

LAO FAKAANGAANGA (FAKATONUTONU) KI HE ‘OMIPATIMENI 20254

KO HA LAO FAKAANGAANGA KI HA LAO KE FAKATONUTONU ‘A E LAO KI HE ‘OMIPATIMENI (VAHE 2.02) KE TAPUI ‘A E FILIFILIMANAKO ‘I HE NGA AHI ‘ELIA PAU PEA TUKU ATU ‘A E MAFAI KI HONO FAKATOTOLO’I ‘O HA NGAUE FILIFILIMANAKO MO E NGA AHI ‘ULUNGAANGA KE FAKAFEPAKI’I KI HE ‘OMIPATIMENI PEA MO E NGA AHI ME’A FEKAU’AKI

‘OKU TU’UTU’UNI ‘e he Tu’i mo e Fale Alea ‘o Tonga ‘i he Fakataha Alea ‘o e Pule’anga ‘o pehē:

1 Hingoa nounou

- (1) ‘E ui ‘a e Lao ni ko e Lao (Fakatonutonu) ki he ‘Ompatimeni 20254.
- (2) ‘I he Lao ni, ko e Lao ki he ‘Ompatimeni (Vahe 2.02), ‘i hono fakatonutonu, kuo pau ke ui ko e “Tefito’i Lao”.

2 Fakahu atu ‘a e Konga I fo’ou

‘Oku fakatonutonu ‘a e Tefito’i Lao ‘i hono fakahu atu ‘a e ‘ulu’i tohi “**KONGA I – KAMATA’ANGA**” kimu’a pe ‘a e kupu 1, pea ko e ngaahi kupu lolotonga 1 ki he 11 kuo pau ke hoko ko e Konga I ‘o e Tefito’i Lao.

3 Fakahu atu ‘a e Konga II fo’ou

‘Oku fakatonutonu ‘a e Tefito’i Lao ‘i hono fakahu atu ‘a e konga fo’ou ko eni ko e Konga II ‘o e Tefito’i Lao -

“KONGA II – ‘IKAI FILIFILIMANAKO

Vahe 1 – Ngaahi ‘UHINGA’i Lea mo e Mafai ki he ‘IKAI FILIFILIMANAKO

11A Ngaahi ‘UHINGA’i Lea

‘I he Konga ni, tukukehe ‘o kapau ‘oku ha atu ha toe ‘uhinga kehe ‘i hono tu’unga –

“**faingata’a’ia**” ‘oku ‘uhinga ki —

- (a) he mole faka’aufuli pe fakakonga ‘o ha fatongia ‘o e sino pe faka’atamai;

- (b) he mole faka'aufuli pe fakakonga 'o ha konga 'o e sino;
- (c) he 'ikai ngaue lelei, 'ikai tupu lelei pe fotunga kehe 'a ha konga 'o e sino;
- (d) ha faingata'a'ia pe tonounou 'o hoko 'i ha taha 'a e keheange 'ene founa ako mei ha taha 'oku 'ikai faingata'a'ia pe tonounou;
- (e) ha faingata'a'ia, fokoutua pe mahaki 'oku ne uesia 'a e founa fakakaukau, fakakaukau totonu, ongo pe faka'uto'uta 'a ha taha pe 'oku hoko ia ko ha to'onga hoha'a;
- (f) ko e 'i he sino ha me'a mo'ui (organism) 'oku ne fakatupunga pe 'oku ne ala fakatupunga ha fokoutua pe mahaki; pe
- (g) ha toe makatu'unga kehe kuo tu'utu'uni 'e he ngaahi tu'utu'uni;

"filifilimanako" 'oku 'uhinga ia ki ha:

- (a) faáhinga fakafaikehekehe'i, fakamavahe'i, fakangatangata pe ko ha fili 'oku fakahoko makatu'unga 'i he tu'unga ó ha taha kau ai pe ko e fefine pe tangata, matakali, komiuniti, tupu'anga faka-famili, tangata'i fonua, tu'unga fakaenofu, faingata'a'ia, ngaahi tui fakalotu, ngaahi tui, fengaue'aki pe ngaue fakapolitikale, tu'unga fakahu'u ke tangata pe fefine, tu'unga fakamali, ta'u motu'a, pe fekau'aki mo ha taha 'oku ne ma'u ha taha pe lahi ange 'o e ngaahi tu'unga 'oku fakaha atu 'i 'olunga pea 'oku 'i ai 'a e fakataumu'a pe ola 'oku ne fakata'e'aonga'i pe uesia 'a e 'inasi tatau 'i he faingamalie pe ko hono 'ilo'i, kau atu ki he, pe ngaue'aki 'e he tokotaha kotoa 'a e kotoa 'o e ngaahi totonu mo e ngaahi tau'ataina;
- (b) fakakina'i makatu'unga í he ngaahi tu'unga óku ha í he palakalafi (a) í ólunga;
- (c) ngaohia pe teu ngaohia ó ha taha óku ne maú ha taha ó e ngaahi tu'unga 'oku fakamatala'i 'i he palakalafi (a) 'i 'olunga, ó kehe ia mei ha taha kehe óku íkai ke ne maú á e tu'unga ko ia pe 'e ngaohia kehe í ha ngaahi 'ataakai óku tatau pe óku íkai ke fuú kehekehe; pe
- (d) hilifaki pe teu hilifaki ó ha tu'utu'uni pau á ia óku íkai malava é ha taha óku ne maú ha taha ó e ngaahi tu'unga ke faipau ki ai, á ia óku malava ia é ha tokolahi ó e kakai óku íkai kenau maú á e tu'unga ko ia pe óku 'ikai fakapotopoto;

"ma'u mafai fakaako" 'oku 'uhinga ki ha sino pe tokotaha 'oku ne pule'i ha ako'anga;

"ako'anga" 'oku 'uhinga ki ha ako, kolisi, 'univesiti pe ha ako'anga kehe 'a ia 'oku fakahoko ai ha ako pe ako ngaue;

"tu'unga fakamali" 'oku kau ai 'a e tu'unga te'eki mali, kuo mali, kuo vete, kuo uitou pe 'oku 'i ai hono va fakakaume'a;

“taha” pe “tokotaha” óku kau ai á e ófisa pe tokotaha ngaue á e Puleánga pe ko haáne Potungaue, Potungaue, Ngaahi Kupu ‘a e Pule’anga, ngaahi pisinisi pe ngaahi kautaha ‘a e Puleánga;

“**tui fakapolitikale**” ‘oku kau ai—

- (a) ‘a e ma’u ‘o e tui, fakakaukau (belief), fakakaukau (opinion) pe fengaue’aki fakapolitikale;
- (b) ‘a e kau ‘i ha ngaue fakapolitikale;
- (c) ‘a e ‘ikai ke ‘i ai ha tui, fakakaukau pe fengaue’aki fakapolitikale; pe
- (d) ‘ikai ke kau ‘i ha ngaue fakapolitikale;

