

RENEWABLE ENERGY ACT 2008

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- (2) In the event of a proclamation being made under subsection (1), any matter pertaining to the proclaimed Authority, including institutional or administrative matters, that are necessary to be provided or prescribed, may be so provided or prescribed by the proclamation, or regulations made under this Act.

7. Minister as the Authority

Until such time that a proclamation is made pursuant to section 6 -

- (a) the functions and powers of the Renewable Energy Authority shall be vested in the Minister; and
- (b) there shall be a Renewable Energy Advisory Committee to advise the Minister on matters relating to renewable energy.

8. Advisory Committee

- (1) The Advisory Committee shall comprise of the following members -
 - (a) Secretary for Lands, Survey, Natural Resources and Environment, who shall be the chairman;
 - (b) Head of the Energy Planning Section of the Ministry, who shall be the secretary of the Advisory Committee; and
 - (c) 2 members appointed by the Minister from consumers of any form of renewable energy.
- (2) The members of the Advisory Committee appointed under subsection 1 (e) -
 - (a) shall hold office for 2 years, but are eligible for reappointment;
 - (b) may be terminated for inability to perform the functions of the office, neglect of duty, misconduct, or failure to comply with any disclosure of interest requirements applicable to members of the committee;
 - (c) may resign by notice in writing to the Minister, with immediate effect.
- (3)
 - (a) The quorum for a meeting of the Advisory Committee shall be the Chairman and any 4 members.
 - (b) The members of the Advisory Committee may be remunerated in accordance with Government policy.

9. Functions of the Advisory Committee

The Advisory Committee shall review and recommend to the Authority any matter relating to the functions and powers of the Authority, and the means by which they are to be implemented, and in particular to-

- (a) receive all relevant documentations relating to applications submitted pursuant to the requirements of this Act or regulations made under this Act;

Tonga.

No. 10 of 2008



I assent,

GEORGE TUPOU V,

1st June, 2009.

AN ACT

AN ACT TO REGULATE THE USE OF RENEWABLE ENERGY IN THE KINGDOM AND RELATED MATTERS

[9th, October, 2008]

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

PART 1 - PRELIMINARY

1. Short Title

This Act may be cited as the Renewable Energy Act 2008.

2. Definitions

In this Act, unless the context otherwise requires –

“Advisory Committee” means the Renewable Energy Advisory Committee appointed under section 8;

“Authority” means the Renewable Energy Authority established under this Act;

“concession agreement” means a renewable energy concession agreement made under section 14;

“Competent Authority” has the same meaning as in the Price and Wage Control Act;

“Energy Planning Section” means the energy section of the Ministry;

“group company” means, in relation to a company, a wholly owned subsidiary of that company;

“Minister” means the Minister of Lands, Survey, Natural Resources and Environment;

“Ministry” means the Ministry of Lands, Survey, Natural Resources and Environment;

“physical assets” means a renewable energy system and all fittings related thereto, including buildings, vehicles, plant, equipments and machinery;

“renewable energy” means any form of energy that is not derived from fossil fuels and specifically excludes energy from petroleum products and energy from coal products;

“renewable energy operators” means persons involved in the ownership, management, maintenance, design or installation of renewable energy projects.

3. Objects

The principal objects of this Act are –

- (a) to promote the development of the renewable energy industry in the Kingdom by:
 - (i) researching and developing opportunities of renewable energy in the Kingdom;
 - (ii) encouraging the use of commercially sustainable renewable energy technology for both grid connected and stand alone power supply systems;
 - (iii) regulating the technical and safety standards for renewable energy technologies;
 - (iv) regulating the licensing of persons involved in the design, research, installation and management of renewable energy projects;
 - (v) regulating renewable energy operators;
 - (vi) regulating the feed-in tariffs for renewable energy generated electricity; and
 - (vii) supporting the engagement of the private sector in renewable energy projects in the Kingdom.
- (b) to establish an authority to deal with matters relating to renewable energy.
- (c) to empower such authority to regulate all matters relating to renewable energy.
- (d) to promote the implementation of commercially sustainable renewable energy based electrification services by encouraging economically efficient investment in the use of and infrastructure to provide electrification services.
- (e) to promote access by people resident in the remote areas of the Kingdom to renewable energy services to the extent that it is reasonably and commercially practicable to provide such services.

4. Renewable energy to which this Act applies

- (1) Subject to subsection (3), this Act shall apply to the production, storage or distribution of any form of energy derived from a renewable source specified under subsection (2), where –
 - (a) the production, storage or distribution of renewable energy is made on a commercial basis;
 - (b) the production, storage or distribution of renewable energy is for the use in a commercial enterprise; or
 - (c) the renewable energy is intended for a third party.
- (2) Renewable energy sources include the following, and any other source specified by regulations made under this Act -
 - (a) Biofuel;
 - (b) Biogas;
 - (c) Biomass;
 - (d) Fuel Cells;
 - (e) Geothermal;
 - (f) Hydrogen;
 - (g) Hydropower;
 - (h) Ocean Thermal Energy conversion (OTEC);
 - (i) Plant, animal or marine resources;
 - (j) Solar;
 - (k) Tidal;
 - (l) Wave;
 - (m) Wind.
- (3) This Act shall not apply to electricity that has been converted from direct current to alternate current, although originally derived from a renewable energy source.

PART 2 - RENEWABLE ENERGY AUTHORITY

5. Establishment

The Renewable Energy Authority is hereby established.

6. Proclamation

- (1) His Majesty in Council may, by proclamation made under this section, declare that any person or authority shall become and thereby be vested with the functions and powers of the Renewable Energy Authority provided under this Act. A proclamation made under this section shall be published in the Gazette.

- (c) the particular asset or assets being transferred are not material to the continuity or security of the production, storage or distribution of the renewable energy in the Kingdom; or
- (d) in any other case, with the consent of the Authority.

