

- (q) claim arising out of an act which is or is claimed to be a general average act;
  - (r) claim for the forfeiture of condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty;
  - (s) claim arising out of the sale or purchase of a ship.
- (4) In addition to the jurisdiction specified in subsection (3), the Court shall continue to have any other admiralty jurisdiction which was vested in it immediately before the commencement of this Act, whether at Common Law or under Statute.
- (5) The jurisdiction of the Court under subsection (3)(b) includes powers to -
- (a) settle any account outstanding and unsettled between the parties in relation to the ship;
  - (b) direct that the ship, or any share thereof, shall be sold;
  - (c) make such other order as the Court thinks fit.
- (6) The preceding provisions of this section apply
- (a) in relation to all ships, whether Tongan ships or not, and whether registered or not, and wherever the nationality or residence or domicile of their owners may be;
  - (b) in relation to all claims, wheresoever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land);
  - (c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not, and whether legal or equitable, and whether fixed or floating, including mortgages and charges created under foreign law:
- Provided that nothing in this subsection shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the Shipping Act.

#### 5. Actions in Personam

Subject to section 7, an action in personam may be brought in the Supreme Court in all cases within the Admiralty jurisdiction of that Court.

#### 6. Actions in Rem

- (1) In any case in which there is a maritime lien or other charge on any ship or other property for the amount claimed, an action in rem may be brought in the Supreme Court against that ship or property.
- (2) In addition to the rights conferred by subsection (1) the admiralty jurisdiction of the Court may be invoked by an action in rem in respect of all questions and claims specified in section 4(3),



I assent,

GEORGE TUPOU V,

13th February, 2009.

## AN ACT

### TO MAKE PROVISIONS WITH RESPECT TO THE JURISDICTION IN ADMIRALTY OF THE SUPREME COURT OF THE KINGDOM OF TONGA

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

#### 1. Short Title and Commencement

- (1) This Act may be cited as the Admiralty Act 2008.
- (2) This Act Shall come into force on a date to be proclaimed by His Majesty in Council.

#### 2. Interpretation

In this Act, unless the context otherwise requires -

"Collision Regulations" has the same meaning as in the Shipping Act (Cap 136);

"Court" means the Supreme Court;

"goods" include baggage;

"hovercraft" means a form of transport which is designed to be supported when in motion wholly or partly by air expelled from it to form a cushion of which the boundaries include the ground, water, or any other surface beneath it;

"maritime lien" means claims within the meaning of Article 2 of the International Convention for the Unification of Certain Rules of Law Relating to Maritime Liens (Brussels, April 1926), which is set forth in the Schedule annexed to this Act;

"master" in relation to any ship, means any person (except a pilot) having command or charge of the ship;

"Tongan water" means—

- (a) the internal waters of Tonga;
- (b) the territorial sea of Tonga;
- (c) the contiguous waters of Tonga;
- (d) the waters of the Exclusive Economic Zone of Tonga; or, if Tonga has not established such a zone, the area Tonga would be entitled to establish as its Exclusive Economic Zone;

"ship" includes any description of vessel used in navigation; and includes an hovercraft and any aircraft while afloat; and

"Supreme Court" means the Supreme Court of Tonga and any Court hearing an appeal from the Supreme Court.

### 3. Admiralty Jurisdiction of the Supreme Court

- (1) The Supreme Court shall have exclusive admiralty jurisdiction.
- (2) In exercising the jurisdiction conferred by this Act, the Court may exercise at the same time any of its other civil jurisdictions, whether statutory or otherwise, and all powers incidental thereto, except to the extent inconsistent with admiralty law and practice.

### 4. Extent of admiralty jurisdiction

- (1) For the purposes of subsection (3)(f) the term "wrongful act, neglect or defect" means an act, neglect or default in the navigation or management of the ship; in the loading, carriage or discharge of goods on, in, or from the ship; or in the embarkation, carriage or disembarkation of persons on, in or from the ship.
- (2) The Admiralty jurisdiction of the Supreme Court shall be as follows, namely —
  - (a) jurisdiction to hear and determine any of the questions and claims mentioned in subsection (3);
  - (b) jurisdiction in relation to any of the proceedings mentioned in subsection (3); and
  - (c) any jurisdiction connected with ships which is vested in the Supreme Court apart from this section.

