



Tonga

**ACT OF CONSTITUTION OF TONGA  
(AMENDMENT) BILL 2018**





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# ACT OF CONSTITUTION OF TONGA (AMENDMENT) BILL 2018

## A BILL FOR AN ACT TO AMEND THE ACT OF CONSTITUTION OF TONGA

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

### **1 Short title and Interpretation**

- (1) This Act may be cited as the Act of Constitution of Tonga (Amendment) Act 2018.
- (2) In this Act, the Act of Constitution of Tonga, as amended, shall be referred to as “the Constitution”.

### **2 New clause 31B inserted**

The Constitution is amended by inserting immediately after clause 31A the following new clause –

#### **“31B Ombudsman**

- (1) There shall be an Ombudsman appointed by the Speaker with the consent of the Legislative Assembly.

- (2) The Ombudsman shall unless otherwise provided by law, have complete discretion to exercise his legal powers and duties independently without any interference whatsoever from any person or authority.”.

Passed by the Legislative Assembly this        day of        2018.

## EXPLANATORY NOTES

(This note does not form part of the Bill and is intended only to explain its purpose and effect)

- (1) This Bill proposes to amend the Act of Constitution of Tonga to provide the Ombudsman with a constitutional status.
- (2) On the 15<sup>th</sup> of November 2016, at the International Ombudsman Institute Conference (“IOI”), General Assembly, held in Bangkok, Thailand, the Bangkok Declaration was adopted unanimously by all present. Tonga is a member of the IOI.

WHEREAS the Bangkok Preamble states -

- i) Ombudsman institutions offer independent and objective consideration of complaints, aimed at correcting injustices caused to an individual as a result of maladministration;
- ii) a further important objective of Ombudsman institutions is to improve services provided to the public by ensuring that systemic failings are identified and corrected;
- iii) the Ombudsman concept has now been adopted and extended across the world and includes the promotion and protection of human rights;
- iv) the Ombudsman concept has proved extraordinarily adaptable and innovative while remaining true to its original core principles of independence, objectivity and fairness; and
- v) the Wellington Declaration stated that Ombudsman institutions form an integral part of Good Governance and make an important contribution to the Rule of Law, Transparency, Democracy and Human Rights.

It was unanimously carried by IOI members 10 pledges under the Declaration and relevant to this amendment is paragraph 3 which states –

**“3. *Calls upon all nations, states and territories to give constitutional status to Ombudsman institution*”**

This Bill is Tonga’s response to paragraph 3 of the IOI Bangkok Declaration.

- (3) This Bill provides a constitutional status for the Ombudsman in order that the Ombudsman would be seen to be independent and to be able to operate without being influenced by Government action. This would ensure that administrative accountability will be taken seriously. The enhanced independence of the Ombudsman, derived from Constitutional recognition, will undoubtedly increase

public confidence in the Office as well as requiring the public service to ensure its engagement with the Office is genuinely co-operative.

**Hon. Sione Vuna Fa'otusia**  
**Minister of Justice and Prisons**