“**matakali**” ‘oku kau ki ai ‘a e tangata’i fonua pe tupu’anga fakafonua, anga fakafonua pe tupu’anga ‘o e anga fakafonua, lanu, tupu’anga pe tuku fakaholo ‘o ha taha;

“**tui fakalotu**” ‘oku kau ki ai—

- (a) ‘a e ma’u ha tui, fakakaukau (belief), fakakaukau (opinion) pe fengaue’aki fakalotu;
- (b) ‘a e kau ‘i ha ngaue fakalotu;
- (c) ‘a e ‘ikai ha tui, fakakaukau (belief), fakakaukau (opinion) pe fengaue’aki fakalotu; pe
- (d) ‘ikai ke kau ‘i ha ngaue fakalotu;

“**ngaahi ngaue**” ‘oku kau ai ‘a e—

- (a) ngaahi ngaue fekau’aki mo e pangike, malu’i pe foaki atu ‘o e ngaahi tokoni, ngaahi no, kuletiti pe pa’anga;
- (b) ngaahi ngaue fekau’aki mo e fakafiefia, malolo pe me’atokoni;
- (c) ngaahi ngaue fekau’aki mo e fefononga’aki pe fefononga’aki ;
- (d) ngaahi ngaue ‘o ha ngaue fakapalofesinale , poto’i ngaue pe pisinisi;
- (e) ngaahi ngaue kuo fakahoko ‘e he pule’anga, sino ‘o e pule’anga pe kautaha pe ngaahi kautaha ‘a e Pule’anga ‘oku kaunga ‘a e pule’anga ‘i hono pule’i; mo e
- (f) foaki atu ‘o e ngaahi sikolasipi, ngaahi pale pe ngaahi fakalangilangi.

11B Mafai ki he ‘Ikai Filifilimanako

Neongo ‘a e kupu 11, kuo pau ki he ‘Omipatimeni ke ne toe ma’u ‘a e ngaahi fatongia ko eni –

- (a) ke ne fakatotolo’i ‘a e ngaahi me’a kuo tukuaki’i pe kuo mahalo’i ko e filifilimanako, fakafihia’i ‘o ha taha, fakamaa’i fakamatoato mo e fakakina’i fakaefefa’uhi kuo tuku atu ki ai ‘e ha taha pe ma’u mafai pe kuo ne ‘ilo ki ai ‘o fakafou ‘i ha launga pe kehe ange pea ke fakahoko ‘a e ngaahi ngaue ‘e ala fiema’u ki hono ta’ofi pe fakangata ‘o e filifilimanako mo veteki ha ngaahi launga;
- (b) ke faka’ai’ai ‘a hono fakatokanga’i mo tali ‘a e ngaahi to’onga, ngaue mo e founa ngaue totonu fekau’aki mo e filifilimanako;
- (c) ke tufaki atu ‘a e fakamatala fekau’aki mo e filifilimanako mo e ngaahi nunu’a ‘o e filifilimanako pea mo uki á e pou pou mei he kakai ki hono tauí ó e filifilimanako;
- (d) ke fakahoko ha fekumi mo e ngaahi polokalama fakaako ke faka’ai’ai ‘a e ngaahi to’onga, ngaue mo e ngaahi founa ngaue ‘oku ne fakafepaki’i ‘a e filifilimanako;
- (e) ke teuteu’i mo pulusi ha ngaahi tohi fakahinohino mo e fakamatala ke ta’ofi ‘a e ngaahi to’onga, ngaue mo e ngaahi founa ngaue filifilimanako;
- (f) fakaha ki he Áteni Seniale ha lao pe tuútuúni óku ngali filifilimanako; mo
- (g) ha toe fatongia kuo tu’utu’uni.

Vahe 2 – Tapui ‘o e filifilimanako mo e ngaahi faka’ataa

11C Tapui ‘o e filifilimanako ta’etotonu

- (1) Kuo pau he’ikai ke filifilimanako ha taha ki ha taha kehe ‘o makatu’unga ‘i he ngaahi tu’unga ‘oku fakamatala’i ‘i he ‘uhinga’i lea ‘o e “filifilimanako” ‘i he kupu 11A.
- (2) Ko e taumu’a ‘a ha taha kuo tukuaki’i kuo ne filifilimanako ki ha taha kehe ‘oku ‘ikai ‘i ai ha’ane felave’i, ki he ngaahi taumu’a ‘o e Lao ni.
- (3) ‘Oku ngaue’aki ‘a e Konga ni ki he filifilimanako ‘i he ngaahi ‘elia ‘o e ako, ngaue, ‘oatu ‘o e ngaahi koloa, ngāue mo e ngaahi feitu’u mo hono fakahoko ‘o e ngaahi lao mo e ngaahi polokalama ‘a e pule’anga.

11D Filifilimanako ‘i he ako

Kuo pau he’ikai ke filifilimanako ha ma’u mafai fakaako -

- (a) ‘i he founa ‘oku siofi ai ‘a e tohi kole ‘a ha taha;

- (b) 'i he 'ikai fakahoko pe 'ikai tali ha tohi kole 'a ha taha ke hu ko ha tokotaha ako;
- (c) 'i he ngaahi fokotu'utu'u kuo fakahoko ma'ae, pe tu'unga kuo ngaue'aki 'i he, tu'utu'uni pe ko hai 'oku totonu ke fakahu ko ha tokotaha ako;
- (d) 'i hono fakasitu'a'i ha tokotaha ako mei he hu pe 'i he ngaahi tu'unga mo e makatu'unga 'a ia 'oku fakahu ai ha taha ko ha tokotaha ako;
- (e) 'i he 'ikai fakahoko pe 'ikai tali ke foaki, pe fakangatangata, 'a e 'ataa ki ha monu'ia 'oku ma'u koe'uhi ko e lesisita 'oku tuku atu 'e he ma'u mafai;
- (f) 'aki ha 'ikai ngaahi lelei ha tokotaha ako 'i ha founa 'oku fekau'aki mo e ako'i pe fakahinohino 'o e tokotaha ako 'i he ako.

11E Ngaahi faka'ataa – ako

'E ngofua ki ha ma'u mafai fakaako 'a ia 'oku fakahoko ngaue pe 'amanaki ke fakahoko ngaue, ko ha ako'anga 'oku fakataumu'a kakato pe tefito ma'a ha fanau ako –

- (a) 'oku fakapatonu pe ki he tangata pe fefine, 'e ngofua ke 'oua te ne fakakau ha ni'ihhi tohi kole 'a ia 'oku 'ikai ke 'i he tu'unga ko e tangata pe fefine ko ia.
- (b) 'oku 'i ai honau faingata'a'ia fakalukufua pe pau, 'e ngofua ke 'oua te ne fakakau ha ni'ihhi tohi kole 'a ia 'oku 'ikai ke ma'u 'a e faingata'a'ia ko ia.
- (c) 'o ha siasi pe tui fakalotu pau, 'e ngofua ke 'oua te ne fakakau ha ni'ihhi tohi kole 'a ia 'oku 'ikai ke nau kau atu ki he siasi pe tui fakalotu ko ia.

