



TUHITAKI
mo na
KOMEHINA TULAFONO
o
TOKELAU

HANDBOOK
for the
LAW COMMISSIONERS
of
TOKELAU

TUHI TAKI MO NA KOMEHINA TULAFONO O TOKELAU

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Kupu Tomua (Kua fakaliliu mo te Fakamahino Hili o Tokelau)

Fakamālo atu kia te koutou uma.

E lagona te fiafia ke tuku atu te kupu tomua ki tenei lomiga fōu o te Tuhi Taki mo na Komehina Tulafono a Tokelau.

I te fakatinoga o te lomiga muamua o tenei Tuhi Taki i te tauhaga 2008, ko te hini kautu ke fakalelei atili te pulepulega o te tulafono ma te fakaleleia atili ona avanoa ki te fakatinoga o te amiotonu e auala ina fakamahinoga i Tokelau ma, ke “tautali ki na manakoga o kilatou e gafa ma te tiute ke apalai te tulafono”. E fakamoemoe ko te Tuhi Taki tenei e kavea ma takiala e aoga ki na Komehina Tulafono, ma, na tuhia ki he manakoga ke iei ni Komehina Tulafono, ma mafaufau ki te tulaga ona nuku o Tokelau.

Talu te hefulu ono tauhaga kua teka, e tumau pea te mooni ko na Komehina Tulafono, fakatahi ma na ofiha uma o te fakamahinoga, e manakomia pea e kilatou te fehoahoaniga. He galuega faigata te fakatinoga o na fakamahinoga. Ko te mafuaaga ia na fakamuamua ai te iloilogaga o te Tuhi Taki e Te Kua Kaiwhakawā (Institute of Judicial Studies) i te takitakiga o te pulepulega a te Polokalame o Fakamahinoga i te mahina o Ianuali, 2022. E momoli atu ai haku fakafetai lahi ki a te kilatou uma na aofia kina tapenapenaga o te Tuhi Taki ma o latou hao na fai ki na galuega o te tulafono a Tokelau. E momoli atu haku fakafetai fakapitoa ki te Komiti Iloilo (Enoka Puni, Professor Tony Angelo, Komehina Tulafono Hafiti Gaualofoa, Aukusitino Vitale, Apolima Tamoā, ma Janine Ford) ki na galuega na fakatino i te lomiga fou ma te fakaliliuga o te Tuhi Taki 2023/2024.

E taua lele te galuega a te Komehina Tulafono e fai. E tuha ai ma te Lipoti Tauhaga mo Fakamahinoga 2018/19, e takua mai ai e 74 fakatahi ia moliaga na fakamahino e na Komehina Tulafono e tolu a Tokelau. E takua foki i loto o te lipoti tenei te galuega patino a te Komehina Tulafono ko te fakatauaga ke fakalelei atili te fakatulagaga lautele i loto o Tokelau e ala i te mōlia o he tamaiti kua holitulafono. Ko na moliaga e 74 na kave ki te Fakamahinoga a te Komehina Tulafono i te tauhaga 2018/19 ni matakupu tau fakamahinoga i he holitulafono.

Ko te fakaaoga e te Fakamahinoga to na mafai agai ki na holigatulafono, e iei na vaega taua i te aiatatau o te tagata e fakatulaga fakalelei, te aiatatau ke ola, te haolotoga ma te haogalemu o te tino, te aiatatau ke he mafai ai ke haihaia pe fakahala; te aiatatau ke tutuha ki he fakamahinoga aloakia e fai e he fakamahinoga tu tokatahi ma he fakaitukau ke vakilikili ma fakamautu ai ona aiatatau ma ona tiute taukave fakatahi ai ma ni ona moliaga tau holitulafono; ma te aiatatau ke taku mama ai pea ke pa ki he taimi fakamaonia ai ko ia kua agahala e tuha ai ma te tulafono, i he fakamahinoga e fakaavanoa ki tagata lautele ma kua ia te ia na itu

uma e manakomia mo tona puipuiga. Ko na aiatatau uma ienei kua lau atu e takua uma i loto o te Takutinoga a te Lalolagi mo Aia Tatau a te Tagata. Ko na aiatatau ienei kua fakamaonia e te Vaega 16 o te Tulafono Fakavae o Tokelau.

E kavea te Tuhi Taki tenei ma takiala ki te puipuiga o na aiatatau, e momoli ai haku fakafetai mo kilatou na tapena tenei tuhi ma e fakamalohia atu ki na Komehina Tulafono ke faitau ma fakaaoga ona laupepa.

I toku tulaga kote Fakamahino Hili, e momoli haku fakafetai ma fakamalo ki na Komehina Tulafono a Tokelau, ma kilatou uma e hapoti ki te fakatinoga o a latou galuega. E takua fakapitoa e au na Faialautuhi ki te Fakamahinoga ma Leoleo, mo toulua tulaga taua i loto o te tauhiga o te amiotonu i loto o Tokelau. I haku toe kupu, e kavatu haku fakafetai ki te Fono Fakamua, te Ulu o Tokelau, te Malo Fakaauau ma na Taupulega o na nuku o Tokelau.

