ui lava i so o se isi tulafono faatonutonu, e mafai e le Kapeneta po o le Minisita o Tupe ona teena le faamaonia o le talosaga mo atinae ua agavaa pe afai i lo latou manatu e faapea o le tuuina atu o le faamaoniga o le a aafia ai le tupe maua a le Malo, i se tulaga e lē mo le manuia o tagata lautele, po o mo so o se isi lava mafuaaga.

5. Taiala faataatitia mo “oloa ua faamaonia”-(1) Mo faamoemoe o le Fuaiupu 163A o le Tulafono, e tatau ona faatapulaa oloa ua faamaonia i oloa ua faamaoti i totonu o

tulafono faatonutonu laiti (2) ma le (3) ma ua faamaonia i le noatia ma le fai fuafua i manaoga ma aiaiga ua aiaia i totonu o tulafono faatonutonu 6 ma le 7.

(2) O oloa ua faamaonia e tusa ai o se faletalimalo laitiiti, faletalimalo tele po o se nofoaga tumatafaga mo tagata tafafao maimoa, ua aveva ma oloa amata ua faaaogā faapitoa lava mo se atinae ua agavaa ma ua faatapulaaina i tulaga ua taua e faapea:

- (a) meafaitino o galuega fau fale, meafaigaluega ma mea faaaogā i le fausiaina o fale ma nofoaga o masini;
- (b) nofoaga talafeagai o ofisa ma isi meafaigaluega faa-ofisa;
- (c) vaa o so o se ituaiga o le a faaaogāina faapitoa lava e mālo o i le faletalimalo tele, faletalimalo laitiiti po o se nofoaga tumatafaga mo tagata tafafao maimoa;
- (d) oloa tau taaloga ma meafaigaluega e faaaogā faapitoa lava mo tagata i le sami ma le vai ma fale taalo o faaaogā e mālo i se faletalimalo tele, faletalimalo laitiiti po o se nofoaga tumatafaga mo tagata tafafao maimoa;
- (e) o se meafaitino ua mautu ona faatulaga i se nofoaga, mea faaopopo o se fale ma meafale;
- (f) meafaigaluega tau masini o manaomia mo nofoaga e togafitia ai le suavai ma otaotavale.

(3) O oloa ua faamaonia e tusa ai o se galuega tau atinae o oloa gaosi, o oloa amata ua faaaogā faapitoa lava mo se atinae ua agavaa ma ua faatapulaa i tulaga ua taua e faapea:

- (a) masini, meafaigaluega ma meafaitino fau fale;
- (b) oloa ua faaaogā faapitoa lava mo le faaliliuina po o le faagaioiga o meafaitino e le i tagofia;
- (c) meafaitino e le i tagofia ua faaulufale mai.

6. Talosaga mo “oloa ua faamaonia”-(1) O se tagata ua faamaonia o lo o saili ina ia faaulufale mai so o se oloa ua faamaonia e tusa ai o se atinae ua agavaa i lalo o le fuaiupu 163A o le Tulafono, e ao ona tuuina atu muamua se talosaga i le Ofisa Sili o Pulega e tusa ai o nei tulafono faatonutonu.

(2) E tatau i talosaga uma ona iloiloaina e le Komiti o Tupe Teufaafaigaluega, o lea Komiti o le a fautuaina le Ofisa Sili o Pulega ina ia:

- (a) fautuaina le talia o le talosaga mo oloa ua faamaonia i le tulaga atoatoa po o i se vaega; po o
- (b) le teena o le talosaga; pe
- (c) saili nisi auiliiliga pe afai e manaomia.

(3) Afai o le atinae ua fuafuaina e faasino tonu i le alamanuia o tagata tafafao maimoa, e tatau, ona tofia se sui o le Pulega o Tagata Tafafao Maimoa a Samoa i totonu o le Komiti o Tupe Teufaafaigaluega a o faagasolo le iloiloga o lea atinae.