PART 6 - OFFENCES

18. Criminal prosecution

- (1) Any person who contravenes any of the provisions of section 13 or section 17 of this Act commits an offence and shall be liable upon conviction –
 - (a) in the case of a natural person, for each offence to a fine not exceeding \$5,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$10,000.
- (2) The prosecution of an offence under this section may be made within 2 years from the time when the alleged offending took place, and may be conducted by–
 - (a) the Attorney General;
 - (b) the Authority; or
 - (c) a member of the Police.
- (3) A person referred to in paragraphs (b) and (c) of subsection (2) may conduct any proceeding arising under this section subject to any direction issued by the Attorney General.

19. Investigation

If the Authority becomes aware whether by notification by another person or otherwise that there are reasonable grounds to suspect a person has committed an offence under section 18, then:

- (a) the Authority shall promptly investigate the alleged offence; and
- (b) if the Authority is satisfied on reasonable grounds that a prima facie case can be established, the Authority shall promptly take such action as is appropriate to prevent a continued contravention of section 13 or section 17.

20. Injunction

Without limiting the rights and obligations of the Authority under section 18, if:

- (a) a party to a concession agreement under section 14 has reasonable grounds to suspect a person has committed an offence under section 18; and

- (b) ensure appropriate coordination is made between relevant departments and the private sector with regard to renewable energy projects;
- (c) review concession agreements made under this Act;
- (d) recommend to the Authority any conditions to be attached to any concession agreement and the means by which it should be implemented.

10. Secretariat

The Ministry shall provide the secretariat for the Authority.

PART 3 - FUNCTIONS AND POWERS

11. Functions of Authority

The functions of the Authority are –

- (a) to take enforcement actions under this Act or any regulations made under this Act;
- (b) carry out all activities required by the terms of any agreement made under this Act;
- (c) carry out all activities necessary or desirable for the licensing of renewable energy operators as may be prescribed by regulations made under this Act;
- (d) develop and recommend regulations establishing standards for any matter relating to the specification of renewable energy equipments and the production, storage and distribution of renewable energy;
- (e) to advise and assist any person, upon request, on any matter relating to renewable energy;
- (f) to co-operate with public authorities in reviewing laws (in particular but not limited to fiscal measures including duties and taxes), practices and procedures with a view to promoting the use of renewable energy;
- (g) to conduct research, promote public awareness and disseminate information to the public relating to required standards, safe use, or any other matter relating to the utilization of renewable energy;
- (h) to use its best endeavors to achieve an optimal socio-economic structure through sustainable energy development;
- (i) to do all things necessary for the performance of its functions and the exercise of its powers under this Act or otherwise as it is required to do under or by this Act; and
- (j) to facilitate the implementation of any relevant international obligation of the Kingdom.

12. Powers of the Authority

The powers of the Authority are –

- (a) to enforce this Act or any regulations made under it;
- (b) to enforce any rights under any concession agreement made under this Act;
- (c) to do all things necessary to enforce any offences provided under this Act or any regulations made under this Act; and
- (d) to do all lawful things necessary to carry out its functions or it is entitled to do under this Act or any regulations made under this Act.

PART 4 - RENEWABLE ENERGY AGREEMENTS**13. Prohibition**

In accordance to Section 14, no person may produce, store or distribute any energy derived from a renewable source, except under the authority of a renewable energy agreement entered into under section 14 or the person is exempted under this Act.

14. Agreements

- (1) This section shall apply to the extraction of any form of energy from a source for commercial purposes.
- (2) The Authority may enter into a concession agreement permitting any person to produce, store or distribute any energy derived from any renewable energy source, which may included the rights to do the same for the whole Kingdom, or any district, town or island.
- (3) A concession agreement entered into under subsection (1) shall conform with the requirements of this Act.
- (4) Any penalties provided in a concession agreement shall be enforceable in accordance with the terms of the agreement.
- (5) Every concession agreement made under subsection (1) shall be made publicly available by the Authority by notice in the media, and be available for inspection at the Authority's office.

15. Terms of agreements

A concession agreement made under section 14 shall provide for –

- (a) the method of producing, storing or distributing the renewable energy;
- (b) the maximum amount of renewable energy to be produced, stored or distributed;
- (c) the standards required for efficient and safe production, storage or distribution;

- (d) the likely assets required for the establishment of the plant, premises or facility for the production, storage or distribution of renewable energy;
- (e) the intended uses and users of the renewable energy;
- (f) the appropriate tariff if the renewable energy is to be supplied to a third party;
- (g) the appropriate tariff if the renewable energy is to be supplied directly to consumers;
- (h) the penalties to be imposed for breaches of any required standards;
- (i) the duration of the concession agreement;
- (j) the circumstances in which a party can terminate the concession agreement;
- (k) adequate protection of the interests of any party upon termination; and
- (l) any other reasonable terms.

16. Regulatory fees

- (1) Every person who enters into a concession agreement with the Authority shall pay to the Authority any regulatory fees imposed under, and in accordance with, the terms of the concession contract.
- (2) Any failure by a person to pay regulatory fees in accordance with the concession agreement shall be recoverable in any court as a debt due to the Authority.
- (3) The amount of any unpaid fee, charge or levy is recoverable in any court as a debt to the Authority.

PART 5 - SECURITY OF SUPPLY**17. Removal or transfer of assets**

- (1) The physical assets that are used for the production, storage or distribution of any renewable energy may not be removed from the Kingdom without the permission of the Authority if such removal would cause any person to be unable to meet any obligations under a concession agreement under section 14, current concession agreement under Section 14.
- (2) Notwithstanding subsection (1) Ownership of the physical assets that are used for the production, storage or distribution of renewable energy in the Kingdom may not be transferred unless –
 - (a) the transferee is a party to or a group company of a party to a concession agreement entered into under section 14;
 - (b) the transferee is a nominee of the Authority;

- (b) that party is adversely affected by the suspected contravention of section 13 or section 17,

that party shall be entitled to seek injunctive relief to prevent a continued contravention of section 13 or section 17.

PART 7 - MISCELLANEOUS

21. Transitional provision

- (1) Any renewable energy installation operating at the time this Act comes into effect shall be given 12 months to comply with the provisions of this Act or any regulations made under this Act.
- (2) If at the end of 12 months from the coming into effect of this Act such an installation does not comply with the provisions of this Act or regulations made under this Act, it shall be lawful for the Authority to close down the installation.