- (3) The questions and claims referred to in subsection (2)(a) are any —
  - (a) claims to the possession or ownership of a ship or to the ownership of any share therein;
  - (b) question arising between the co-owners of a ship as to possession, employment, or earnings of that ship;
  - (c) claim in respect of a mortgage of or charge on a ship or any share therein;
  - (d) claim for damage done by a ship;
  - (e) claim for damage received by a ship;
  - (f) claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act, neglect or default of —
    - (i) the owners, charterers or persons in possession or control of a ship; or
    - (ii) the master or crew of a ship or any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible;
  - (g) claim for loss of or damage to goods carried in a ship;
  - (h) claim arising out of any agreement relating to the carriage of goods in a ship or to the charter, use or hire of a ship;
  - (i) claim in the nature of salvage;
  - (j) claim in the nature of towage in respect of a ship;
  - (k) claim in the nature of pilotage in respect of a ship;
  - (l) claim in respect of goods, materials, or services (including stevedoring and lighterage services) supplied to or to be supplied to a ship for her operation or maintenance;
  - (m) claim in respect of the construction, repair, or equipment of a ship or in respect of dock or port or harbour charges or dues;
  - (n) claim by a master or member of the crew of a ship for wages, (including any sum allotted out of wages or adjudged to be due by way of wages);
  - (o) claim by a master, shipper, charterer, or agent in respect of disbursements made on account of a ship;
  - (p) claim arising out of bottomry or respondentia;

Provided that

- (a) in the case of any such claim as is specified in paragraphs (a), (b), (c), (q) and (s) of section 4(2), the admiralty jurisdiction in rem may be invoked against only the particular ship or property in respect of which the questions or claims arose:
- (b) in the case of any such claim as is specified in paragraphs (d) to (p) and (r) of section 4 (2) where
  - (i) the claim arises in connection with a ship; and
  - (ii) the person who would be liable in an action in personam (“the relevant person”) was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship,
- (c) an action in rem may be brought in the Court against
  - (i) that ship if, at the time when the action is brought, it is beneficially owned in respect of all the shares therein by, or is on charter by demise to, the relevant person; or
  - (ii) any other ship which, at the time when the action is brought, it is beneficially owned in respect of all the shares of that ship, or is on charter by demise to, the relevant person.
- (3) Where in the exercise of its admiralty jurisdiction (whether in rem or in personam) the Court orders any ship or other property to be sold, the Court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale and the ranking of claims to such proceeds.

## **7. Restrictions on proceedings**

- (1) No claim in personam shall lie unless
  - (i) the defendant ordinarily resides in Tonga or has a place of business within Tonga;
  - (ii) the cause of action arose within Tongan waters; or
  - (iii) an action arising out of the same incident or series of incidents is proceeding in the Court or has been heard and determined in the Court,in respect of damage, loss of life, or personal injury arising out of
  - (a) a collision between ships;
  - (b) the carrying out of, or omission to carry out, a manoeuvre in the case of one or more of two or more ships;
  - (c) non compliance on the part of one or more ships with the Collision Regulations.

- (2) No action in personam shall be brought in the Court until any proceedings previously brought by the plaintiff against the defendant in any Court outside Tonga in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.
- (3) This section shall not apply where the defendant in writing submits or has agreed to submit to the jurisdiction of the Court.

#### **8. Action for wages**

Nothing in this Act shall be construed as limiting the jurisdiction of the Court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a Tongan ship.

#### **9. Act to bind the Crown**

This Act shall bind the Crown.

#### **10. Rules of procedure and regulations as to fees**

- (1) Subject to the provisions of Order 42 Rule 2 of the Supreme Court Rules, its admiralty jurisdiction may be made in the same manner as is provided in the Constitution for the making of rules for practice and procedure in the Court.
- (2) Any ship arrested or detained in Tongan waters shall not be released from arrest or detention until there has been provided, in a form acceptable to the Court, a Guarantee for the full amount of the claim (plus an additional amount in respect of interest, costs and disbursements) from either a financial institution licensed to engage in banking business in Tonga or the Ship's Protection and Indemnity Club.
- (3) All fees payable under this Act may be prescribed under the Court Fees Act.

#### **11. Transfer of proceedings from or to admiralty jurisdiction**

Without prejudice to Section 3(1) the Court may, of its own volition or upon application, at any stage order that any proceedings be transferred from or to the Court in its admiralty jurisdiction.

#### **12. Appeals**

The rules relating to appeals to the Court of Appeal against a decision of the Court shall apply with respect to a decision of the Court in its admiralty jurisdiction.

Passed by the Legislative Assembly this 9th day of October, 2008.