(4) O talosaga uma e faia i lalo o nei tulafono faatonutonu e tatau ona aofia ai ia mea taitasi e pei ona mafai ona manaomia e le Pule Sili ma le Ofisa Sili o Pulega, ma e tatau ona aofia ai:

- (a) se lisi atoa o oloa o le a faaulufale mai; ma
- (b) faamatalaga atoatoa po o faamatalaga o oloa e pei o faamatalaga i le fesuiaiga o le faasologa o tiute ina ia fesoasoani ai i le fuafuaina o le fua faatatau talafeagai o le faasologa o tiute; ma
- (c) se faamatalaga auiliili o le faaaogāina ua fuafuaina o oloa; ma
- (d) se faamaoniga tusitusia e faapea o oloa ua faaulufale faapitoa mai ina ia faaaogā i se atinae ua agavaa; ma
- (e) se faatinoga e faapea o le tiute atoa e mafai ona totogi mo oloa e tatau ona totogi pe afai o le a faatauina mulimuli ane i totonu lava o Samoa, po o le faaaogā e so o se tagata e ese ai na i lo le tagata ua faamaonia, mo so o se isi lava faamoemoe.

(5) O se talosaga ua fautuaina mo le faamaonia e le Ofisa Sili o Pulega e tatau ona tuuina atu i le Ofisa Sili o Pulega o le Matagaluega o Tupe mo le iloiloga i lalo o le fuaiupu 163A o le Tulafono.

(6) E ui lava i so o se isi aiaiga i totonu o nei tulafono faatonutonu, e mafai e le Ofisa Sili o Pulega o le Matagaluega o Tupe ona teena le faamaonia i le tulaga atoatoa po o i se vaega, le talosaga mo oloa ua faamaonia pe afai ua i lona manatu e

faapea, o le tuuina atu o le faamaoniga i se tulaga atoatoa po o i se vaega o le a aafia ai le tupe maua a le Malo i se tulaga e lē tusa ai ma tulaga e manuia ai le atunuu, po o mo so o se isi lava mafuaaga.

7. Aiaiga ma tapulaa mo oloa faaulufale mai i lalo o le fuaiupu 163A-(1) O faaititiga o tiute o oloa faaulufale mai ua faamatuu atu i lalo o le fuaiupu 163A o le Tulafono e mafai ona faamatuu atu i le noatia ma le fai fuafua i aiaiga ua taua e faapea:

- (a) e tatau i tagata taitoatasi uma ua faamaonia, e tusa ai o atinae taitasi ua agavaa o lo o tauaveina e lena tagata ona tausia, i le faamalieina o le Pule Sili ma le Ofisa Sili o Pulega -
 - (i) faamaumauga ma faamatalaga tau tupe atoatoa o feuaiga faapisinisi tau tupe, meatotino, aitalafu ma faaputugatupe; ma
 - (ii) faamaumauga atoatoa ma lisi o igoa o oloa taitasi uma na latou faaulufale mai i totonu o Samoa; ma
 - (iii) faamaumauga atoatoa ma lisi o igoa o oloa ua gaosia, faia, faagaoioia pe sa latou tuufaatasia; ma
 - (iv) faamaumauga atoatoa ma lisi o igoa o oloa gaosi uma ua teuina o lo o taofia e i latou; ma
 - (v) faamaumauga atoatoa o oloa uma ua gaosia ua auina atu i fafo e i latou mai Samoa, po o ua faatau atu po o ua lafoaia i totonu o Samoa;
- (b) afai o le atinae ua agavaa e faasino i se faalauteleina o se gaoioiga tau pisinisi o i ai i le taimi nei, o faamaumauga, faamatalaga tau tupe ma mataupu o mea ua faasinomia i totonu o le parakalafa (a) ma o lo o fesootai i le faalauteleina, e tatau ona tausia i se tulaga e vavae ese atoatoa mai gaoioiga faapisinisi na amata ai i taimi uma lava;