11F Filifilimanako 'i he ngaue'anga

- (1) Kuo pau he'ikai ke filifilimanako ha taha -
 - (a) 'i he fokotu'utu'u ki he faitu'utu'uni ko hai 'e 'oange ki ai ha ngaue;
 - (b) 'i he tu'utu'uni ko hai 'oku totonu ke 'oatu ki ai ha ngaue;
 - (c) 'i he ngaahi tu'unga mo e makatu'unga 'o e ngaue 'oku 'oatu ke fakahoko;
 - (d) 'i he 'ikai fakahoko pe 'ikai tali ke 'oatu ha ngaue;
 - (e) 'aki 'a e 'ikai ke faka'ataa 'a e tokotaha ngaue ke ngaue pe hoko atu 'a e ngaue;

- (f) 'i ha liliu 'o e ngaahi tu'unga mo e makatu'unga 'o e ngaue;
 - (g) 'i he 'ikai fakahoko pe 'ikai tali ke foaki, pe fakangatangata, 'a e ma'u 'o e ngaahi faingamalie ke hiki hake, fehikitaki, ako ngaue pe ngaahi monu'ia kehe ki ha tokotaha ngaue;
 - (h) 'i hono tuku kitu'a ha tokotaha ngaue 'aki 'a hono fakangata ha ngaue pau 'a ha taha 'aki 'a hono fekau'i ke malolo, 'ikai ke 'oange ha ngaue pe ko ha toe me'a keheange; pe
 - (i) 'aki ha 'ikai ngaohi lelei ha tokotaha ngaue 'i ha founa 'oku fekau'aki mo e ngaue.
- (2) Kuo pau ke 'ikai filifilimanako ha pule ngaue'anga ki ha tokotaha ngaue 'i he ngaahi tu'unga 'o e tui pe ngaue fakalotu 'a e tokotaha ngaue 'aki ha 'ikai ke tali ke fakahoko 'e he tokotaha ngaue ha ngaue fakalotu lolotonga 'a e ngaahi houa ngaue ka ko e ngaue -
- (a) 'o ha fa'ahinga 'oku fakatokanga'i 'oku mahu'inga pe fiema'u 'e he ni'ihi 'oku nau tui fakalotu tatau mo e tokotaha ngaue;
 - (b) 'oku fakapotopoto hono fakahoko ia lolotonga 'a e houa ngaue fakatau ki he ngaahi 'ataakai 'o e ngaue; pea
 - (c) he'ikai ke kaunga kovi ki he tokotaha pule ngaue pe ko e kau ngaue kehe.

11G Ngaahi fakata'ataa – ngaue

- (1) 'E ngofua ki ha pule ngaue'anga pe taha ke filifilimanako ki ha taha kehe 'i he feitu'u ngaue'anga –
- (a) 'aki hono fokotu'u ha ngaahi tu'unga mo e ngaahi makatu'unga fakapotopoto kapau ko e taha kehe ko ia 'oku fakangatangata 'a 'ene malava 'o ngaue totonu mo fakapotopoto pea 'oku fiema'u ai ha ngaahi me'a makehe kae malava 'o fakahoko 'a e ngaue, koe'uhi ko hono ta'u motu'a pe faingata'a'ia; pe
 - (b) kapau ko e filifilimanako 'oku makatu'unga -
 - (i) 'i ha tu'unga fakaako fakaengaue pe ngaahi fiema'u totonu 'a ia 'oku fiema'u ke fakakakato 'e he taha kehe ko ia; pe
 - (ii) 'i he tu'unga 'ikai malava 'e he taha kehe ko ia ke ne fakahoko taau 'a e ngaahi fiema'u mahu'inga 'o e ngaue 'o tatau ai pe pe kuo fakahoko ha ngaue pe fakakakato 'a e fiema'u makehe 'a e taha kehe ko ia.

- (2) 'E ngofua ki ha taha ke filifilimanako ki ha taha kehe 'o kapau koe ngaue ko e fakahoko ha ngaue faka'api 'i ha 'api nofo'anga 'o e tokotaha ko ia.
- (3) 'E ngofua ki ha pule ngaue'anga pe taha ke filifilimanako ki ha taha kehe 'o makatu'unga 'i he faingata'a'ia ki ha me'a 'a ia 'oku tapui 'i he malumalu 'o e Vahe 2 'o kapau –
- (a) ko e tokotaha kehe ko ia te ne fiema'u 'a e ngaahi ngaue makehe pe me'angaue makehe; pea
- (b) ko hono tuku atu ha ngaue pe me'angaue makehe te ne hilifaki ha faingata'a'ia 'ikai fakapotopoto ki he pule ngaue'anga pe tokotaha ko ia.
- (4) 'E ngofua ke filifilimanako ha pule ngaue'anga pe ha taha ki ha taha kehe 'o makatu'unga 'i he faingata'a'ia fekau'aki mo ha me'a 'oku tapui 'i he malumalu 'o e Vahe 2 'o kapau ko e 'ataakai 'o e faingata'a'ia te ne hilifaki ha faingata'a'ia 'ikai fakapotopoto ki he pule ngaue'anga pe tokotaha ko ia.

11H Filifilimanako 'i he 'elia 'o e ngaahi koloa, ngaue mo e feitu'u

Kuo pau ke 'ikai filifilimanako ha taha, 'a ia 'oku ne 'oatu ha ngaahi koloa, ngaue pe feitu'u ki ha totongi pe tupu, ki ha taha kehe -

- (a) 'i ha 'ikai fakahoko pe 'ikai tali ke 'oatu 'a e ngaahi koloa, ngaue pe feitu'u;
- (b) 'i he founa pe ko e ngaahi tu'unga mo e makatu'unga 'a ia 'oku 'oatu ai ha ngaahi koloa, ngaue pe feitu'u; pe
- (c) 'i he 'ikai ngaahi lelei 'a e taha kehe ko ia 'i ha founa 'oku fekau'aki mo hono 'oatu 'o e ngaahi koloa, ngaue pe feitu'u.

11I Ngaahi Faka'ataa – ngaahi feitu'u

'E ngofua ki ha taha ke ne fakangatangata 'a e hu atu ki ha kelekele, fale pe ha feitu'u 'oku mahu'inga fakafonua pe fakalotu 'a ha ni'ihii 'a ia 'oku 'ikai 'i ha tu'unga ko e tangata pe fefine, ta'u motu'a, matakali pe tui fakalotu pau kapau ko e fakangatangata ko ia -

- (a) 'oku fakatatau ia mo ha anga fakafonua pe tokateline 'o ha tui fakalotu; pea
- (b) 'oku mahu'inga ia ke 'oua na'a ta'efaka'apa'apa ai ki he anga fakafonua pe ngaahi tui fakalotu 'a e kakai 'o e anga fakafonua pe tui fakalotu ko ia.