## **SCHEDULE**

(Section 2)

### **Article 2 of the 1926 Brussels Convention**

#### **“Article 2**

The following give rise to maritime liens on a vessel, on the freight for the voyage during which the claim giving rise to the lien arises, and on the accessories of the vessel and freight accrued since the commencement of the voyage:

- (1) Law costs due to the State, and expenses incurred in the common interest of the creditors in order to preserve the vessel or to procure its sale and the distribution of the proceeds of sale; tonnage dues, light or harbour dues, and other public taxes and charges of the same character; pilotage dues; the cost of watching and preservation from the time of the entry of the vessel into the last port;
- (2) Claims arising out of the contract of engagement of the master, crew, and other persons hired on board;
- (3) Remuneration for assistance and salvage, and the contribution of the vessel in general average;
- (4) Indemnities for collision or other accident of navigation, as also for damage caused to works forming part of harbours, docks, and navigable ways; indemnities for personal injury to passenger or crew; indemnities for loss of or damage to cargo or baggage;
- (5) Claims resulting from contracts entered into or acts done by the master, acting within the scope of his authority, away from the vessel's home port, where such contracts or acts are necessary for the preservation of the vessel or the continuation of its voyage, whether the master is or is not at the same time owner of the vessel, and whether the claim is his own or that of ship chandlers, repairers, lenders, or other contractual creditors.”

- (r) 'eke tupu mei ha mole ki he Kalauni pe ko e tapui 'o ha vaka pe ko e ngaahi koloa 'a ia 'oku lolotonga uta pe kuo uta, pe kuo feinga ke uta, 'i ha vaka, pe tupu mei he fakafoki ha vaka pe ha ngaahi koloa hili hono puke, pe ko hono ma'u fakamalohi ha koloa 'a e fili (droits of Admiralty);
- (s) 'eke tupu mei ha fakatau atu pe fakatau mai 'o ha vaka.
- (4) 'O tanaki atu ki he mafai 'oku fakamahino'i 'i he kupu si'i (3), kuo pau ke hoko atu 'a e mafai 'o e Fakamaau'anga fekau'aki mo e folauvaka 'a ia na'a ne ma'u kimu'a pea kamata ngaue'aki 'a e Lao ni, 'o tatau pe 'i he Lao Faka Fakamaau'anga (common law) pe Lao (Statute).
- (5) Ko e mafai 'o e Fakamaau'anga 'i he kupu si'i (3)(b) 'oku kau ai 'a e mafai ke
- (a) tu'utu'uni ke totongi ha 'akauni 'oku ta'etotongi pe 'oku te'eki ke totongi 'i he vaha'a 'o e ngaahi fa'ahi 'o fekau'aki mo ha vaka;
- (b) tu'utu'uni kuo pau ke fakatau atu 'a e vaka ko ia, pe ha 'inasi 'i ai;
- (c) tu'utu'uni ha me'a kehe pehe 'e fakakaukau 'a e Fakamaau'anga 'oku taau.
- (6) 'Oku ngaue'aki 'a e ngaahi tu'utu'uni kimu'a 'o e kupu ni
- (a) ki he ngaahi vaka kotoa pe, 'o tatau aipe pe ko e ngaahi vaka Tonga pe 'ikai, pea tatau pe 'oku lesisita pe 'ikai, pea tatau aipe pe ko e ha 'a e tangata'i fonua pe ko e feitu'u 'oku nofo ai 'a e kakai 'oku 'onautolu 'a e vaka;
- (b) ki he ngaahi 'eke kotoa pe, 'o tatau aipe pe na'e tupu mei fe (kau ai, kapau ko ha uta pe fakahaofi ha vaka tukia, 'a e ngaahi 'eke fekau'aki mo e uta pe ha me'a mei he vaka tukia kuo tekina 'o ma'u 'i 'uta);
- (c) fekau'aki mo e ngaahi mokisi mo e ngaahi mo'ua, ki he ngaahi mokisi pe ngaahi mo'ua kotoa pe, 'o tatau aipe pe kuo 'osi lesisita pe 'ikai, 'o tatau pe ko e fakalao pe fakaetotonu (equitable), pea tatau pe 'e hilifaki ki ha koloa pau pe 'e hilifaki ki he koloa fakakatoa, kau ai 'a e ngaahi mokisi mo e ngaahi mo'ua kuo fa'u 'i ha lao 'o ha fonua muli;

Ka kuo pau 'e 'ikai ha me'a 'i he kupu si'i ni 'e faka'uhinga'i ke kau ai ha ngaahi me'a 'e ala ma'u ai ha pa'anga pe ha koloa 'o fakatatau ki he ngaahi kupu 'o e Lao ki he Folau Vaka.