- (c) o oloa uma ua faamaonia le faaulufale mai mo se atinae ua agavaa e tatau ona tausia i se faiga e malupuipuia lelei ma e tatau ona noatia ma fai fuafua i aiaiga e mafai ona faaee atu e se tagata ofisa ua faatagaina ina ia faamautinoa ai le malupuipuia o oloa ua faamaonia o lo o teuina;
- (d) pe a tuuina atu o se faamaoniga mo se atinae ua agavaa, o oloa uma ua faamaonia mo le fausiaina o lena atinae e ao ona faaulufale mai i totonu o Samoa i totonu o le 24 masina mai le aso e amata ai le fausiaina o le atinae ua agavaa seia vagana ai ua toe tuu atu se taimi faaopopo i se faiga tusitusia e le Ofisa Sili o Pulega o le Matagaluega o Tupe;
- (e) e tatau i so o se tagata ofisa faatagaina ona agavaa a o faagasolo itula talafeagai e ulufale ai ma asiasia nofoaga ma fale lea o lo o i ai pe sa faafoe ai le atinae ua agavaa, ma ia asiasia ma faia ni ata o faamaumauga e faatatau i lena atinae, mo le faamoemoe ina ia faamautinoa ai pe o tausisia aiaiga o lenei tulafono faatonutonu;
- (f) mo se faletalimalo laitiiti, faletalimalo tele po o se nofoaga tumatafaga mo tagata tafafao maimoa, o galuega tau fausaga o faia i le atinae ua agavaa, e ao ona amatalia i totonu o le tolu (3) masina mai le aso na faaulufale mai ai le uta muamua o oloa ua faamaonia i totonu o Samoa;
- (g) mo nofoaga o ofisa po o isi meafaigaluega faa-ofisa, fausaga tumau, vaega faaopopo o se fale ma meafale, oloa tau taaloga, ma meafaigaluega tau masini, o ia oloa ua faamaonia e faatoa mafai lava ona faamatuu i ai fesoasoani i tiute i le na o le faatasi (1) lava ona faia a o faagasolo le faatuina o le atinae ua agavaa, ma e ao ona taunuu mai i Samoa i totonu o le tausaga e tasi (1) mai le aso ua tuuina atu ai le faamaoniga mo le atinae ua agavaa;

- (h) mo se galuega tau le atinae o oloa gaosi, o oloa ua maea ona gaosiina i le fale gaosi oloa e ao ona auina atu i atunuu i fafo i totonu o le 12 masina mai le aso na faamatuu atu ai oloa ua faamaonia e le Matagaluega mo Tupe Maua, seia vagana ai ua filifili i se isi faiga e ese ai le Ofisa Sili o Pulega o le Matagaluega o Tupe;
- (i) mo so o se vasega o oloa ua faamaonia ua iloa mautinoa e le Ofisa Sili o Pulega, e mafai e le Ofisa Sili o Pulega o le Matagaluega o Tupe ona faatulaga se tapulaa aupito maualalo po o le tapulaa aupito maualuga o le tau aogā fuafuaina i luga o se faiga faavae o mea taitasi, e aveia o se aofaiga atoa o le tau aogā o so o se uta fuafuaina o oloa mo so o se ituaiga o oloa, a o le i mafai ona agavaa mo fesoasoani tau tiute;
- (j) mo meafaigaluega tau fausaga ma meafaigaluega e aofia ai masini mamafa ma masini, o ia oloa e mafai ona toe auina atu i fafo e le tagata ua faamaonia -
 - (i) i le tuanai ai o le maea fausiaina o le atinae ua agavaa; po o
 - (ii) pe afai e manaomia e le Ofisa Sili o Pulega o le Matagaluega o Tupe;
- (k) o tiute uma ua tatau ona totogi ma e totogiina atu i le Matagaluega mo Tupe Maua mo meafaigaluega uma tau fausaga ma meafaigaluega e aofia ai masini mamafa ma masini laiti, ia e lē toe mafai ona toe auina atu i fafo e le tagata ua faamaonia pe a maea ona fausia le atinae;
- (l) mo se galuega tau atinae o oloa gaosi, e faatoa mafai ona iloiloina se faamama avega i le tiute mo meafaitino e le i tagofia na faaulufale mai, pe afai o ia meafaitino e le o maua i totonu lava o le lotoifale po o se isi lava mafuaaga faapea e pei ona fuafuaina e le Ofisa Sili o Pulega o le Matagaluega o Tupe;