11J Filifilimanako 'i hono fakahoko 'o e ngaahi lao mo e ngaahi polokalama 'a e pule'anga

Kuo pau ki ha taha 'oku ne fakahoko ha fatongia, pe ngaue'aki ha mafai 'i he malumalu 'o e lao 'o e Fonua pe ki ha ngaahi taumu'a 'o ha polokalama 'a e

Pule'anga 'oku fakahoko 'i he malumalu 'o e Pule'anga ke 'ikai filifilimanako 'i he ngaue'aki hono mafai pe ko hono fakahoko hono ngaahi fatongia pe fakahoko ha ngafa.

Vahe 3 – Ngaahi Faka'ataa Fakalukufua

11K Tu'unga 'ikai ke malava fakalao

'E ngofua ke filifilimanako ha taha ki ha taha kehe 'oku 'i ha tu'unga 'ikai ke malava fakalao kapau ko e tu'unga 'ikai malava ko ia 'oku fekau'aki ia mo e ngaue 'a ia 'oku nau kau ki ai.

11L Ngaahi sino fakalotu

'Oku 'ikai ngaue'aki 'a e Konga ni ki ha pe fekau'aki -

- (a) mo e fakapapau'i pe fakanofu 'o e kau patele, kau faifekau 'o e lotu pe kau memipa 'o ha kautaha fakalotu;
- (b) mo e ako ngaue pe ako 'a ha ni'ihii 'oku fakataumu'a ke fakapapau'i pe fakanofu ko e kau patele, kau faifekau 'o e lotu pe kau memipa 'o ha kautaha fakalotu;
- (c) mo e ako ngaue pe ako 'a ha ni'ihii 'oku fiema'u ke fakanofu kinautolu ko e kau taki 'i ha kautaha fakalotu;
- (d) mo e fili pe fakanofu 'o ha ni'ihii ke fakahoko fatongia 'oku fekau'aki mo e, pe kehe ange ke kau atu, 'i ha fakahoko ngaue pe ouau fakalotu.

11M Ngaahi ngaue kuo fakahoko 'o faipau ki he lao

Neongo ha me'a 'oku fepaki mo e Lao ni, 'e ngofua ki ha taha ke fakahoko ha ngaue 'oku fiema'u ke faipau ki he, pe kuo fakangofua fakapatonu -

- (a) 'e he Konisitutone 'o Tonga;
- (b) 'e ha Lao pe Tu'utu'uni 'o e Fonua;
- (c) 'e ha tu'utu'uni 'a ha fakamaau'anga pe fakamaau'anga fakatonutonu;
- (d) 'e ha tu'utu'uni 'a e 'Omipatimeni 'i he malumalu 'o e Lao ni.

11N Mo'ui 'a e kakai

'E ngofua ki ha taha ke filifilimanako ki ha taha kehe 'i he tu'unga 'o e faingata'a'ia kapau ko e filifilimanako ko ia 'oku fiema'u fakapotopoto 'i he fiema'u ke malu'i 'a e mo'ui 'a e kakai.

11O Sipoti

- (1) 'E ngofua ke fakangatangata 'e ha taha ha kau atu ki ha sipoti fe'au'auhi -
- (a) ha ni'ihii tangata pe fefine pau, kapau ko e fakangatangata 'oku fakapotopoto 'i he'ene fekau'aki mo e tu'unga malohi, ivi pe tu'unga fakaesino 'oku fiema'u ki he sipoti;
 - (b) ha ni'ihii 'a ia 'e malava ke nau fe'au'auhi totonu;
 - (c) ha ni'ihii 'o ha ta'u motu'a pe kulupu ta'u motu'a pau; pe
 - (d) ha ni'ihii 'oku faingata'a'ia fakalukufua pe pau.
- (2) 'Oku 'ikai ngaue'aki 'a e kupu si'i (1)(a) ki ha sipoti fe'au'auhi ma'ae long'a'i fanau 'a ia 'oku te'eki ke nau ta'u 12.
- (3) 'I he kupu ni, ko e 'sipoti fe'au'auhi' 'oku 'ikai ke kau ai -
- (a) 'a hono ako'i 'o ha kakai kuo nau kau atu ki ha sipoti;
 - (b) 'a hono fakamaau'i (umpiring) pe fakamaau'i (refereeing) 'o ha sipoti; pe
 - (c) ko hono pule'i 'o ha sipoti.

11P 'Ikai fakapotopoto 'a hono feau 'a e fiema'u makehe

- (1) 'E ngofua ki ha taha ke filifilimanako ki ha taha kehe 'oku 'i ai hono faingata'a'ia 'o fekau'aki mo ha me'a kuo tapui 'i he malumalu 'o e Lao ni kapau -
- (a) ko e taha kehe ko ia 'oku ne fiema'u ha ngaahi ngaue pe feitu'u makehe; pea
 - (b) 'oku 'ikai fakapotopoto ke fiema'u ki he taha ko ia ke ne 'oatu ha ngaahi ngaue pe feitu'u makehe.
- (2) Pe 'oku 'ikai fakapotopoto ke fiema'u ki ha taha ke 'oatu ha ngaahi ngaue pe feitu'u makehe 'e makatu'unga ia 'i he ngaahi makatu'unga fekau'aki mo e me'a 'oku hoko kau ai, kae 'ikai ke fakangatangata ki he -
- (a) natula 'o e ngaahi ngaue pe feitu'u makehe;
 - (b) fakamole 'a hono 'oatu 'a e ngaahi ngaue pe feitu'u makehe mo e tokolahi 'o e kakai 'a ia 'e kaunga lelei pe kovi ki ai;
 - (c) ngaahi makatu'unga fakapa'anga 'o e taha ko ia;
 - (d) uesia 'e ala hoko koe'uhi ko e 'oatu 'a e ngaahi ngaue pe feitu'u makehe; mo e

(e) natula ‘o ha lelei pe uesia ki he kotoa ‘o kinautolu fekau’aki.”.