##### 5. Hopo ha ongo fa'ahi fakafo'ituitui

Fakatatau ki he kupu 7, 'e ngofua ke hopo ha ongo fa'ahi fakafo'ituitui 'i he Fakamaau'anga Lahi fekau'aki mo e ngaahi me'a kotoa pe 'i loto'i mafai 'o e Fakamaau'anga fekau'aki mo e folauvaka.

## Tonga.

Fika 16 'o e 2008.



'Oku ou loto ki ai,

SIAOSI TUPOU V,

13 'o Fepueli, 2009.

## KO E LAO

### KE TU'UTU'UNI KI HE MAFAI 'O E FAKAMAAU'ANGA LAHI 'O E PULE'ANGA 'O TONGA KI HE FOLAU TAHI

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

#### 1. Hingoa Nounou mo e kamata'anga

- (1) 'E ui 'a e Lao ni ko e Lao ki he Fakamaau'anga Folau Tahī 2008.
- (2) Kuo pau 'e kamata ngaue'aki 'a e Lao ni 'i ha 'aho 'e tu'utu'uni 'e he 'Ene 'Afio 'i he Fakataha Tokoni.

#### 2. 'Uhinga'i Lea

'I he Lao ni, tukukehe 'okapau 'e fiema'u ha 'uhinga kehe 'i hono tu'unga

"Ngaahi Tu'utu'uni Fepaki" 'oku 'uhinga tatau mo ia 'oku ha 'i he Lao ki he Folau Vaka 'oku ngaue'aki mei he taimi ki he taimi;

"Fakamaau'anga" 'oku 'uhinga ki he Fakamaau'anga Lahi 'o Tonga;

"Ngaahi Koloa" 'oku kau heni 'a e ngaahi uta 'a e pasese;

"huvakalafi" 'oku 'uhinga ki ha me'angaue ki he fe'alu'aki 'oku fo'u ke teke fakakonga pe teke kakato 'aki 'a e 'ea 'oku ne puhi'i kitu'a 'o lava 'e he 'ea ko ia 'o puke ki 'olunga mei he kekekele, vai pe ha fukahi me'a kehe 'i lalo ai;

“mo'ua folau tahi”'oku 'uhinga ki ha ngaahi 'eke 'i he loto'i taumu'a 'o e 'Atikolo 2 'o e Konivesio Fakavaha'apule'anga ki hono Fa'utaha 'o e Ngaahi Tu'utu'uni Ni'ihi 'o e Lao Fekau'aki mo e Ngaahi Mo'ua Folau Tahī (Brussels, 'Epeleli 1926) pea koe'uhi ke faingofua atu 'oku ha 'a e Atikolo ni 'i he Tepile 'oku fakapipiki ki he Lao ni.

“'Eikivaka” 'o fekau'aki mo ha fa'ahinga vaka, 'oku 'uhinga ki ha taha (tukukehe 'a e pailate) 'a ia 'oku ne tu'utu'uni pe pule'i 'a e vaka;

“Ngaahi potutahi 'o Tonga” 'oku 'uhinga ia ki he

- ngaahi potutahi fakalotofonua 'o Tonga;
- tahi fakafeitu'u 'o Tonga;
- tahi konitikuasi (contiguous) 'o Tonga;
- potutahi 'o e Sone Faka'ekonomika Mavahe (EEZ) 'o Tonga; pe, kapau kuo te'eki ai ke fokotu'u 'e Tonga ha sone pehē, ko e 'elia 'e totonu ke fokotu'u 'e Tonga 'i hono Sone Faka'ekonomika Mavahe' (EEZ);

“vaka”'oku 'uhinga ki ha fa'ahinga vaka pe 'oku ngaue'aki ki he folau tahi; pea kau heni ha huvakalafi mo ha fa'ahinga vakapuna lolotonga 'ene teetee 'i he vai;

“Fakamaau'anga Lahi” 'oku 'uhinga ki he Fakamaau'anga Lahi 'o Tonga mo ha fa'ahinga fakamaau'anga 'oku ne fakamaau'i ha tangi mei he Fakamaau'anga Lahi;

### 3. Mafai 'o e Fakamaau'anga Lahi ki he Folau Tahī

- Kuo pau ke 'i he Fakamaau'anga Lahi 'a e mafai kakato ki he folau tahi.
- 'I hono ngaue'aki 'a e mafai kuo foaki 'e he Lao ni, 'e ngofua ke ngaue'aki 'e he Fakamaau'anga 'i he taimi tatau ha ni'ihi 'o hono mafai fakasivile kehe, 'o tatau pe 'oku tu'utu'uni 'e he lao pe 'ikai, mo hono ngaahi mafai kotoa pe fekau'aki mo ia, tukukehe ka 'oku fepaki ia mo e lao mo e founga ngaue 'o e folau tahi.