- (m) so o se isi lava aiaiga mo so o se oloa ua faamaonia lea ua manatu le Ofisa Sili o Pulega o le Matagaluega o Tupe, ua talafeagai ai.
- (2) E mafai ona faatagaina i se faiga tusitusia e le Ofisa Sili o Pulega po o le Pule Sili, se tagata ofisa ua faatagaina e asiasia nofoaga ma fale ma faamaumauga e faatatau i se atinae faapitoa ua agavaa po o atinae i se tulaga lautele.
- (3) E leai ni oloa ua faamaonia e i ai tuusaunoaga po o se faamama avega mai so o se tiute i lalo o le Fuaiupu 163A o le Tulafono, e tatau ona faatau atu, aveese atu po o le lafoaia i se isi faiga e ese ai, sica vagana ai:
- (a) ua i ai le uluai faamaoniga tusitusia a le Ofisa Sili o Pulega o le Matagaluega o Tupe; po o
 - (b) pe afai ua maua e se tagata e faaliliuina atu i ai se pisinisi ni oloa ua faamaonia e avega ma vaega o le faaliliuina atu o oloa; ma
 - (c) ina ua totogi i le Pule Sili e le tagata ua faamaonia po o le tagata talafeagai ua faaliliu atu i ai se pisinisi i le a lava le tulaga e mafai ai, o le tiute i luga o le tau aogā o le mea ua faatauina atu, tuu ese atu po o ua lafoai i se isi faiga e ese ai, e pei ona iloiloina i le aso na faatau atu ai, faameaalofa po o isi tulaga e lafoaia ai, toese ai so o se tiute ua maea ona totogi mo oloa ua faamaonia ae le i toe faafoiina.
- (4) O tiute na tuusaunoaina talu ai i lalo o le fuaiupu 163A o le Tulafono e tatau ona faatatauina ia totogi ma e mafai ona totogi pe afai o se tagata ua faamaonia po o se tagata talafeagai ua faaliliu atu i ai se pisinisi, i le a lava le tulaga e mafai ai, i totonu o tausaga e lima (5) talu ona amata ana gaoioiga po o le mauaina o le tuusaunoaga o tiute o oloa faaulufale mai po o so o se isi lava faatulagaga o le taimi ua faaumiumi e pei ona mafai ona fuafuaina e le Ofisa Sili o Pulega:
- (a) taofia o gaoioiga faapisinisi; po o
 - (b) ua lē mafai ona ausia le taiala faataatia po o aiaiga ua aiaia i totonu o nei tulafono faatonutonu; po o

(c) ua lē mafai ona tausisia le manaoga po o se aiaiga lea sa faamatuuina atu ai muamua le fesoasoani i tiute o oloa faaulufale mai.

(5) So o se tagata e faaulufaleina mai oloa ua faamaonia e tusa o se atinae ua agavaa i lalo o le Fuaiupu 163A o le Tulafono, o ia lea ua lē mafai ona tausisia so o se aiaiga o nei tulafono faatonutonu, po o ua ia faalavelaveina se tagata ofisa ua faatagaina a o tauaveina e lea tagata ofisa po o taumafai e tauaveina se asiasiga ua faatagaina e le tulafono faatonutonu 7(1)(d) o nei tulafono faatonutonu, ua na faia se soligatulafono ma e tatau ona noatia i luga o se moliaga ua faamaonia faaletulafono i le nofosala i le falepuipui mo se vaitaimi e lē silia le tausaga e tasi (1) po o i se sala tupe e lē silia le 500 iunite tau faasalaga, po o ia faasalaga uma e lua.

8. Soligatulafono-(1) So o se tagata o ia lea, e ese mai na i lo tulaga e tusa ai ma nei tulafono faatonutonu, ua faatau atu po o ua lafoai o po o o lo o umia pe faaogā so o se oloa faamaonia ua faaulufale mai i lalo o le fuaiupu 163A o le Tulafono mo le faaogāina e tusa ai o se atinae ua agavaa, ua na faia se soligatulafono, ma e tatau ona noatia i luga o se moliaga ua faamaonia faaletulafono i le nofosala i le falepuipui mo se vaitaimi e lē silia le tausaga e tasi (1) po o i se sala tupe e lē silia le 500 iunite tau faasalaga, ma e tatau ona faalēaogāina oloa.

(2) So o se tagata, o ia lea ua na tuuina atu ma lona iloa lelei, so o se faamatalaga sese pe taufaasese e tusa ai o so o se talosaga ua faia i lalo o nei tulafono faatonutonu, ua faia se soligatulafono, ma e tatau ona noatia i luga o se moliaga ua faamaonia faaletulafono i le nofosala i le falepuipui mo se vaitaimi e lē silia le tausaga e tasi (1) po o se sala tupe e lē silia le 500 iunite tau faasalaga, ma e tatau ona faalēaogāina oloa.

(3) So o se tagata o ia lea ua solia so o se aiaiga o nei tulafono faatonutonu e tatau ona nofosala i se soligatulafono ma i luga o se moliaga ua faamaonia faaletulafono, e tatau ona noatia i se sala tupe e lē silia le 250 iunite tau faasalaga.