Vahe 4 – ‘Ulungaanga ke Fakafepaki’i

11Q Fakafihia’i ‘o ha taha

- (1) Kuo pau ‘e ‘ikai ke fakafihia’i ‘e ha taha ha taha kehe, ‘aki:
- (a) hano fakahoko ‘e ha taha ha ngaue pe fakamanamana ke fakahoko ha ngaue ke kaunga kovi ki ha taha kehe, koe’uhi:
- (i) ko e taha kehe ko ia pe ko ha taha kehe ‘oku na fekau’aki, ‘oku ‘ikai ke loto ke fakahoko ha me’a ‘e hoko ke maumau ai ‘a e Konga ni;
- (ii) ko e taha kehe ko ia, ‘i he laumalie lelei, ‘oku ne tukuaki’i, pe taumu’a ke ne tukuaki’i ‘oku ‘i ai ‘a e tokotaha na’a ne fakahoko ‘a e ngaue ‘a ia te ne maumau’i ai ‘a e Konga ni;
- (iii) ko e taha kehe ko ia, ‘oku, pe na’e, pe taumu’a ke kau ki ha hopo ‘i he malumalu ‘o e Lao ni mo ha taha kehe;
- (b) koe’uhi ko ‘ene tui ko e taha kehe ko ia pe ko e taha kehe ‘oku kaunga pe ‘oku na fekau’aki, ‘oku ne fakahoko, ‘osi fakahoko, pe taumu’a ke fakahoko ‘a e taha ‘o e ngaahi me’a ‘oku ha ‘i he (i) ki he (iii) ‘i ‘olunga.
- (2) Kapau ‘e maumau’i ‘e he kau ngaue pe fakafofonga ‘o ha taha ‘a e Lao ni, ‘i he lolotonga ‘a e ngaue pe lolotonga ‘a e fakahoko ngaue ko e fakafofonga, koe taha ko ia fakataha mo e tokotaha ngaue mo e fakafofonga, pe koe fe pe ‘a e me’a ‘oku hoko, te nau ala mo’ua fakataha fakasivile ki he maumau lao pea koe hopo ‘i he malumalu ‘oe Lao ni, ‘e fakahoko ki ha taha pe fakatouloua.

11R Fakamaa’i Fakamatoato

Kuo pau ki ha taha ke ‘oua te ne faka’ai’ai ha taufehi’a, fakamo’ulaloa’i pe manumanuki’i, ‘i he ‘ilopau pe ta’etokanga, ‘o ha taha kehe pe kulupu kakai koe’uhi ko e makatu’unga ‘i he kominiuti, tupu’anga faka-famili, matakali, tangata’i fonua, matakali, lotu, kita pe tangata pe fefine ‘o e tokotaha ko ia pe memipa ‘o e kulupu ko ia ‘i ha founa kau ai ‘a e -

- (a) fakamanamana ke fakalavea’i fakaesino ki he tokotaha ko ia pe koloa ‘o e taha ko ia pe ko há kulupu kakai;
- (b) faka’ai’ai ha kakai kehe ke nau fakamanamana ke fakalavea’i fakaesino ki he tokotaha ko ia pe ko ‘ene koloa pe ko e kulupu kakai ko ia; pe

- (c) fakamafola pe tukuange ki he kakai ha fakamatala, faka'ilonga hingoa, faka'ilonga, fakamatala pau mo e ngaahi fakamatala kehe felave'i te ne faka'ai'ai 'a e ngaahi fefakafaikehekehe'aki, taaufehi'a pe fakalavea fakaesino.

11S Fakakina'i Fakaefefa'uhi

- (1) Ke faka'ai'ai 'a e ma'u tatau 'o e faingamalie, kuo pau ke 'oua 'e fakakina'i fakaefefa'uhi 'e ha taha ha taha kehe.
- (2) Ki he taumu'a 'o e kupusi'i (1), ko e fakakina'i fakaefefa'uhi 'oku 'uhinga ki he taimi 'oku fakahoko ai 'e há taha -
- (a) hono fakamalohi'i ha taha ke fai ha fefa'uhi fakaesino ta'eloto ki ai 'a e taha ko ia;
- (b) fakahoko ha fakamalohi pe fekau ta'e loto ki ai 'a e taha kehe (fakahangatonu pe ngali ko ia) ke fakahoko ha fefa'uhi fakaesino;
- (c) fakahoko ha lea 'oku kau ai ha faka'alinga ke fefa'uhi fekau'aki mo e taha kehe ko ia;
- (d) fakahoko ha 'ulungaanga 'oku 'ikai fiema'u ka 'oku natula fakaefefa'uhi fekau'aki mo taha kehe ko ia;
- pea koe tokotaha ko ia 'oku ne fai 'ae 'ulungaanga 'oku fakamatala'i 'i he kupu si'i (a), (b), (c) pe (d) 'oku ne fakahoko ia -
- (e) mo e taumu'a ke fakamaa'i, tukuhiho pe fakailifia'i 'a e taha kehe ko ia; pe
- (f) 'i ha 'ataakai 'a ia ko há taha fakapotopoto 'oku ne ala 'ilo'i 'a e malava ke hoko 'a e ma, ongo'i ma'ulalo pe ilifia 'a e taha kehe ko ia."

4 Fakahu atu 'a e Konga III fo'ou

'Oku fakatonutonu 'a e Tefito'i Lao 'i hono fakahu atu 'a e 'ulu'i tohi "**KONGA III – LAUNGA, FAKATOTOLO MO E NGAahi MAFai 'O E 'OMIPATIMENI**" kimu'a pe 'a e kupu 12, pea ko e ngaahi kupu lolotonga 12 ki he 26 kuo pau ke hoko ko e Konga III 'o e Tefito'i Lao.

~~5 Fakatonutonu 'a e kupu 18(4)~~

~~'Oku fakatonutonu 'a e Tefito'i Lao 'i he kupu 18 'i hono tamate'i 'a e kupusi'i (4) pea fetongi'aki ia 'a e kupusi'i fo'ou ko eni~~

~~"(4) Kapau 'i loto 'i ha vaha'a taimi fakapotopoto hili hono fakahoko 'o e lipooti kuo 'ikai ke fakahoko ha ngaue 'a ia 'oku pehe 'e he 'Omipatimeni 'oku fe'unga mo~~

~~taau ke fakahoko, 'e ngofua ki he 'Omipatimeni, 'i he'ene fakakaukau, hili hano fakakaukau'i 'a e mo'oni'i me'a 'o e launga mo e ngaahi fakamatala, kapau 'oku 'i ai, na'e fai 'e he pe ma'a ha taha pe kautaha 'oku felave'i mo ia, ke ne~~

~~(a) hilifaki ha tautea fakangaue ki he taha pe kautaha 'i ha lahi 'oku 'ikai laka hake 'i he \$5,000; pe~~

~~(b) 'oatu ha tatau 'o e lipooti pe ngaahi fokotu'u ki he 'Eiki Sea 'a ia kuo pau ke ne fakahu ia ki he Fale Alea fakataha mo ha'ane fokotu'u 'oku taau.'.~~

56 Fakahu atu 'a e Konga IV fo'ou

'Oku fakatonutonu 'a e Tefito'i Lao 'i hono fakahu atu 'a e 'ulu'i tohi "**KONGA IV – NGAARI ME'AKEHE**" kimu'a pe 'a e kupu 27, pea ko e ngaahi kupu lolotonga 27 ki he 31 kuo pau ke hoko ko e Konga IV 'o e Tefito'i Lao.

Na'e tali 'e he Fale Alea 'i he 'aho ni 'o

20254.