22. Regulations

- (1) The Minister may, with the consent of Cabinet, make regulations for the proper and efficient administration of this Act.
- (2) Without limiting the generality of the powers under subsection (1), regulations may be made for the following purposes –
- (a) the licensing of renewable energy operators including the establishment of offences and penalties;
 - (b) the technical and safety standards including the establishment of offences and penalties;
 - (c) prescribing any powers for the purposes of carrying out any of the functions of the Authority;
 - (d) any matter relating to the ownership of renewable energy projects;
 - (e) the requirements for the establishment or construction of any plant, premises or facilities for the production, storage or distribution of renewable energy;
 - (f) specifying any renewable energy source;
 - (g) providing or prescribing any institutional or administrative matters relating to a proclamation made under this Act;
 - (h) any matter relating to any international obligation of the Kingdom;
 - (i) the fees, charges, levies or tariffs, or the manner in which fees, charges, levies or tariffs are to be calculated, collected and paid to the Authority or any other person;
 - (j) the manner in which a concession agreement is to be made public under this Act;

- (k) the demarcation point in which renewable energy is passed to a third party or consumer;
- (l) any prohibition on the carrying out of activities relating to renewable energy;
- (m) the method of production, storage, distribution or use, or the quantity of renewable energy involved in the operation by any person;
- (n) the provision of information to the Authority; or
- (o) the rights of the Authority, or its nominee, to enter on the property of any person carrying on or proposing to carry on any production, storage or distribution of renewable energy, for the purpose of assessing whether the person is in compliance with this Act or any regulations made under this Act.

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

LAO FAKAANGAANGA KI HE MA'U'ANGA IVI FAKAFO'OU 2008

Fokotu'utu'u 'o e Ngaahi Kupu

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1. Hingoa nounou
2. 'UHINGA'i lea
3. Ngaahi Taumu'a
4. Ma'u'anga Ivi fakafo'ou 'a ia 'oku 'uhinga ki ai 'a e Lao ni

KONGA 2 - IVI FAKAFO'OU

5. Fokotu'u
6. Fanongonongo
7. Minisita ko e Ma'u Mafai
8. Komiti Fale'i
9. Ngaahi Fatongia 'a e Komiti Fale'i
10. Kau ngaue fakasekelitali

KONGA 3 – NGA AHI FATONGIA MO E NGA AHI MAFAI

11. Ngaahi fatongia 'a e Ma'u Mafai
12. Ngaahi mafai 'o e Ma'u Mafai

KONGA 4 – NGA AHI ALEAPAU MA'U'ANGA IVI FAKAFO'OU

13. Tapui
14. Ngaahi aleapau
15. Ngaahi tu'utu'uni 'o e aleapau
16. Ngaahi totongi fakahoko ngaue
17. To'o pe hiki 'a e ngaahi koloa

KONGA 5 – NGA AHI HIA

18. Faka'ilo ki he Hia
19. Fakatotolo
20. Tu'utu'uni Fakamaau'anga

KONGA 6 – NGA AHI ME'A KEHE

21. Tu'utu'uni fekau'aki mo e liliu
22. Ngaahi Tu'utu'uni

KONGA 2 – MA'U MAFAI MA'U'ANGA IVI FAKAFO'OU**5. Fokotu'u**

'Oku fokotu'u heni 'a e Ma'u Mafai ki he Ma'u'anga Ivi Fakafo'ou.

6. Fanongonongo

- (1) 'E ngofua ki he 'Ene 'Afio, 'i ha tu'utu'uni 'e fakahoko 'i he kupu ni, ke ne fakaha kuo pau ki ha taha pe ma'u mafai ke ne hoko pe hilifaki ki ai 'a e ngaahi fatongia mo e ngaahi mafai 'a e Ma'u Mafai ki he Ma'u'anga Ivi Fakafo'ou kuo tuku atu 'i he Lao ni.
- (2) Kuo pau ki ha fanongonongo na'e fakahoko 'i he Lao ni ke pulusi 'i he Kasete.
- (3) 'I he fakahoko ha fanongonongo 'i he kupu si'i (1), ka 'i ai ha me'a fekau'aki mo e Ma'u Mafai kuo fakaha, 'o kau ai 'a e ngaahi me'a fekau'aki mo hono fa'unga pe ko hono pule'i, 'a ia 'oku fiema'u ke tu'utu'uni' i pe fakamahino'i, 'e ngofua ke tu'utu'uni pe fakamahino'i ia 'i he fanongonongo ko ia, pe ko e ngaahi tu'utu'uni 'e fa'u 'i he Lao ni.

7. Minisita ko e Ma'u Mafai

'I he taimi 'e fakahoko ai ha fanongonongo 'o fakatatau ki he kupu 6 -

- (a) kuo pau ke hilifaki ki he Minisita 'a e ngaahi fatongia mo e ngaahi mafai 'o e Ma'u Mafai ki he Ma'u'anga Ivi Fakafo'ou; pea
- (b) kuo pau ke fale'i 'e he Komiti Fale'i Ma'u'anga Ivi Fakafo'ou 'a e Minisita ki he ngaahi me'a felave'i mo e ma'u'anga ivi fakafo'ou.

8. Komiti Fale'i

- (1) Kuo pau ki he Komiti Fale'i ke kau atu ki ai 'a e kau memipa ko 'eni -
 - (a) Sekelitali 'o e Fonua, Savea, Ngaahi Koloa Fakaenatula mo e 'Atakai 'a ia kuo pau ke hoko ko e sea;
 - (b) Pule Lahi 'o e Komisoni 'Uhila;
 - (c) 'Ulu 'o e Va'a Palani Ma'u'anga Ivi 'o e Potungaue, 'a ia kuo pau ke sekelitali 'i he Komiti Fale'i;
 - (d) memipa 'e 2 'e fokotu'u 'e he Minisita ke nau fakafofonga'i ha taha 'o e ngaahi me'a ni;
 - (i) ngaahi kautaha lolo;
 - (ii) ngaahi kautaha fakataautaha;
 - (iii) ngaahi pangike; pe
 - (iv) kau aleapau fakataautaha.
 - (e) memipa 'e 2 'e fokotu'u 'e he Minisita meia kinautolu 'oku nau ngaue'aki ha fa'ahinga fotunga 'o e ma'u'anga ivi fakafo'ou; mo

Tonga.**Fika 10 'o e 2008**

'Oku ou loto ki ai,

SIAOSI TUPOU V,

1 'o Sune, 2009.