Ke kavea pea ia Tokelau ma atunuku e tauhitonu ki te amiotonu o te Fakamahinoga.

Ke tumau pea te pupuiga a te Atua ki Tokelau.

Fakafetai lahi lele.

Rt Hon Dame Helen Winkelmann

Fakamahino Hili o Tokelau

Apelila 2024

Fakatulagaga mo te Tulafono Fakavae

1 Fakatulagaga mo te tulafono fakavae

1.1 Ko te malo o Niu Hila ma Tokelau

Ko Tokelau he atunuku ko heki faia hana filifiliga faigamalo, e pulepulea e te Malo o Niu Hila (Vaega 3 o te Tulafono Fakapalemene a Tokelau 1948).

Ko Tokelau he vaega e o na fenua o te kaukaiga o Niu Hila, teia foki e i loto ai na malo pulea fakalotoifale o te Atu Kuki ma Niue (Vaega 1(d) Letters Patent 1989).

Ko Tokelau, i loto o te lihi a Malo Kaufakatahi, he atunuku e iei tona aia ke fai hana filifiliga faigamalo.

Ko te fakanofonofoga kautu o te malo o Tokelau kua fakatatia mai i loto o na Tulafono Fakapalemene o Tokelau 1948. Ko te Ulu o te Atunuku ko te Pule Hilihili o Niu Hila. Ko te Kovana Hili o Niu Hila ko te hui tena o te Pule Hilihili. Ko Tokelau e pulepulea e te Malo o Niu Hila, i lalo o te fakamalumaluga a te Ofiha o te Va ki Fafo ma Fefakataukiga, ma e kikila e he Ulufakatonu, ko ia te fakauluulu kiei te Ofiha o Hokotaga Fakapitoa i loto o te Ofiha o te Va ki Fafo ma Fefakataukiga.

E mafai e te Palemene o Niu Hila oi fai ni tulafono mo Tokelau e auala atu i ni Tulafono Fakapalemene (Vaega 3B o te Tulafono Fakapalemene a Tokelau 1948). E mafai e te Kovana Hili oi fai ni tulafono mo Tokelau e auala i ni Tulafono Fakatonutonu (Vaega 4(I) o te Tulafono Fakapalemene o Tokelau 1948).

Ko na tino Tokelau e he palota i na faigapalota a Niu Hila ma e heai foki ho latou hui i loto o te Palemene a Niu Hila. Ko tagata Tokelau ni hitiheni Niu Hila.

Ko na aia ma te haolotoga o na tino i Tokelau kua fakatatia mai i te Tulafono 16 o te Tulafono Fakavae o Tokelau. Ko na holigatulafono kautu i Tokelau ma te auala e fai ai kua fakatatia mai i loto o na Tulafono o Holigatulafono. Kua fakamatala atu i loto o te tuhi tenei.

1.2 Ko te Malo o Tokelau

1.2.1 Pulepulega o te Nuku

E filifili taki 3 tauhaga e te nuku he Faipule ma he Pulenuku e tuha ai ko te Tulafono Tukufakatahi a na Nuku 1986).

Ko ni tonu e tau ki na matakupu fakatenuku e fai lava i loto o na nuku e na Taupulega. Ko na tulafono fakatenuku e fai e tuha ai ko na tulafono 18 ma te 19 o na Tulafono Tukufakatahi a na Nuku 1986. Ko na tulafono e tatau ke fai i he maliliega o te Taupulega, haini e te Faipule ma fakapine i te fakailoga a te nuku.

Ko ni tulafono e fai i na nuku e he tatau ke fetā ma ma he Tulafono Fakapalemene, Tulafono Fakatonutonu, Tulafono Toe Teuteu Fakavaomalo ma na tulafono

fakatonutonu o te Fono Fakamua ieia kua fakamamalu i Tokelau (Tulafono 18 o na Tulafono Tukufakatahi a na nuku 1989).

Ko ni fekehekeheakiga fakatetulafono i loto o te nuku e gafa ma te Komehina ma te Komiti Apili a te nuku (Vaega 10 o te Tulafono Fakapalemene o Tokelau 1948; Tulafono 103(3) o na Tulafono o Holigatulafono. Ko na matakupu tau fenua ma na nofonofoga e fakatotoka e te Taupulega.

1.2.2 Malo Fakaatunuku

Ko na tonu a te malo ieia e aofia ai ia Tokelau katoa e fai e te Fono Fakamua.

Ko te Fono Fakamua e aofia ai na hui ienei -

- Te Faipule ma he hui uhufono ki te Fono Fakamua o na nuku takitahi ma
- E fokotahi te hui mai na nuku takitahi, mo te toka 100 o tagata e nonofo i te nuku tena, fuafua ki te faitauga mulimuli o te aofaki o tagata, e tafapili ki te numela e lata ki te 100 o te aofaki o tagata nuku.