LAO FAKAANGAANGA (FAKATONUTONU) KI HE 'OMIPATIMENI 2025⁴

NGAAHI FAKAMATALA FAKAMAHINO

(‘Oku ‘ikai hoko ‘a e ngaahi fakamatala ni ko ha kongá ‘o e Lao Fakaangaangá ka ‘oku fakataumu’a pē ia ke fakamatala’i hono taumu’á mo e ngāue’aki)

Ko e Fakaha Fakamamani Lahi ‘o e Ngaahi Totonu ‘a e Tangatá (“UDHR”), ‘a ia kuo tali ‘e Tonga ‘oku ne tu’utu’uni “‘oku ‘i ai ‘a e totonu ‘a e taha kotoa ki he ngaahi tau’atāina kotoa ‘oku ha ‘i he UDHR, ‘o ‘ikai ha fakafaikehekehe’i ‘i ha fa’ahinga hangē ko e matakali, lanu, tangata pe fefine, lea, lotu, tui fakapolitikale pe tui kehe, tupu’anga fakafonua pe fakasosiale, koloa, fanau’i pe tu’unga kehe”. Ko e Konivesio Fakavaha’apule’anga ki hono Ta’ofi ‘o e Fa’ahinga Kotoa ‘o e Filifilimānako Fakamatalá (“CERD”), ‘a ia ‘oku toe kau atu ki ai ‘a Tongá ‘oku ne tapou mai ki he Ngaahi Fonua Mēpipá ke tapui pea ta’ofi ‘a e fa’ahinga kotoa ‘o e filifilimānako fakamatalá.

‘Oku tu’utu’uni ‘a e kupu 4 ‘o e Konisitutone ‘o Tongá kuo pau ke taha pē ‘a e lao ki he Tonga kotoa. ‘I he fakalelei fakapolitikale ‘o e 2010 na’e fakamamafa’i ai ‘a e liliu ki ha founa pule’anga ‘oku toe fakatemokālati angé. ‘Oku ha mai mei he ngaahi tu’unga fakalao ko ‘ení ‘a e fakalalakala ‘o e faingamālie tatau, mo hono faka’ai’ai ‘o e ta’efilifilimānakó mo hono ta’ofi ‘o e faikehekehe fakasosiale mo faka’ekonomika tautautefito ki he ngaahi tafa’aki ‘oku natula fakangāué. Neongo kuo fakalalakala ‘a e fokotu’utu’u fo’ou mo e liliu ‘a hotau sosaietí mo e ngaahi ngāue’angá, ‘oku kei tanumaki pē ‘a e filifilimānako ta’etotonú ‘i hotau ngaahi fa’unga fakasosialé, ngaahi ngāué mo e ngaahi tō’onga ‘a hotau sosaietí, ‘a ia ko e matāmama ia ki he’etau ngaahi taumu’a fakakonisitutone fakatemokālati.

Ko e Lao Fakaangaanga (Fakatonutonu) ki he ‘Omipatimeni 2025⁴ (“Lao Fakaangaanga”) ‘oku ne tapui ‘a e filifilimānako ‘o makatu’unga ‘i he tangata pe fefine, matakali, faingata’a’ia, tui fakalotu, tui, kaunga pe ngaue fakapolitikale, tu’unga fakahu’u ke tangata pe fefine, tu’unga fakamali, pe ta’u motu’a ‘o fakatefito ki he tafa’aki ‘o e ngāue, ako, ‘oatu ‘o e ngaahi koloa, ngāue mo e feitu’u pea ‘i hono fakahoko ‘o e ngaahi laó mo e ngaahi polokalama ‘a e pule’angá. ‘Oku fakafatongia’aki ‘e he Lao Fakaangaanga ni ‘a e ‘Omipatimeni ‘a e ngafa fatongia ki hono fakatotolo’i mo solova ‘o e ngaahi launga fekau’aki mo e filifilimanako, ako’i ‘o e kakai fekau’aki mo e filifilimanako mo hono ngaahi nunu’a, fakahoko ha ngaahi polokalama fakaako ke faka’ai’ai ‘a e ngaahi to’onga mo e ngaahi founa ngaue ‘oku ne fakafepaki’i ‘a e filifilimanako pea ke pulusi ha ngaahi tohi fakahinohino ke ta’ofi ‘a e ngaahi to’onga, ngaue mo e ngaahi founa ngaue filifilimanako. ‘Oku toe tu’utu’uni foki ‘e he Lao Fakaangaanga ‘a e ngaahi faka’ataa ~~pea ‘oatu ki he ‘Omipatimeni ‘a e mafai ke ne hilifaki ha tautea fakangaue kapau ‘oku ne pehe ‘oku te’eki ke fakahoko ‘e ha taha, Potungae pe kautaha ha ngaahi ngaue fe’unga mo taau ki he ngaahi me’a kuo fokotu’u atu ‘e he ‘Omipatimeni kiate kinautolu ke fakalelei’i.~~

Hon Dr Taniela Likuohihifo Fusimalohi

‘Eiki Tokoni Palemia, Minisita ki he Ngaahi Ngaue Lalahi, Minisita ki he MEIDECC,
Fakafofonga ‘o e Kakai ma’ae Vāhenga Fili ‘Eua 11

OMBUDSMAN (AMENDMENT) BILL 202⁵⁴

A BILL FOR AN ACT TO AMEND THE OMBUDSMAN ACT (CAP. 2.02) TO PROHIBIT DISCRIMINATION IN CERTAIN AREAS AND ASSIGN THE AUTHORITY FOR INVESTIGATION OF DISCRIMINATORY ACTS AND OTHER OBJECTIONABLE CONDUCT ON THE OMBUDSMAN AND FOR RELATED MATTERS

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

1 Short title

- (1) This Act may be cited as the Ombudsman (Amendment) Act 202⁵⁴.
- (2) In this Act, the Ombudsman Act (Cap. 2.02), as amended, shall be referred to as the “Principal Act”.

2 New Part I inserted

The Principal Act is amended by inserting the heading “**PART I-PRELIMINARY**” immediately before section 1, and the current sections 1 to 11 shall form Part I of the Principal Act.

3 New Part II inserted

The Principal Act is amended by inserting the following new part as Part II of the Principal Act -

“PART II – NON-DISCRIMINATION

Division 1 – Definitions and Non-Discrimination Authority

11A Definitions

In this Part, unless the context otherwise requires –

“**disability**” means—

- (a) total or partial loss of a bodily or mental function;
- (b) total or partial loss of a part of the body;
- (c) the malfunction, malformation or disfigurement of a part of the body;
- (d) a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction;

- (e) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;
- (f) the presence in the body of an organism that causes or is capable of causing disease or illness; or
- (g) any other condition prescribed by regulation;

“discrimination or discriminate” refers to:

- (a) any distinction, exclusion, restriction or preference made on the basis of an attribute of a person including gender, race, community, ancestry, nationality, social status, disability, religious beliefs, political beliefs, affiliation or activity, sexual orientation, marital status, age or association with a person having one or more of the foregoing and which has the purpose or effect of nullifying or impairing equality of opportunity or recognition, access to, or exercise by all persons of all rights and freedoms;
- (b) harassment on the basis of the attributes in paragraph (a) above;
- (c) the actual or proposed treatment of a person with an attribute set out in paragraph (a) above, less favourably than another person without the attribute or would be treated less favourably in circumstances that are the same or not materially different; or
- (d) the actual or proposed imposition of a term with which a person with an attribute is not able to comply, with which a higher proportion of people without an attribute are able to comply or is unreasonable;