KO E LAO**LAO KE NE PULE'I 'A HONO NGAUE'AKI 'O E MA'U'ANGA IVI FAKAFO'OU 'I HE PULE'ANGA MO E NGAHI ME'A FEKAU'AKI**

[9 'o 'Okatopa, 2008

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

Konga 1 - Talateu**1. Hingoa nounou**

'E ui 'a e Lao ni ko e Lao ki he Ma'u'anga Ivi Fakafo'ou 2008.

2. 'Uhinga'i lea

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

"Komiti Fale'i" 'oku 'uhinga ki he Komiti Fale'i Ma'u'anga Ivi fakafo'ou 'oku fokotu'u 'i he kupu 8;

"Ma'u Mafai" 'oku 'uhinga ki he Ma'u Mafai ki he ma'u'anga ivi fakafo'ou kuo fokotu'u 'i he Lao ni

"aleapau felotoi" 'oku 'uhinga ki ha aleapau felotoi ki he ma'u'anga ivi fakafo'ou kuo fakahoko 'i he kupu 14;

"Pule Fe'unga" 'oku 'uhinga tatau mo ia 'i he Lao ki hono Pule'i 'o e Totongi mo e Totongi Ngaue;

"Va'a Palani ki he Ma'u'anga Ivi" 'oku 'uhinga ki he va'a ivi 'o e Potungaue;

"ngaahi kautaha" 'oku 'uhinga 'i he'ene felave'i mo ha kautaha, ki ha pisinisi si'i 'oku ma'u 'inasi kakato ai 'a e kautaha ko ia;

“**Minisita**” ‘oku ‘uhinga ki he Minisita Fonua, Savea, Ngaahi Koloa Fakaenatula mo e ‘Atakai;

“**Potungaue**” ‘oku ‘uhinga ki he Potungaue Fonua, Savea, Ngaahi Koloa Fakaenatula mo e ‘Atakai;

“**ngaahi koloa ha mai**” ‘oku ‘uhinga ki ha sisitemi ngaue ma'u'anga Ivi fakafo'ou mo e ngaahi me'a ngaue fekau'aki kotoa pe kia, kau ai 'a e ngaahi fale, ngaahi saliate misini, me'a ngaue, naunau mo e ngaahi me'a fakamisini;

“**ma'u'anga ivi fakafo'ou**” ‘oku ‘uhinga ki ha fa'ahinga fotunga 'o e ivi 'oku 'ikai ke tupu mei he lolo mei lolo fonua pea tautautefito 'a e 'ikai ke kau ai 'a e ngaahi koloa petoliume mo e ivi mei he ngaahi koloa malala;

“**kau fakalele ma'u'anga ivi fakafo'ou**” ‘oku ‘uhinga kia kinautolu kotoa pe 'oku kau ki hono ma'u, pule'i, tokanga'i, fa'u pe fokotu'u 'a e ngaahi ngaue ki he ma'u'anga ivi fakafo'ou.

3. Ngaahi Taumu'a

Ko e ngaahi tefito'i taumu'a 'o e Lao ni –

- (a) ke faka'ai'ai 'a e fakalalakala 'a e ngaue ki he ma'u'anga ivi fakafo'ou 'i he Pule'anga 'aki hono:
 - (i) fekumi mo langa fakalalakala 'a e ngaahi faingamalie 'a e ma'u'anga ivi fakafo'ou 'i he Pule'anga;
 - (ii) faka'ai'ai 'a hono ngaue'aki 'a e tekinolosia ma'u'anga Ivi fakafo'ou 'oku tolonga fakakomesiale ki he ngaahi sisitemi mau'anga 'uhila hoka ki he laine mo e ngaahi sisitemi ma'u'anga 'uhila 'ikai hoko ki he laine;
 - (iii) pule'i 'a e ngaahi tu'unga fakatekinikake mo e malu ki he ngaahi tekinolosia ma'u'anga ivi fakafo'ou;
 - (iv) pule'i 'a hono laiseni kinautolu 'oku nau kau ki hono fa'u, fekumi, fokotu'u mo hono pule'i 'a e ngaahi ngaue ki he ma'u'anga ivi fakafo'ou;
 - (v) pule'i 'a e kau ngaue ki he ma'u'anga ivi fakafo'ou;
 - (vi) pule'i 'a e 'a e ngaahi teulifi ke ngaue'aki ki he 'uhila tufaki ma'u'anga ivi fakafo'ou; mo
 - (vii) poupou'i 'a hono fakakau mai 'a e sekitoa fakatautaha 'i he ngaahi ngaue ma'u'anga ivi fakafo'ou 'i he Pule'anga.
- (b) ke fokotu'u ha ma'u mafai ke ngaue ki he ngaahi me'a fekau'aki mo e ma'u'anga ivi fakafo'ou;
- (c) ke fakamafai 'a e mafai ko ia ke ne pule'i kotoa 'a e ngaahi me'a 'oku fekau'aki mo e ma'u'anga ivi fakafo'ou;

- (d) ke fakalalakala 'a hono fokotu'u 'o e ngaahi sevesi faka'uhila 'oku fakalele 'e he mau'anga ivi fakafo'ou 'oku lelei faka'ekonomika 'aki hono faka'ai'ai 'a e inivesi 'oku lelei faka'ekonomika 'i hono ngaue'aki 'o e ngaahi naunau lalahi ki hono tufaki 'o e ngaahi sevesi faka'uhila;
- (e) ke fakafaingofua'i 'a e malava 'e he kakai 'i he ngaahi feitu'u mama'o 'o e Pule'anga ni 'o faka'aonga'i 'a e ngaahi sevesi ki he ma'u'anga ivi fakafo'ou ki he lahi 'oku fakapotopoto pea mo malava fakakomesiale ke 'oatu 'aki 'a e ngaahi sevesi ko ia.