### 4. Lahi 'o e Mafai fakafolau tahi

- Ki he ngaahi taumu'a 'o e kupu si'i (3)(f) ko e fo'i lea “ngaue hala, ta'etokanga pe fehalaaki” 'oku 'uhinga ki ha ngaue ta'etokanga pe ha fehalaaki 'i he faifolau pe ko e pule'i 'o e 'a e vaka, fakahaka, uta pe fakahifo 'o e ngaahi koloa 'i he funga vaka, 'i loto pe mei he vaka; pe ko e fakahaka 'o e kakai, uta pe fakahifo 'o e kakai 'i he funga vaka, 'i loto pe mei he vaka.
- Ko e mafai 'eni 'o e Fakamaau'anga Lahi ki he Folau Tahī, ko e
  - mafai ke fakamaau'i mo tu'utu'uni ki ha ngaahi fehu'i pe ngaahi 'eke 'oku ha 'i he kupu si'i (3);
  - mafai fekau'aki mo ha fa'ahinga hopo 'oku ha 'i he kupu si'i (3); mo e
  - mafai 'o e Fakamaau'anga Lahi fekau'aki mo ha ngaahi vaka kehe mei he kupu ni.

- Ko e ngaahi fehu'i mo e ngaahi 'eke 'oku lau ki ai 'i he kupu si'i (2)(a) ko ha

- ngaahi 'eke pe ko hai 'e 'i ai pe ko hai 'oku 'onautolu ha vaka pe ko hai 'oku ma'u 'inasi 'i ai;
- fa'ahinga fehu'i 'e 'eke'i 'i he vaha'a 'o e ni'ihi 'oku 'onautolu 'a e vaka pe ko hai 'e 'i ai 'a e vaka, fekau'aki mo e kau ngaue totongi, pe ko e pa'anga hu mai 'o e vaka ko ia;
- 'eke fekau'aki mo ha mokisi 'o e pe ko ha mo'ua 'i ha vaka pe ko ha 'inasi 'i ai;
- 'eke 'i ha maumau na'e fakahoko 'e ha vaka;
- 'eke 'i ha maumau kuo hoko ki ha vaka;
- 'eke 'i ha mole ha mo'ui pe lavea fakatautaha kuo hoko tupu mei ha fa'ahinga fehalaaki 'i ha vaka pe 'i hono ngaahi naunau mo e me'angaue, pe tupu mei ha ngaue hala, ta'etokanga pe ta'efakahoko totonu 'o ha ngaue 'e he
  - kakai 'oku 'onautolu 'a e vaka, kau no vaka pe kakai 'oku 'i ai pe 'oku nau pule'i 'a e vaka; pe
  - 'eikivaka pe kau kavaka 'o ha vaka pe ha taha kehe 'a ia ko 'ene ngaahi ngaue hala, ta'etokanga pe ta'efakahoko hono fatongia totonu 'e fua ia 'e he kakai 'oku 'onautolu, kau no vaka pe ko e kakai 'oku 'i ai 'a e vaka pe 'oku nau pule'i 'a e vaka;
- 'eke 'i ha mole pe maumau ha ngaahi koloa na'e uta 'i ha vaka;
- 'eke tupu mei ha aleapau fekau'aki mo hono uta 'o ha ngaahi koloa 'i ha vaka pe fekau'aki mo hono no, ngaue'aki pe haea 'o ha vaka;
  - 'eke fekau'aki mo e fakahaofi 'o e mo'ui pe ko ha vaka;
  - 'eke fekau'aki mo e toho 'o ha vaka;
  - 'eke fekau'aki mo hono pailate'i 'o ha vaka;
  - 'eke fekau'aki mo ha ngaahi koloa, ngaahi naunau, pe sevesi (kau ai 'a e sitivatoa mo e ngaahi sevesi hiki koloa) 'oku 'oatu pe 'e 'oatu ki ha vaka fekau'aki mo hono fakalele pe tauhi;
- 'eke fekau'aki mo e fo'u, monomono pe naunau 'o ha vaka pe fekau'aki mo e ngaahi totongi no'o pe taulanga pe uafu;
- 'eke mei ha 'eikivaka pe ha memipa 'o e kau kavaka 'o ha vaka ki ha ngaahi vahe, (kau heni ha pa'anga ko to'o mei he ngaahivahe pe kuo tu'utu'uni ke fakahu ki he ngaahi vahe);
- 'eke mei ha 'eikivaka, taha fakalele vaka, taha no vaka, pe fakafongia vaka 'o fekau'aki mo e fehu'aki pa'anga na'e fakahoko fekau'aki mo ha vaka;
- 'eke tupu mei ha no ki he folau kae malu'i 'aki 'a e vaka (bottomry) pe ko e no ki he folau kae malu'i 'aki 'a e uta 'a e vaka (respondentia);
- 'eke tupu mei ha fa'ahinga ngaue 'a ia 'oku pe 'oku pehee ko ha me'a 'oku hoko angamaheni;