(4) Afai i so o se taimi ua faia ai se soligatulafono e se faalapotopotoga ua tuufaatasia faaletulafono i lalo o nei tulafono faatonutonu, faatasi ai ma le maliega a, faataga leiloa e,

po o ona ua lē amanaia e, so o se tagata, ua faia e le tagata lea lava soligatulafono pe afai i lea lava taimi, o le tagata o ia o se faatonu, pule po o se isi tagata ofisa o le faalapotopotoga ua tuufaatasia faaletulafono, po o ua faamoemoe le tagata e galue suitulaga o ia o se faatonu, pule po o se isi tagata ofisa o le faalapotopotoga ua tuufaatasia faaletulafono.

(5) O le lē lava o le malamalamaaga e faapea sa faia lava le soligatulafono, e mafai ona faatulai mai e avea o se tetee a se tagata o ia lea ua faia so o se soligatulafono i lalo o le tulafono faatonutonu laitiiti (4).

Tuuina atu i lalo o le pule faataga a le Tulafono o Tulafono Faatonutonu 1953.

Aso e amata faamamaluina ai: 17 Me 2010

O nei Tulafono Faatonutonu o lo o faafoeina e le Matagaluega mo Tupe Maua.

O ata o nei Tulafono Faatonutonu o lo o mafai ona faatauina atu, mai le Ofisa o le Failautusi o le Fono Aoaio Faitulafono.

**Lolomiina e le Failautusi o le Fono Aoaio Faitulafono,
i le pule a le Fono Aoaio Faitulafono.**

SAMOA

**CUSTOMS (TOURISM AND MANUFACTURING
DEVELOPMENT) REGULATIONS 2010**

Arrangement of Provisions

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Pursuant to sections 163A and 279 of the Customs Act 1977, **I, TUI ATUA TUPUA TAMASESE EFI**, Head of State, acting on the advice of Cabinet **MAKE** the following regulations:

DATED at Apia this 17th day of May 2010.

signed: (Tui Atua Tupua Tamasese Efi)
HEAD OF STATE

REGULATIONS

1. Short title and commencement-(1) These regulations may be cited as the Customs (Tourism and Manufacturing Development) Regulations 2010.

(2) These regulations commence on the day they are made.

2. Interpretation - In these regulations, unless the context otherwise requires:

“Act” means the Customs Act 1977;

“applicant” means a person applying for approval of a qualifying project under section 163A of the Act and these regulations;

“approved person” means a person who has received approval for a “qualifying project” in regards to a particular development project under section 163A of the Customs Act 1977;

“authorised officer” means an Officer authorised by the Comptroller, the Chief Executive Officer of the Ministry of Commerce, Industry and Labour or the Chief Executive Officer of the Ministry of Finance;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for Commerce, Industry and Labour;

“Comptroller” means the Comptroller of Customs and includes any officer lawfully acting in place of the Comptroller, whether during any vacancy in the office of the Comptroller or otherwise;

“Investment Committee” means the Investment Committee made up of the Chief Executive Officers of the Ministry of Finance, Ministry for Revenue, Ministry of Commerce, Industry and Labour, Ministry of Natural Resources and Environment, Ministry of Women, Community and Social Development, the Governor of the Central Bank, the Attorney General and any other individual co-opted into the Investment Committee for the assessment of a qualifying project and approved goods;

“manufacturing development project” means a project that would contribute favourably to the social, economic and environmental well being of Samoa.

3. Criteria for “qualifying project”-(1) For the purposes of section 163A of the Act, the criteria for a qualifying project shall be determined and applied in accordance with these regulations.

(2) A qualifying project shall be limited to projects recommended by the Chief Executive Officer, and which Cabinet has advised the Minister of Finance to approve for the construction or expansion of:

- (a) a motel, hotel or beach resort; or
- (b) a manufacturing development project.