4. Ma'u'anga Ivi fakafo'ou 'a ia 'oku 'uhinga ki ai 'a e Lao ni

- (1) Fakatatau ki he kupu si'i (3), kuo pau ke ngaue'aki 'a e Lao ni ki hono ngaohi, tauhi pe tufaki 'o ha fa'ahinga fotunga 'o e ivi 'oku ma'u mei ha tupu'anga ma'u'anga ivi fakafo'ou kuo tu'utu'uni pau 'i he kupu si'i (2), 'a ia -
 - (a) ko hono ngaohi, tauhi pe tufaki 'o e ma'u'anga ivi fakafo'ou 'oku fakahoko 'i ha ngaahi makatu'unga fakakomesiale;
 - (b) ko hono ngaohi, tauhi pe tufaki 'o e ma'u'anga ivi fakafo'ou ki ha ngaue'aki 'e ha kautaha fakakomesiale; pe
 - (c) ko e ma'u'anga ivi fakafo'ou 'oku fakataumu'a ki ha fa'ahi hono tolu.
- (2) Ko e ngaahi tupu'anga 'o e ngaahi ma'u'anga ivi fakafo'ou 'oku kau ai 'a e ngaahi me'a ni, pea pehe foki ki he ngaahi tupu'anga kehe 'e fakahaa'i pau 'e he ngaahi tu'utu'uni 'e fakahoko 'i he Lao ni -
 - (a) Lolo ma'u mei he ngaahi me'a mo'ui;
 - (b) Kasa ma'u mei he ngaahi me'a mo'ui;
 - (c) Ivi ma'u mei he ngaahi me'a mo'ui;
 - (d) Tanaki'anga ma'u'anga ivi;
 - (e) Ivi mei he 'ea vela mei lolo fonua;
 - (f) Haitolokena (Hydrogen);
 - (g) Ivi mei he vai;
 - (h) Ivi tupu he feto'aki 'o e mafana 'o 'oseni;
 - (i) Ivi mei he ngaahi me'amo'ui mei 'oseni;
 - (j) Ivime'i he la'a;
 - (k) tafe 'a e 'au 'i 'oseni;
 - (l) Peau;
 - (m) Havili.
- (3) Ko e Lao ni 'oku 'ikai ke ngaue'aki ki he 'uhila 'oku liliu mei he ivi faka'uhila 'oku tafe fakahangatonu ki ha ivi faka'uhila 'oku tafe fetongitongi, neongo na'e fuofua tupu mei he ma'u'anga ivi fakafo'ou.

- (h) ngaahi tautea ke hilifaki 'i hono maumau' 'i 'o ha ngaahi tu'unga na'e fiema'u;
- (i) loloa 'o e aleapau felotoi;
- (j) ngaahi me'a 'e makatu'unga ai hono fakangata 'e ha fa'ahi ha aleapau felotoi;
- (k) malu' 'i fe'unga 'o e ngaahi kaunga 'o ha fa'ahi 'i hano fakahoko 'o e fakangata; mo
- (l) ha ngaahi tu'utu'uni fakapotopoto kehe.

16. Ngaahi totongi fakahoko ngaue

- (1) Kuo pau ki he tokotaha kotoa pe 'oku ne kau atu ki ha aleapau felotoi mo e Ma'u Mafai ke ne totongi ki he Ma'u Mafai ha ngaahi totongi fakahoko ngaue kuo hilifaki 'i he, pea fakatatau ki he, ngaahi tu'utu'uni 'o e aleapau felotoi.
- (2) Ko ha 'ikai ke totongi 'e ha taha 'a e ngaahi totongi fakahoko ngaue 'o fakatatau ki he aleapau felotoi kuo pau ke totongi fakafoki 'i ha fakamaau'anga ko ha mo'ua ki he Ma'u Mafai.
- (3) Ko e lahi 'o ha totongi (fees) totongi (charge) pe totongi hilifaki, 'oku 'ikai totongi 'oku ala totongi fakafoki 'i ha fakamaau'anga ko ha mo'ua ki he Ma'u Mafai.

17. To'o pe hiki 'a e ngaahi koloa

- (1) Ko e ngaahi koloa ha mai 'oku ngaue'aki ki hono ngaohi, tanaki pe tufaki 'o e ma'u'anga ivi fakafo'ou 'e 'ikai ngofua ke to'o mei he Pule'anga 'ikai ha fakangofua mei he Ma'u Mafai 'o kapau ko e to'o ko ia te ne fakatupu ha tokotaha ke 'ikai lava ke ne fakahoko 'a hono ngaahi fatongia 'i he aleapu felotoi 'i he kupu 14, 'i ha aleapau felotoi 'i he kupu 'oku lolotonga fakahoko;
- (2) Neongo 'a e kupu si'i (1) ko e ma'u 'o e ngaahi koloa ha mai 'oku ngaue'aki ki hono ngaohi, tauhi pe tufaki 'a e ma'u'anga ivi fakafo'ou 'i he Pule'anga 'e 'ikai ngofua ke hiki tukukehe–
 - (a) ko e taha 'oku hiki ki ai ko ha fa'ahi ki ha pe ko ha ngaahi kautaha ko e fa'ahi ki ha aleapau felotoi na'e kau atu ki ai 'i he kupu 14;
 - (b) ko e taha 'oku hiki ki ai ko ha nominii 'o e Ma'u Mafai;
 - (c) ko e koloa pe ngaahi koloa pau 'oku hiki ko ia 'oku 'ikai ke mahu'inga ia ki he hokohoko pe ko e malu 'a e ngaohi, tauhi pe tufaki 'o e ma'u'anga ivi fakafo'ou 'i he Pule'anga; pe
 - (d) 'i ha toe me'a kehe, 'aki 'a e loto ki ai 'a e Ma'u Mafai.