“educational authority” means a body or person administering an educational institution;

“educational institution” means a school, college, university or other institution at which education or training is provided;

“marital status” includes the status or condition of being single, married, divorced, widowed or in a relationship;

“person” includes an officer or employee of the Government or its Ministries, Department, Agencies, public enterprises and Government-owned companies;

“political belief” includes—

- (a) having a political conviction, belief, opinion or affiliation;
- (b) engaging in political activity;
- (c) not having a political conviction, belief, opinion or affiliation; or
- (d) not engaging in political activity;

“race” includes the nationality or national origin, ethnicity or ethnic origin, colour, descent or ancestry of a person;

“religious belief” includes—

- (a) having a religious conviction, belief, opinion or affiliation;
- (b) engaging in religious activity;
- (c) not having a religious conviction, belief, opinion or affiliation; or
- (d) not engaging in religious activity;

“services” includes—

- (a) services relating to banking, insurance or the provision of grants, loans, credit or finance;
- (b) services relating to entertainment, recreation or refreshment;
- (c) services relating to transport or travel;
- (d) services of any profession, trade or business;
- (e) services provided by government, government authority, or corporation or government-owned companies in which a government has a controlling interest; and
- (f) the provision of scholarships, prizes or awards.

11B Non-Discrimination Authority

Notwithstanding section 11, the Ombudsman shall also have the following functions –

- (a) to investigate instances of alleged or suspected discrimination, victimisation, serious vilification and sexual harassment referred to it by any person or authority or which has come to its attention whether by complaint or otherwise and to take such steps as may be necessary for the eradication or suppression of discrimination and resolve complaints;
- (b) to promote the recognition and approval of acceptable attitudes, acts and practices relating to discrimination;
- (c) to disseminate information about discrimination and the effects of discrimination and foster public support in combating discrimination;
- (d) to undertake research and educational programs to promote attitudes, acts and practices against discrimination;
- (e) to prepare and publish guidelines and information for the avoidance of discriminatory attitudes, acts and practices;
- (f) inform the Attorney General of any legislation and regulations that are discriminatory; and
- (g) any other prescribed functions

Division 2 – Prohibition of discrimination and exemptions

11C Prohibition of unfair discrimination

- (1) A person shall not discriminate against another person on the basis of the attributes described in the definition of “discrimination or discriminate” in section 11A of this Act
- (2) The intention of a person alleged to have discriminated against another person is, for the purposes of this Act, irrelevant.
- (3) This Part applies to discrimination in the areas of education, work, provision of goods, services and facilities and the administration of laws and government programs.

11D Discrimination in education

An educational authority shall not discriminate -

- (a) in the way a person’s application is processed;
- (b) by failing or refusing to accept a person’s application for admission as a student;
- (c) in the arrangements made for, or the criteria used in, deciding who should be offered admission as a student;
- (d) by excluding a student from admission or in the terms and conditions on which a person is admitted as a student;
- (e) by failing or refusing to grant, or limiting, access to any benefit arising from the enrolment that is supplied by the authority;
- (f) by treating a student less favourably in any way in connection with the student's training or instructions in school.

11E Exemptions - education

An educational authority that operates, or proposes to operate, an educational institution wholly or mainly for students -

- (a) of a particular gender, may exclude applicants who are not of that gender.
- (b) who have a general or specific disability, may exclude applicants who do not have that disability.
- (c) of a particular faith or religious belief, may exclude applicants who are not of that religion or faith.

11F Discrimination in the area of work

- (1) A person shall not discriminate -
 - (a) in the arrangements for deciding who should be offered work;
 - (b) in deciding who should be offered work;
 - (c) in the terms and conditions of work that is offered;
 - (d) in failing or refusing to offer work;
 - (e) by not allowing the worker to work or continue to work;
 - (f) in any variation of the terms and conditions of work;
 - (g) in failing or refusing to grant, or limiting, access to opportunities for promotion, transfer, training or other benefits to a worker;
 - (h) in dismissing a worker by ending the particular work of a person by forced retirement, failure to provide work or otherwise; or
 - (i) by treating a worker less favourably in any way in connection with work.

- (2) An employer shall not discriminate against an employee on the grounds of the employee's religious belief or activity by refusing the employee permission to carry out a religious activity during working hours being an activity -
 - (a) of a kind recognised as necessary or desirable by persons of the same religious belief as that of the employee;
 - (b) the performance of which during working hours is reasonable having regard to the circumstances of the work; and
 - (c) that does not subject the employer or other employees to any detriment.

11G Exemptions – work

- (1) An employer or person may discriminate against another person in the area of work -
 - (a) by fixing reasonable terms and conditions if that other person has a restricted capacity to do the work genuinely and reasonably and requires special conditions to be able to do the work because of age or disability; or

- (b) if the discrimination is based -
 - (i) on a genuine occupational qualification or requirements which the other person is required to fill; or
 - (ii) on the other person's inability to adequately perform the inherent requirements of the work even where the special need of the other person has been or was to be accommodated.
- (2) A person may discriminate against another person if the work is to perform domestic services at the person's home
- (3) An employer or person may discriminate on the basis of impairment against another person with respect to a matter that is otherwise prohibited under Division 2 if -
 - (a) the other person would require special services or facilities; and
 - (b) the supply of special services or facilities would impose unjustifiable hardship on the employer or the first person
- (4) An employer or person may discriminate on the basis of impairment against another person with respect to a matter that is otherwise prohibited under Division 2 if the circumstances of the impairment would impose unjustifiable hardship on the employer or the first person.

11H Discrimination in the area of goods, services and facilities

A person who supplies goods, services or facilities for reward or profit shall not discriminate, against another person -

- (a) by failing or refusing to supply the goods, services or facilities;
- (b) in the way or the terms and conditions on which the goods, services or facilities are supplied; or
- (c) by treating the other person less favourably in any way in connection with the supply of the goods, services or facilities.

11I Exemptions – facilities

A person may restrict access to land, a building or a place of cultural or religious significance by people who are not of a particular gender, age, race or religion if the restriction -

- (a) is in accordance with the culture or the doctrine of the religion; and

- (b) is necessary to avoid offending the cultural or religious sensitivities of people of the culture or religion.

11J Discrimination in the administration of laws and government programs

A person who performs any function or exercises any power under a law of the Kingdom or for the purposes of a Government program conducted on its behalf shall not discriminate in the exercise of the power or the performance of the functions or the carrying out of the responsibility.

Division 3 – General Exemptions

11K Legal incapacity

A person may discriminate against another person who is subject to a legal incapacity if that incapacity is relevant to the transaction in which they are involved.