(3) For each motel, hotel or beach resort, an application shall be recommended to Cabinet for acceptance as a qualifying project if the Chief Executive Officer certifies that the applicant’s project:

- (a) is either a new development project to construct at least 12 rooms or self contained units, or is an expansion development project for the construction of at least four (4) additional rooms or two (2) additional self contained units, or is a recovery reconstruction of a development project damaged by the tsunami of 29 September 2009; and
- (b) has a capital investment in the new development project equal to or more than \$1 million tala as confirmed in writing by the Chief Executive Officer of the Ministry of Finance; and
- (c) will be of benefit to the economy of Samoa; and
- (d) is in the public interest; and
- (e) is to be conducted by an approved person with a business licence issued under the Business Licences Act 1998; and

- (f) has a principal objective to provide short term tourist accommodation and not long term accommodation leases such as apartments and flats; and
 - (g) is not a development project for the construction of beach fale; and
 - (h) is, where appropriate, consistent with the Tourism Development Plan approved from time to time by the Samoa Tourism Authority.
- (4) In the case of each motel, hotel or beach resort, no application shall be recommended to Cabinet for acceptance as a qualifying project for a recovery reconstruction of a development project due to damage from the tsunami of 29 September 2009 after 31 December 2012.
- (5) For each manufacturing development project, an applicant shall be granted the status of a qualifying project if the Chief Executive Officer certifies that the applicant's project:
- (a) has a principal objective of manufacturing, processing, or assembling products for domestic markets and markets outside of Samoa; and
 - (b) will benefit the economy of Samoa; and
 - (c) is in the public interest; and
 - (d) is to be conducted by an approved person with a business licence issued under the Business Licences Act 1998.

4. Application for qualifying project-(1) A person who seeks to obtain exemption from duty under section 163A of the Act must first make an application to the Chief Executive Officer.

(2) The Chief Executive Officer shall process and assess all applications and prepare a written report of his or her findings and recommendations to the Investment Committee.

(3) Acting on the report and recommendations of the Chief Executive Officer, the Investment Committee shall assess all applications and make a suitable recommendation to Cabinet.

(4) Where the proposed project directly relates to the tourism industry, a representative of the Samoa Tourism

Authority shall be co-opted into the Investment Committee during the assessment of such project.

(5) An application made under these regulations shall contain such particulars as may be required by the Chief Executive Officer and shall include:

- (a) the full name, address and present occupation or main business of the applicant, and, if the applicant is a public or private company, full details regarding the officers and shareholders of the company and its registered office; and
- (b) the full names of the principals or intended directors, their addresses, bank and other financial references, previous background and experience in the product to be manufactured or provided, or services to be rendered; and
- (c) the nature of the applicant's project, the resulting product or service, the anticipated volume of operation during each of the first 10 years of production, where and how the product or service is to be marketed, and the price at which the applicant expects to be able to market the product or service; and
- (d) the number of existing businesses in Samoa producing a similar product and their annual production levels, if known; and
- (e) the estimated sources, amounts, from cash or otherwise and purposes of the capital intended to be expended on the qualifying project during each of the first 10 years of production; and
- (f) a description and estimation of the cost of physical structures to be erected or added, and of capital equipment to be purchased; and
- (g) any building materials, plant, machinery, and other articles which the applicant claims will be required for the qualifying project, and which they seek to be allowed to obtain wholly or partly free of customs duty and as to each of

them whether it will be wholly or only partly used for those purposes and, if only partly used, the extent of such part use; and

- (h) the locality in which the qualifying project will be situated, and the site where any structures will be erected, including architectural plans, and approvals in writing for that locality and site from the Planning and Urban Management Agency; and
- (i) the nature of the land title applying to that site held or expected to be obtained by the applicant, and if an applicant's project is to be built upon customary land, a copy of the relevant lease agreement; and
- (j) the terms and conditions under which workers will be employed, including salaries, wages and any provision for amenities and housing of the workers, and the numbers of Samoans and of other workers intended to be employed initially, and during each of the first 10 years of production, and a description of the duties of such employees; and
- (k) the arrangements proposed for apprenticeships or for other training of Samoan workers, so as to increase the proportion of such workers to be employed in the applicant's project; and
- (l) the date on or before which it is expected that –
 - (i) work on the project is to commence; and
 - (ii) marketable quantities of the product are intended to be manufactured or otherwise produced, or the service intended to be rendered; and
- (m) an estimated product cost analysis including operating costs, and a copy of a product or service marketability survey; and

- (n) for a motel, hotel and beach resort, an architectural plan for the proposed project so as to ascertain the total number of units or rooms to be constructed; and
 - (o) such other information as the Chief Executive Officer may require.
- (6) An application recommended for approval shall be referred by the Investment Committee to Cabinet who shall then advise the Minister of Finance to approve under section 163A of the Act.
- (7) Despite any other regulation, Cabinet or the Minister of Finance may refuse to approve the application for qualifying project if they are of the opinion that the granting of the approval will affect the revenue of Government to a degree that is not in the national interest, or for any other reason.