## TEPILE

(Kupu 2)

## ‘Atikolo 2 ‘o e Konivesio Brussels 1926

## “‘Atikolo 2

Ko e ngaahi me’a ‘eni ‘e tupu ai ha mo’ua folauvaka ‘i ha vaka, ‘i he uta ‘o e folau ‘a ia na’e tupu mei ai ‘a e ‘eke mo’ua, pea ki he ngaahi me’a kehekehe ‘e tanaki atu ki he sino’i vaka pea mo e uta kuo fakalahi atu talu mei he kamata ‘a e folau:

- (1) Ngaahi totongi lao ki he Pule’anga, mo e ngaahi fakamole na’e hoko fekau’aki mo e lelei fakalukufua ‘a e kau kuletitoa koe’uhi ke fakatolonga ‘a e vaka pe ki hono fakatau atu mo hono tufaki ‘a e pa’anga ma’u ‘i hono fakatau atu; ngaahi totongi toni, ngaahi totongi uafu mo e maama, mo e ngaahi tukuhau mo e totongi hilifaki fakapule’anga natula tatau; ngaahi totongi pailate; fakamole ki hono siofi mo le’ohi mei he taimi ‘o e hu ‘a e vaka ki he taulanga fakamuimui taha;
- (2) Ngaahi ‘eke ‘oku tupu mei ha aleapau ngaue ‘a e ‘eikivaka, kau kauvaka, mo kakai kehe ‘oku haea ke ngaue ‘i he vaka;
- (3) Vahenga fekau’aki mo e tokoni ki hono fakahaofi ha vaka, mo e ngaue tokoni angamaheni ki he vaka;
- (4) Ngaahi totongi huhu’i ki ha fepaki pe ha fakatu’utamaki kehe mei he folau vaka, pehee ki he maumau ‘e hoko ki ha ngaahi ngaue ki ha konga ‘o e uafu, ngaahi no’o’anga vaka, mo e ngaahi halanga vaka; ngaahi totongi huhu’i ki ha lavea fakafo’ituitui ki ha pasese pe kaukava; ngaahi totongi huhu’i ki he mole pe maumau ki ha uta ‘a e vaka pe uta ‘a e pasese;
- (5) Ngaahi ‘eke tupu mei ha ngaahi aleapau na’e kau ki ai pe ngaahi ngaue na’e fai ‘e he ‘eikivaka, ‘i lotu ‘i hono mafai, ‘i ha feitu’u kehe mei he taulanga tu’uma’u ‘o e vaka, kapau ‘oku fiema’u ke fakahoko ‘a e ngaahi aleapau pe ngaahi ngaue ko ia ke fakatolonga ‘a e vaka pe ke lava ‘o hoko atu ‘ene folau, ‘o tatau ai pe pe ko e ‘eikivaka ‘oku ne toe ma’u pe ‘ikai ‘a e vaka ‘i he taimi tatau, pe ko e ‘eke pe ‘a’ana pe ko e kau fakatau vaka, kau monomono vaka, pe kakai ‘oku no atu ‘a e vaka, pe ko e kau kuletitoa fakaaleapau.”

BY AUTHORITY:

Metuisela Falesiva, General Manager  
Tonga Print Ld. – 2008.