- (f) ha fa'ahinga taha pe 'e pehe 'e he Sea 'oku fe'unga ke ne fakakau mai.
- (2) Ko e kau memipa 'o e Komiti Fale'i kuo fokotu'u 'i he kupu si'i (1)(d) mo e (e) -
 - (a) kuo pau ke nau ma'u 'a e lakanga ki he ta'u 'e 2, pea 'oku ala lava pe ke toe fokotu'u;
 - (b) 'e ngofua ke fakangata 'ene memipa ko e 'ikai ke malava 'o fakahoko 'a e ngaahi fatongia 'a hono lakanga, 'ikai fakahoko 'a hono fatongia, anga ta'etaau, pe 'ikai ke ne faipau ki he ngaahi fiema'u ki hono fakaha 'o e kaunga 'oku ngaue'aki ki he kau memipa 'o e komiti;
 - (c) 'e ngofua ke ne fakafisi 'aki ha'ane 'oatu ha fakaha 'i ha tohi ki he Minisita, pea ke hoko leva ia.
- (3) (a) Ko e tokolahi kae lava ha fakataha 'a e Komiti Fale'i kuo pau ko e Sea mo ha kau memipa 'e toko 4..
 - (b) 'E ngofua ke vahe 'a e kau memipa 'o e Komiti Fale'i 'o fakatatau ki he kaveinga ngaue 'a e Pule'anga.

9. Ngaahi Fatongia 'a e Komiti Fale'i

Kuo pau ki he Komiti Fale'i ke nau vakai' 'i mo e fokotu'u atu ki he Ma'u Mafai ha fa'ahinga me'a felave'i mo e ngaahi fatongia mo e ngaahi mafai 'o e Ma'u Mafai, mo e ngaahi founa ke fakahoko'aki, kae tautautefito ki he:

- (a) ma'u 'o e ngaahi tohi ngaue fekau'aki kotoa pe felave'i mo e ngaahi tohi kole 'oku fakahu ange 'o fakatatau ki he ngaahi fiema'u 'o e Lao ni pe ngaahi tu'utu'uni kuo fakahoko 'i he Lao ni;
- (b) fakapapau'i 'oku fakahoko ha fengau'e'aki lelei 'i he vaha'a 'o e ngaahi potungau'e fekau'aki mo e sekitoa taautaha fekau'aki mo e ngaahi ngaue ma'u'anga ivi fakafo'ou;
- (c) toe vakai' 'i 'a e ngaahi aleapau felotoi na'e fakahoko 'i he Lao ni;
- (d) fokotu'u atu ki he Ma'u Mafai ha ngaahi tu'unga ke fakakau atu ki he aleapau felotoi mo e ngaahi founa 'a ia kuo pau ke fakahoko 'aki.

10. Kau ngaue fakasekelitali

Kuo pau ki he Potungau'e ke nau 'oatu ha kau ngaue sekelitali 'a e Ma'u Mafai.

KONGA 3 – NGAHI FATONGIA MO E NGAHI MAFAI

11. Ngaahi fatongia 'a e Ma'u Mafai

Ko e ngaahi fatongia 'a e Ma'u Mafai ko hono –

- (a) fakahoko 'a e ngaahi ngaue ke fakamalohi' 'i 'a e Lao ni pe ko ha ngaahi tu'utu'uni na'e fakahoko 'i he Lao ni;

- (b) fakahoko kotoa 'a e ngaahi ngaue 'oku fiema'u 'e he ngaahi tu'utu'uni 'o ha aleapau na'e fakahoko 'i he Lao ni;
- (c) fakahoko kotoa 'a e ngaahi ngaue 'oku taau mo fiema'u ki hono laiseni 'a e kau ngaue ma'u'anga ivi fakafo'ou 'a ia 'e ngofua ke tu'utu'uni 'e he ngaahi tu'utu'uni na'e fakahoko 'i he Lao ni;
- (d) langa fakalalakaka mo fokotu'u atu ha ngaahi tu'unga ki ha me'a fekau'aki mo e tu'utu'uni pau 'o e ngaahi me'a ngaue ma'u'anga ivi fakafo'ou mo e ngaohi, tauhi mo tufaki 'o e ma'u'anga ivi fakafo'ou;
- (e) ke fale'i mo tokoni'i ki ha fa'ahinga taha, 'i ha'ane kole, 'i ha fa'ahinga me'a fekau'aki mo e ma'u'anga ivi fakafo'ou;
- (f) ke kaunga ngaue mo e ngaahi ma'u mafai 'a e pule'anga ki hono to e vakai'i 'o e ngaahi lao (tautautefito ka 'ikai ke fakangatanga 'i he ngaahi founa ngaue fakapa'anga 'o kau ai 'a e ngaahi tute mo e ngaahi tukuhau), ngaahi ngaue moe ngaahi founa fakahoko ngaue mo 'i ha taumu'a ke faka'ai'ai 'a hono ngaue'aki 'a e ma'u'anga ivi fakafo'ou;
- (g) ke fakahoko ha fekumi ke faka'ai'ai 'a e 'ilo 'a e kakai mo tufaki 'a e ngaahi fakamatala ki he kakai fekau'aki mo e ngaahi tu'unga 'oku fiema'u, ngaue'aki 'oku malu, pe ko ha fa'ahinga me'a kehe fekau'aki mo hono faka'aonga'i 'o e ma'u'anga ivi fakafo'ou;
- (h) ke fakahoko 'a 'ene ngaue lelei taha ke ma'u 'a e fa'unga lelei taha fakasosiale-'ekonomika 'aki hono fakalalakaka 'a e ivi tolonga;
- (i) ke fakahoko kotoa 'a e ngaahi me'a 'oku fiema'u ki hono ngaahi fatongia mo ngaue'aki 'a hono ngaahi mafai 'i he Lao ni pe ko ha lao kehe 'o hange koia 'e fiema'u ke fakahoko 'o fakatatau ki he pe 'i he Lao ni; mo
- (j) ke fakafaingofua 'a hono fakahoko 'o ha ngaahi fatongia fakavaha'apule'anga fekau'aki 'a e Pule'anga.