5. Criteria for “approved goods”-(1) For the purposes of Section 163A of the Act, approved goods shall be limited to the goods specified in subregulations (2) and (3) and approved subject to requirements and conditions provided in regulations 6 and 7.

(2) Approved goods in respect of a motel, hotel or beach resort are capital goods used solely for a qualifying project and are limited to the following:

- (a) construction materials, equipment and tools used in the construction of buildings and plants;
- (b) office amenities and other office equipment;
- (c) vessels of any kind to be used solely by guests at the hotel, motel or beach resort;
- (d) sporting goods and equipment used solely for marine and water sports and gymnasiums used by guests at the hotel, motel or beach resort;
- (e) fixtures, fittings and furniture;
- (f) plant equipment required for water and sewerage treatment plants.

(3) Approved goods in respect of a manufacturing development project are capital goods used solely for a qualifying project and are limited to the following:

- (a) plant, equipment and building materials;

- (b) goods used solely for converting or processing raw materials;
- (c) imported raw materials.

6. Application for “approved goods”-(1) An approved person who seeks to import any approved goods in respect of a qualifying project under section 163A of the Act must first submit an application to the Chief Executive Officer in accordance with these regulations.

(2) All applications shall be assessed by the Investment Committee who shall advise the Chief Executive Officer to:

- (a) recommend accepting the application for approved goods in whole or in part; or
- (b) decline the application; or
- (c) seek further details if required.

(3) Where the proposed project directly relates to the tourism industry, a representative of the Samoa Tourism Authority shall be co-opted into the Investment Committee during the assessment of such project.

(4) All applications made under these regulations shall contain such particulars as may be required by the Comptroller and the Chief Executive Officer, and shall include:

- (a) a full list of goods to be imported; and
- (b) sufficient information or description of goods such as the harmonised system description so as to assist in determining the applicable tariff rate; and
- (c) a detailed description of proposed use of goods; and
- (d) written confirmation that the goods are being imported solely to be used on a qualifying project; and
- (e) an undertaking that the full duty payable for the goods shall be paid if they are later sold within Samoa, or used by any person other than the approved person for any other purpose.

(5) An application recommended for approval by the Chief Executive Officer shall be referred to the Chief Executive Officer of the Ministry of Finance for consideration under section 163A of the Act.

(6) Despite any other provision in these regulations, the Chief Executive Officer of the Ministry of Finance may refuse to approve in whole or in part the application for approved goods if he or she is of the opinion that the granting of the approval in whole or in part will affect the revenue of Government to a degree that is not in the national interest, or for any other reason.

7. Conditions and restrictions for goods imported under section 163A-(1) Import duty concessions granted under section 163A of the Act may be granted subject to the following conditions:

- (a) every approved person shall in respect of each qualifying project carried on by that person keep, to the satisfaction of the Comptroller and the Chief Executive Officer -
 - (i) full records and accounts of all financial transactions, assets, liabilities and funds; and
 - (ii) full records and inventories of all items imported by them into Samoa; and
 - (iii) full records and inventories of all products manufactured, produced, processed or assembled by them; and
 - (iv) full records and inventories of all stocks of products held by them; and
 - (v) full records of all products exported by them from Samoa, or sold or disposed of within Samoa;
- (b) where the qualifying project relates to an expansion of a current business operation, the records, accounts and affairs of the matters referred to in paragraph (a) and which relate to expansion shall

be kept wholly separate from the original business activities at all times;

- (c) all approved goods imported for a qualifying project shall be kept in a secure manner and shall be subject to conditions that may be imposed by an authorised officer to ensure the security of the stored approved goods;
- (d) upon the granting of an approval for a qualifying project, all approved goods for the construction of that project must be imported into Samoa within 24 months from the date of the commencement of construction of the qualifying project unless extended in writing by the Chief Executive Officer of the Ministry of Finance;
- (e) any authorised officer shall be entitled during reasonable hours to enter and inspect the premises where a qualifying project is or has been conducted, and to inspect and take copies of the records pertaining to that project for the purpose of ascertaining whether the provisions of this regulation are being complied with;
- (f) for a motel, hotel or beach resort, construction work on the qualifying project must commence within three (3) months from the date the first shipment of approved goods is imported into Samoa;
- (g) for office amenities or other office equipment, fixtures, fittings and furniture, sporting goods, and plant equipment, such approved goods can only be granted duty assistance on one (1) occasion only during the establishment of qualifying project, and must arrive in Samoa within one (1) year from the date approval was given for the qualifying project;
- (h) for a manufacturing development project, the finished products manufactured at the plant must be sent overseas within 12 months from the date the approved goods were released by the