## 6. Hopo ‘eke koloa

- (1) ‘I ha fa’ahinga hopo ‘i ha mo’ua folautahi pe ha mo’ua kehe ‘i ha vaka pe ha koloa kehe ki he lahi ‘o e pa’anga ‘oku ‘eke, ‘e ngofua ke fai ha hopo ‘eke koloa ‘i he Fakamaau’anga Lahi fekau’aki mo e vaka pe koloa ko ia.
- (2) ‘O tanaki atu ki he ngaahi totonu kuo foaki ‘e he kupu si’i (1) ‘e ngofua ke fakahoko ‘a e mafai ‘o e Fakamaau’anga Lahi ki he Folau Tahī ke ‘eke koloa ‘o fekau’aki mo e ngaahi fehu’i mo e ngaahi ‘eke kotoa pe ‘oku fakamahino’i ‘i he kupu 4(3);

Ka kuo pau

- (a) ko ha ‘eke ‘oku fakamahino’i ‘i he palakalafi (a), (b), (c), (q) mo e (s) ‘o e kupu (4)(2), ‘e ngofua ke fakahoko ‘a e mafai ki he folau tahi ke ‘eke koloa ‘o fekau’aki mo e vaka pe koloa pe ko ia na’e tupu mei ai ‘a e ngaahi fehu’i pe ngaahi ‘eke;
- (b) ko ha ‘eke ‘oku fakamahino’i ‘i he palakalafi (d) ki he (p) mo e (r) ‘o e kupu 4(2) ‘a ia kapau
  - (i) ‘oku fekau’aki ‘a e ‘eke ko ia mo ha vaka; pea
  - (ii) ko e taha ko ia ‘e mo’ua ‘i ha hopo ha ongo fa’ahi fakafo’ituitui (“ko e taha kaunga tonu”) na’e ‘o’ona ‘a e vaka pe na’a ne no ‘a e vaka, pe na’e ‘i ai pe na’a ne fakalele ‘a e vaka, ‘i he taimi na’e hoko ai ‘a e me’a ‘oku fai ai ‘a e hopo,
- (c) ‘e ngofua ke faka’ilo ‘i ha hopo ‘eke koloa ‘i he Fakamaau’anga
  - (i) ‘a e vaka ko ia kapau, ‘i he taimi ‘o e faka’ilo, ‘oku kaunga ma’u fakaemonu’ia (beneficially owned) ‘a e ngaahi ‘inasi kotoa ‘i ai ‘e he, pe ‘oku no ‘a e sino’i vaka ki he, taha kaunga tonu; pe
  - (ii) ha toe vaka kehe ‘a ia, ‘i he taimi ‘o e faka’ilo, ‘oku kaunga ma’u fakaemonu’ia (beneficially owned) ‘a e ngaahi ‘inasi ko ia ‘i he vaka ko ia, pe ‘oku no ‘a e sino’i vaka ki he, taha kaunga tonu.
- (3) ‘I he ngaue’aki ‘e he Fakamaau’anga hono mafai ki he folau tahi (‘o tatau pe ‘i ha hopo ‘eke koloa pe ha hopo ha ongo fa’ahi fakafo’ituitui) pea ne tu’utu’uni ke fakatau atu ha vaka pe ha koloa kehe, kuo pau ke ma’u ‘e he Fakamaau’anga ‘a e mafai ke fakamaau’i mo tu’utu’uni fekau’aki mo ha fehu’i fekau’aki mo e totonu ki he pa’anga ‘e ma’u mei hono fakatau atu ko ia mo e anga hono fakahokohoko ‘o e ngaahi ‘eke ki he pa’anga ko ia.

## 7. Ngaahi Fakangatangata ki he ngaahi hopo

- (1) Kuo pau ‘e ‘ikai ke fai ha hopo ‘i he vaha’a ‘o ha ongo fa’ahi fakafo’ituitui tukukehe

- (i) kapau 'oku nofo 'i Tonga 'a e faka'iloa pe 'oku 'i ai hano feitu'u fai'anga pisinisi 'i Tonga; pe
- (ii) na'e hoko 'a e tupu'anga 'o e hopo 'i loto 'i he ngaahi potutahi 'o Tonga; pe
- (iii) kapau 'oku lolotonga fakahoko 'i he Fakamaau'anga ha hopo pe na'e 'osi fakamaau'i mo tu'utu'uni 'a e Fakamaau'anga fekau'aki mo ha hopo na'e tupu mei he me'a tatau pe tupu mei ha holongaa me'a tatau,

'o fekau'aki mo e maumau, mole 'a e mo'ui, pe lavea fakafo'ituitui 'e hoko mei ha

- (a) fepaki ha ongo vaka; pe
- (b) fakahoko, pe ko e ta'efakahoko, ha nga'unu (maneuve) ha vaka 'e taha pe lahi ange kapau ko ha vaka 'e ua pe lahi ange;
- (c) ta'efakahoko 'a e ngaahi Tu'utu'uni Fepaki 'e ha vaka 'e taha pe lahiange kapau ko ha vaka 'e ua pe lahi ange.