12. Ngaahi mafai 'o e Ma'u Mafai

Ko e ngaahi mafai 'o e Ma'u Mafai ko hono fakahoko-

- (a) 'a e Lao ni pe ha ngaahi tu'utu'uni na'e fa'u 'i ai;
- (b) ha ngaahi totonu 'i ha aleapau felotoi na'e fakahoko 'i he Lao ni;
- (c) 'a e ngaahi me'a kotoa pe 'oku fiema'u ke fakahoko ki he ngaahi hia 'oku fakaha 'i he Lao ni pe ngaahi tu'utu'uni na'e fakahoko 'i he Lao ni; mo
- (d) 'a e ngaahi me'a kotoa pe 'oku fiema'u ke fakahoko'aki 'a hono ngaahi fatongia pe ko ia 'oku totonu ke ne fakahoko 'i he Lao ni pe ngaahi tu'utu'uni na'e fa'u 'i he Lao ni.

KONGA 4 – NGAHI ALEAPAU MA'U'ANGA IVI FAKAFO'OU

13. Tapui

'E 'ikai ngofua ki ha taha ke ne ngaohi, tauhi pe tufaki ha fa'ahinga ivi tupu mei ha tupu'anga ma'u'anga ala fakafo'ou, tukukehe 'o ka fakahoko 'e ha ma'u mafai 'o ha aleapau ma'u'anga ivi fakafo'ou na'e fakahoko 'i he kupu 14 pe ko ha taha 'oku faka'ata mei he Lao ni.

14. Ngaahi aleapau

- (1) Kuo pau ke ngaue'aki 'a e kupu ni ki hono ma'u (extraction) 'o ha ma'u'anga ivi fakafo'ou mei ha tupu'anga ki he ngaahi taumu'a fakakomesiale.
- (2) 'E ngofua ki he Ma'u Mafai ke ne fakahoko ha aleapau felotoi ke fakangofua ha taha pe ke ne ngaohi, tauhi pe tufaki ha fa'ahinga ivi tupu mei ha tupu'anga ma'u'anga ivi fakafo'ou, 'a ia 'e ngofua ke kau ai 'a e totonu fakangatanga ke fakahoko 'a e ngaue tatau ki he Pule'anga ni kotoa, pe ha vahe fonua, kolo pe motu.
- (3) Kuo pau ki ha aleapau felotoi 'i he kupu si'i (2) ke faitatau ki he ngaahi fiema'u 'o e Lao ni.
- (4) Kuo pau ki ha ngaahi mo'ua (penalties) 'oku 'i he aleapau felotoi ke fakahoko 'o fakatatau ki he ngaahi tu'utu'uni 'o e aleapau.
- (5) Kuo pau ki he aleapau felotoi kotoa pe na'e fakahoko 'i he kupu si'i (1) ke fakaha ki he kakai 'e he Ma'u Mafai 'i ha fanongonongo 'i he mitia, pea ke 'ataa ke vakai'i 'i he 'ofisi 'o e Ma'u Mafai.

15. Ngaahi tu'utu'uni 'o e aleapau

Kuo pau ki ha aleapau felotoi na'e fakahoko 'i he kupu 14 ke tu'utu'uni ki he-

- (a) founa ki hono ngaohi, tanaki pe tufaki 'o e ma'u'anga ivi fakafo'ou;
- (b) lahi taha 'o e ma'u'anga ivi fakafo'ou ke ngaohi, tanaki pe tufaki;
- (c) ngaahi tu'unga 'oku fiema'u ki hono lelei mo e malu 'a hono ngaohi, tanaki pe tufaki;
- (d) ngaahi koloa 'e fiema'u ki hono fokotu'u 'o e ngaue'anga, feitu'u pe me'angaue ki hono ngaohi, tanaki pe tufaki 'o e ma'u'anga ivi fakafo'ou;
- (e) ngaahi 'aonga mo e kau ngaue'aki 'o e ma'u'anga ivi fakafo'ou 'oku fakataumu'a ki ai;
- (f) teulifi taau 'o kapau ko e ma'u'anga ivi fakafo'ou 'oku tuku atu 'e he fa'ahi hono tolu;
- (g) teulifi taau 'o kapau ko e ma'u'anga ivi fakafo'ou 'oku tuku atu fakahangatonu kia tekinautolu 'oku ngaue'aki;

KONGA 5 – NGAHI HIA**18. Faka'ilo ki he Hia**

- (1) Ko ha tokotaha 'oku ne maumau'i 'a e kupu 13 pe kupu 17 'o e Lao ni 'oku ne fakahoko ha hia pea kuo pau ke ne ala mo'ua 'i ha'ane halaia kapau –
 - (a) ko ha tokotaha fakaenatula, ko e hia takitaha ki ha mo'ua pa'anga 'ikai laka hake 'i he \$5,000; pe
 - (b) ko ha kautaha, ki he mo'ua pa'anga 'ikai laka hake 'i he \$10,000.
- (2) Ko ha faka'ilo 'o ha hia 'i he kupu ni 'e ngofua ke fakahoko 'i loto 'i he ta'u 'e 2 mei he 'aho na'e fakahoko ai 'a e hia 'oku tukuaki'i ki ai, pea 'e ngofua ke fakahoko 'e he–
 - (a) 'Ateni Seniale;
 - (b) Ma'u Mafai; pe
 - (c) ko ha memipa 'o e Polisi.
- (3) 'E ngofua ki ha tokotaha 'oku 'uhinga ki ai 'i he kupu si'i (2) (b) mo e (c) ke ne fakahoko ha faka'ilo 'i he kupu ko 'eni 'o fakatatau ki ha tu'utu'uni na'e fakahoko 'e he 'Ateni Seniale.

19. Fakatotolo

Kapau 'e 'ilo 'e he Ma'u Mafai 'i ha tohi fakaha pe mei ha tokotaha pe ha toe me'a kehe 'oku 'i ai ha ngaahi makatu'unga fakapotopoto ke mahalo'i kuo fakahoko 'e ha taha ha hia 'i he kupu 18:

- (a) kuo pau ki he Ma'u Mafai ke ne fakahoko 'i he vave taha ha fakatotolo 'o e hia 'oku tukuaki'i; pea
- (b) kapau 'oku fiemalie 'a e Ma'u Mafai 'i ha ngaahi makatu'unga fakapotopoto 'e malava ke fakahoko ha hopo 'aki ha fakamo'oni fe'unga, kuo pau ki he Ma'u Mafai ke ne fakahoko 'i he vave taha 'a e ngaue 'oku taau ke ta'ofi ha hokohoko atu 'a hono maumau'i 'o e kupu 13 mo e kupu 17.