Ministry for Revenue, unless decided otherwise by the Chief Executive Officer of the Ministry of Finance;

- (i) for any class of approved goods identified by the Chief Executive Officer, the Chief Executive Officer of the Ministry of Finance may fix a minimum or maximum value calculated on a per item basis as a total value of any proposed shipment of the goods for any type of goods before being eligible for duty assistance;
 - (j) for construction equipment and tools including heavy plant and machinery, such goods may be re-exported by the approved person -
 - (i) after completion of the construction of the qualifying project; or
 - (ii) if required by the Chief Executive Officer of the Ministry of Finance;
 - (k) all customs duties are due and payable to the Ministry for Revenue for all construction equipment and tools including heavy plant and machinery, that are not re-exported by the approved person when the construction of the project is completed;
 - (l) for a manufacturing development project, duty relief may only be considered for imported raw materials if such materials are not available locally or such other reason as determined by the Chief Executive Officer of the Ministry of Finance;
 - (m) any other condition for any approved goods that the Chief Executive Officer of the Ministry of Finance deems appropriate.
- (2) An authorised officer may be authorised in writing by the Chief Executive Officer or the Comptroller to inspect the premises and records pertaining to a particular qualifying project or projects generally.

(3) No approved goods with exemption or relief from any duty under Section 163A of the Act shall be sold, given away or otherwise disposed of except:

- (a) with the prior written approval of the Chief Executive Officer of the Ministry of Finance; or
- (b) where an assignee of a business acquires the approved goods as part of the assignment; or
- (c) upon the approved person or relevant assignee as the case may be paying to the Comptroller customs duty on the value of the article sold, given away or otherwise disposed of, as assessed at the date of the sale, gift or other disposal, less any customs duty already paid for the approved goods and not refunded.

(4) Duty previously exempted under section 163A of the Act shall become due and payable if an approved person or relevant assignee as the case may be within five (5) years of commencement of its operation or receiving import duty exemption or any other longer time frame as may be determined by the Chief Executive Officer:

- (a) ceases business operations; or
- (b) fails to meet the criteria or conditions provided in these regulations; or
- (c) the requirement or condition upon which import duty assistance was initially granted has not been complied with.

(5) Any person importing approved goods in respect of a qualifying project under Section 163A of the Act who fails to comply with any of the provisions of these regulations, or who obstructs an authorised officer while that officer is carrying out or attempting to carry out an inspection authorised by regulation 7(1)(d) of these regulations commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding one (1) year or to a fine not exceeding 500 penalty units, or both.

8. Offences-(1) Any person who, otherwise than in accordance with these regulations, sells or disposes of or possesses or uses any approved goods imported under section 163A of the Act for use in relation to a qualifying project commits an offence, and shall be liable upon conviction to imprisonment for a term not exceeding one (1) year or to a fine not exceeding 500 penalty units, and the goods shall be forfeited.

(2) Any person who knowingly supplies any false or misleading information in relation to any application made under these regulations commits an offence, and shall be liable upon conviction to imprisonment for a term not exceeding one (1) year or to a fine not exceeding 500 penalty units, and the goods shall be forfeited.

(3) Any person who contravenes any of the provisions of these regulations shall be guilty of an offence and on conviction shall be liable to a fine not exceeding 250 penalty units.

(4) Where at any time a body corporate commits an offence under these regulations with the consent of, connivance by or because of neglect by, any individual, the individual commits the same offence if at that time the individual is a director, manager or other officer of the body corporate, or the individual is purporting to be acting as a director, manager or other officer of the body corporate.

(5) Lack of knowledge that the offence was being committed may be raised as a defence by the individual who commits any offence under subregulation (4).

Issued under the authority of the Regulations Ordinance 1953.

Date of Commencement: 17th May 2010

These Regulations are administered by the Ministry for Revenue.

**Copies of these Regulations can be purchased from
the Office of the Clerk of the Legislative Assembly.**

**Printed by the Clerk of the Legislative Assembly,
by authority of the Legislative Assembly.**