- (2) Kuo pau 'e 'ikai fakahoko ha hopo 'i he vaha'a 'o ha ongo fa'ahi fakafo'ituitui 'i he Fakamaau'anga kae'oua kuo ta'ofi pe kuo 'osi ha hopo kimu'a 'a ia na'e faka'ilo ai 'e he talatalaaki 'a e faka'iloa 'i ha fakamaau'anga 'i tu'apule'anga 'o fekau'aki mo e me'a tatau pe ko e holongaa me'a tatau.
- (3) Kuo pau 'e 'ikai ke ngaue'aki 'a e kupu ni kapau 'oku ai ha tohi mei he faka'iloa 'oku ne tukulolo pe loto ke tukulolo ki he mafai 'o e Fakamaau'anga.

## 8. Hopo 'eke'i 'o e Vahenga

Kuo pau 'e 'ikai ke faka'uhinga'i 'oku fakangatangata 'e he Lao ni 'a e mafai 'o e Fakamaau'anga ke ne fakafisinga'i ha hopo 'eke'i 'o ha ngaahi vahenga 'o e 'eikivaka pe ha memipa 'o e kau kauvaka 'o ha vaka, 'a ia 'oku 'ikai ko ha vaka Tonga.

## 9. Ha'iha'i 'e he Lao 'a e Kalauni

Kuo pau ke ha'iha'i 'e he Lao ni 'a e Kalauni.

## 10. Ngaahi Tu'utu'uni ki he founa ngaue mo e tu'utu'uni ki he ngaahi totongi

- (1) Fakatatau ki he ngaahi tu'utu'uni 'o e Fekau 42 'o e Lao 2 'o e Ngaahi Tu'utu'uni 'a e Fakamaau'anga Lahi, 'e ngofua ke ne fa'u 'a e Ngaahi Tu'utu'uni ki he founa mo e fakahoko ngaue 'a e Fakamaau'anga 'i hono mafai ki he folau tahi 'i he founa tatau 'oku tu'utu'uni 'e he Konisitutone ki hono fa'u 'o e ngaahi tu'utu'uni ki he fakahoko ngaue 'a e Fakamaau'anga.

- (2) Ka 'i ai ha vaka kuo puke pe tauhi 'i he ngaahi potutahi 'o Tonga kuo pau 'e 'ikai ke tukuange mei hono puke pe tauhi kae'oua ke 'omai, 'i ha founa 'e tali 'e he Fakamaau'anga, ha Fakapapu 'e totongi kakato 'a e 'eke (tanaki ki ai ha totongi ki he tupu, ngaahi fakamole mo e tuku atu 'o e ngaahi pa'anga) mei ha kautaha fakapa'anga kuo laiseni ke ne fakahoko ha pisinisi fakapangike 'i Tonga pe mei he Kalapu ki hono Malu'i mo Totongi Huhu'i 'o e Vaka.
- (3) Ko e ngaahi totongi kotoa pe 'oku ala totongi 'i he Lao ni 'e ngofua ke tu'utu'uni ki ai 'i he Lao ki he Ngaahi Totongi Fakamaau'anga.

## 11. Liliu 'a e hopo mei he pe ki he mafai ki he folau tahi

'E ngofua ki he Fakamaau'anga, 'iate ia pe pe 'i ha kole, 'i ha fa'ahinga taimi pe ke ne tu'utu'uni ke hiki 'a e hopo mei he pe ki he Fakamaau'anga 'i hono mafai ki he folau tahi, ka 'e 'ikai uesia ai 'a e kupu 3(1),

## 12. Ngaahi Tangi

Kuo pau ke ngaue'aki ki he ngaahi tangi ki he Fakamaau'anga Tangi 'a e ngaahi tu'utu'uni 'a e Fakamaau'anga 'i hono mafai ki he folau tahi.

Na'e tali 'e he Fale Alea 'i he 'aho ni 9 'o 'Okatopa, 2008.