20. Tu'utu'uni Fakamaau'anga

'E 'ikai fakangatangata 'a e ngaahi totonu mo e ngaahi fatongia 'a e Ma'u Mafai 'i he kupu 18, 'o kapau:

- (a) ko ha fa'ahi ki ha alepau ke fakahoko 'i he kupu 14 'oku 'i ai ha'ane ngaahi makatu'unga fakapotopoto ke ne mahalo'i na'e fakahoko 'e ha taha ha hia 'i he kupu 18; pea
- (b) ko e fa'ahi koia na'e uesia lahi 'e he me'a na'e mahalo'i te ne maumau'i 'a e kupu 13 pe kupu 17,

kuo pau ki he fa'ahi ko ia ke ne ma'u ha tu'utu'uni faka'ataa fakamaau'anga ke ta'ofi 'a e hoko atu 'a hono maumau'i 'o e kupu 13 pe kupu 17.

KONGA 6 – NGAHI ME'A KEHE

21. Tu'utu'uni fekau'aki mo e liliu

- (1) Kuo pau ki ha fa'ahinga ngaue ma'u'anga ivi fakafo'ou na'e fokotu'u 'oku lolotonga ngaue'aki 'i he taimi na'e kamata ngaue'aki ai 'a e Lao ni ke tuku atu ha mahina 'e 12 ke faipau ki he ngaahi kupu 'o e Lao ni pe ha ngaahi tu'utu'uni na'e fakahoko 'i he Lao ni.
- (2) Kapau 'e hili 'a e mahina 'e 12 mei he kamata ngaue'aki 'o e Lao ni ko e me'angaue kuo fokotu'u koia 'oku 'ikai ke faipau ki he ngaahi kupu 'o e Lao ni pe ngaahi tu'utu'uni na'e fakahoko 'i he Lao ni, kuo pau 'e fakalao ki he Ma'u Mafai ke ne tapuni 'a e me'angaue na'e fokotu'u ko ia.

22 Ngaahi Tu'utu'uni

- (1) 'E ngofua ki he Minisita, 'i he loto ki ai 'a e Kapineti, ke ne fa'u ha ngaahi tu'utu'uni ki hono fakahoko totonu mo lelei 'o e Lao ni.
- (2) 'E 'ikai ke fakangatangata 'a e lahi 'a e ngaahi mafai 'i he kupu si'i (1), 'e ngofua ke fa'u ha ngaahi tu'utu'uni ki he ngaahi taumu'a ni-
 - (a) laiseni 'a e kau fakalele ma'u'anga ivi fakafo'ou kau ai 'a hono fokotu'u 'o e ngaahi hia mo e ngaahi tautea;
 - (b) ngaahi tu'unga fakatekinikale mo e malu 'o kau ai 'a hono fokotu'u 'o e ngaahi hia mo e ngaahi tautea;
 - (c) tu'utu'uni'i ha ngaahi mafai ki he taumu'a ki hono fakahoko 'o e ngaahi fatongia 'o e Ma'u Mafai;
 - (d) ha me'a fekau'aki mo e ma'u 'o ha ngaahi ngaue ki he ma'u'anga ivi fakafo'ou;
 - (e) ngaahi fiema'u ki hono fokotu'u pe fa'u 'o ha ngaue'anga, feitu'u pe ngaahi me'angaue ki hono ngaohi, tanaki pe tufaki 'o e ma'u'anga ivi fakafo'ou;
 - (f) fakaha ha tupu'anga ma'u'anga ivi fakafo'ou;
 - (g) tukuatu pe tu'utu'uni'i ha ngaahi me'a ki hono fa'unga pe pule'i fekau'aki mo ha fanongonongo na'e fakahoko 'i he Lao ni;
 - (h) ha fa'ahinga me'a fekau'aki mo e ngaahi fatongia fakavaha'apule'anga 'a e Pule'anga;
 - (i) ngaahi totongi (fees), ngaahi totongi (charges), ngaahi totongi hilifaki kehe pe teulifi, pe ko e founa 'oku fika'i 'aki 'a e ngaahi totongi (fees), ngaahi totongi (charges), ngaahi totongi hilifaki kehe pe teulifi, tanaki mo totongi ki he Ma'u Mafai;
 - (j) founa 'a ia ke fakahoko 'a e alepau felotoi ki he kakai 'i he Lao ni;
 - (k) faka'ilonga'i 'a e ngata'anga 'a ia 'oku hiki'aki 'a e ma'u'anga ivi fakafo'ou ki ha fa'ahi hono tolu pe ko ha taha ngaue'aki;

- (l) tapui 'a hono fakahoko ha ngaahi ngaue fekau'aki mo e ma'u'anga ivi fakafo'ou;
- (m) founa 'a hono ngaohi, tanaki, tufaki pe ngaue'aki, pe ko e lahi 'o e ma'u'anga ivi fakafo'ou 'oku kau 'i hano fakalele 'e ha taha pe;
- (n) tuku atu 'o e ngaahi fakamtala ki he Ma'u Mafai; pe
- (o) ngaahi totonu 'o e Ma'u Mafai, pe ko hono nomini, ke hu ki ha feitu'u 'o ha taha 'oku ne fakahoko 'i ai pe 'amanaki ke fakahoko ai hono ngaohi, tauhi pe tufaki 'a e ma'u'anga Ivi fakafo'ou, ki he taumu'a ki hono fakafuofua'i pe ko e tokotaha ko ia 'oku ne faipau ki he Lao ni pe ko ha ngaahi tu'utu'uni na'e fa'u 'i he Lao ni.

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

BY AUTHORITY:

Metuisela Falesiva, General Manager
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