11L Religious bodies

This Part does not apply to or in relation to -

- (a) the ordination or appointment of priests, ministers of religion or members of a religious organisation;
- (b) the training or education of people seeking ordination or appointment as priests, ministers of religion or members of a religious organisation;
- (c) the training or education of people seeking appointment as leaders in a religious organisation;
- (d) the selection or appointment of people to perform functions in relation to, or otherwise participate in, any religious observance or practice.

11M Acts done in compliance with the law

Notwithstanding anything to the contrary in this Act, a person may do an act that is necessary to comply with or is specifically authorised by -

- (a) the Constitution of Tonga;
- (b) an Act or Regulation of the Kingdom;
- (c) an order of a court or tribunal;
- (d) an order of the Ombudsman under this Act.

11N Public health

A person may discriminate against a person on the ground of disability if the discrimination is reasonably necessary to protect public health.

11O Sport

- (1) A person may restrict participation in a competitive sporting activity -
 - (a) to persons of a particular sex, if the restriction is reasonable having regard to the strength, stamina or physique requirements of the activity;
 - (b) to persons who can effectively compete;
 - (c) to persons of a specified age or age group; or
 - (d) to persons with a general or specific disability.
- (2) Subsection (1)(a) does not apply to a sporting activity for children who have not attained 12 years of age.
- (3) In this section, 'competitive sporting activity' does not include -
 - (a) the coaching of people engaged in a sporting activity;
 - (b) the umpiring or refereeing of a sporting activity; or
 - (c) the administration of a sporting activity.

11P Accommodating special need unreasonable

- (1) A person may discriminate against another person who has a disability with respect to a matter that is otherwise prohibited under this Act if -
 - (a) the other person would require special services or facilities; and
 - (b) it is unreasonable to require the person to supply the special services or facilities.
- (2) Whether it is unreasonable to require a person to supply special services or facilities depends on the relevant circumstances of the case including, but not limited to -
 - (a) the nature of the special services or facilities;
 - (b) the cost of providing the special services or facilities and the number

- of people who would benefit or be disadvantaged;
- (c) the financial circumstances of the person;
- (d) the disruption that providing the special services or facilities may cause; and
- (e) the nature of any benefit or detriment to all persons concerned.

Division 4 – Objectionable Conduct

11Q Victimisation of another person

- (1) A person shall not victimise another person where:
 - (a) a person does an act or threatens to do an act, to the detriment of another person because:
 - (i) the second person or a person associated with, or related to, the second person refused to do an act that would amount to contravening this Part;
 - (ii) the second person, in good faith, alleged, or intends to allege that a person committed an act that would amount to a contravention of this Part;
 - (iii) the second person is, or has been, or intends to be involved in a proceeding under this Act against another person;
 - (b) because the first person believes that the second person or person associated with or related to the second person is doing, has done, or intends to do one of the things stated in (i) – (iii) above.
- (2) If any of a person's workers or agents contravenes the Act in the course of work or while acting as agent, both the person and the worker or agent, as the case may be, are jointly and severally civilly liable for the contravention, and a proceeding under the Act may be taken against either or both.

11R Serious Vilification

- (1) A person shall not knowingly or recklessly incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the person's community, ancestry, ethnicity, nationality, race, religion, sexuality or gender identity of the person or members of the group in a way that includes -

- (a) threatening physical harm towards, or towards any property of, the person or group of persons;
- (b) inciting others to threaten physical harm towards, or towards any property of, the person or group of persons; or
- (c) publish or broadcast to the public information, labels, signs, identification and other related information that excite differences, hatred or physical harm.

11S Sexual harassment

- (1) To promote equality of opportunity, a person shall not sexually harass another person.
- (2) For the purpose of subsection (1), sexual harassment refers to when a person -
 - (a) subjects another person to an unsolicited act of physical intimacy;
 - (b) makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person;
 - (c) makes a remark with sexual connotations relating to the other person; or
 - (d) engages in any other unwelcome conduct of a sexual nature in relation to the other person;

and the person engaging in the conduct described in paragraphs (a), (b), (c) or (d) does so -

 - (e) with the intention of offending, humiliating or intimidating the other person; or
 - (f) in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.”.

4 New Part III inserted

The Principal Act is amended by inserting the heading “**PART III-COMPLAINT, INVESTIGATION AND POWERS OF THE OMBUDSMAN**” immediately before section 12, and the current sections 12 to 26 shall form Part III of the Principal Act.

~~5 Section 18(4) amended~~

~~The Principal Act is amended in section 18 by deleting subsection (4) and replacing it with the following new subsection—~~

~~“(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the facts of the case and comments, if any, made by or on behalf of any individual or organisation affected, may—~~

~~impose an administrative penalty on the individual or organisation an amount not exceeding \$5,000; or~~

~~send a copy of the report and recommendations to the Speaker who shall table the matter in the Legislative Assembly with his appropriate recommendation.”.~~

65 New Part IV inserted

The Principal Act is amended by inserting the heading “**PART IV-MISCELLANEOUS**” immediately before section 27, and the current sections 27 to 31 shall form Part IV of the Principal Act.

Passed by the Legislative Assembly this day of 20254.

OMBUDSMAN (AMENDMENT) BILL 202~~5~~4

EXPLANATORY NOTES

(These notes do not form part of the Bill and is only intended to explain its purpose and scope)

The Universal Declaration of Human Rights (“UDHR”), adopted by Tonga provides that “everyone is entitled to all the freedoms listed in the UDHR, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”), to which Tonga is a party also calls for States Parties to prohibit and eliminate racial discrimination in all forms.

Clause 4 of the Constitution of Tonga provides that there shall be one law in Tonga for all. The 2010 constitutional and political reform emphasised a shift to a more democratic system of government. These legal measures imply the advancement of equality, and the promotion of non-discrimination and require the eradication of social and economic inequalities especially those that are systemic in nature. Although progress has been made in restructuring and transforming our society and its institutions, inequalities and unfair discrimination remain deeply embedded in the social structures, practices and attitudes of our society, which undermines the aspirations of constitutional democracy.

The Ombudsman (Amendment) Bill 202~~5~~4 (“Bill”) prohibits discrimination based on gender, race, disability, religious beliefs, political beliefs, affiliation or activity, sexual orientation, marital status or age, specifically in the areas of work, school, the provision of goods, services and facilities and in the administration of laws and government programs. The Bill confers on the Ombudsman the responsibility of investigating and resolving discrimination complaints, raising awareness on discrimination and its effects, undertaking educational programs to promote acts and practises against discrimination and publishing guidelines for the avoidance of discriminatory attitudes, acts and practices. The Bill also provides exemptions ~~and gives the Ombudsman the power to impose an administrative penalty if an individual, Department or organisation has not taken adequate and appropriate actions on matters recommended by the Ombudsman for them to rectify.~~

Hon Dr Taniela Likuohihifo Fusimalohi

Deputy Prime Minister, Minister for Infrastructure, Minister for MEIDECC, People’s Representative for ‘Eua 11