Ko te mataloa o te nofoakiga a na hui ki te Fono Fakamua e tutuha ma te nofoakiga a a Faipule.

Ko na fonotaga a te Fono Fakamua e uhuia, kafai e mafai, e he i lalo ifo i te fakalua, i te tauhaga. Ko te Fono Fakamua e tatau ke fono nahe i lalo ifo i te fakalua i te tauhaga.

E tatau ke auai te lua o vaetolu o na huifono oi ftoa taulia ai he tonu e fai. E maua te tonu kafai e hilia i te afa o na hui e lagolago ki te tonu.

“E mafai e te Fono Fakamua oi fai ni tulafono e ia kitea e talafeagai mo te filemu, nofolelei, ma te pulepulea lelei o Tokelau” (Vaega 3A Tulafono Fakapalemene o Tokelau 1948).

E he faia e te Fono Fakamua ni tulafono e ono fetā ma he Tulafono Fakapalemene, Tulafono Fakatonutonu, pe he feagaiga kua fakamamalu i Tokelau. E he faia e te Fono Fakamua he tulafono e mafai ke fakaaoga i fafo atu o Tokelau. (Vaega 3A(4) o te Tulafono Fakapalemene o Tokelau 1948).

1.2.2.1 Faitonu

Tulafono 5 o te Tulafono Fakavae

E o te Fono Fakamua te tiute ke pulepule na vaega ienei mo te manuia o te atunuku:

- Fakahoahoaga o te Tupe a te Atunuku ma te pulepulega o tupe a te atunuku
- Kaufaigaluega Tautua a te Atunuku
- Ko te Hokotaga a Tokelau ma Niu Hila
- Hokotaga fakavaomalo

- Mamalu o te Atunuku
- Koa o te Atunuku
- Felakuakiga a te Atunuku
- Fehokotakiga
- Tautuaga tau meli
- Takiala aloakia ma na fakanofonofoga mo te olamalolo ma akoakoga a te atunuku
- Tupe Tokelau mo na tino ao tupe fakamanatu; ma
- Ho he matakupu e tuku mai e na Taupulega o na nuku takitahi ki te Fono Fakamua.

Ko na tonu a te Fono Fakamua e fakatino e te Kaufaigaluega Tautua a Tokelau. Kafai e he nofoia te Fono Fakamua, ko te Fono mo te Malo Fakaauau te ia faia na tonu e talafeagai mo te pulepulega o Tokelau. Ko te Malo Fakaauau e aofia ai na Faipule e tokatolu ma he hui uhufono kite Fono Fakamua ona nuku takitahi. I te aho e tuhia ai (2024), ko te Malo Fakaauau e aofia ai na Faipule e tokatolu ma e takitakifono ai te Ulu o Tokelau (Tulafono Fakatonutonu o te Fono Fakamua).

1.2.2.2 Hihitemi fakamahinoga

(Vaega 3-10 o na Tulafono o Huiga ki te Tulafono Fakapalemene 1986; Tulafono 140 o na Tulafono o Holigatulafono. Kikila foki ki te Vaega 8 o te Tulafono Fakavae)

Ko na fono fakamahinoga ienei a Tokelau:

- Fakamahinoga a te Komehina ma na Komiti mo na Apili a na nuku takitahi
- Fakamahinoga maualuga
- Fakamahinoga mo Apili.

Ko na mafai fai fakamahinoga o na fakamahino takitahi kua fakatatia atu i te tuhi tenei i lalo o te vaega "Mafai fai fakamahinoga".

1.2.2.3 Aiatatau o Tagata

Ko tagata uma lele i Tokelau e iei o latou aia ma o latou haolotoga e veia ona fakatatia mai i te Takutinoga a te Lalolagi mo Aiatatau a Tagata. (Tulafono 16 o te Tulafono Fakavae).

Ko na aiatatau a tagata tautokatahi i Tokelau e fakaaoga kae amanakia foki na aiatatau a ietahi tino ma te nuku e nofo ai te tino tena.

Ko na tulafono fakatulafono fakavae a Tokelau (Tulafono 16) ma na feagaiga fakavaomalo talafeagai kua fakatatia atu i na Pepa Fakaopoopo ki te tuhi tenei.

Ko ni tagi agai ki te fakaheaogagia pe mahalomia ka afaina he aiatatau o he tino Tokelau e gafa ma te Malo Fakaauau.

Ko na uiga e tatau mo he Fakamahino

2 Ko na uiga e tatau mo he Fakamahino

2.1 Agaga Taki Taua

- Ko te tiute kautu o he fakamahino ko te fakaali atu ki tagata lautele he ata o te amiotonu.
- Ko he fakamahino e tatau he tino amio mama ma fakamaoni.
- Ko he fakamahino e pulepule ma te amiotonu ki tagata uma e aunoa ma he fakaitukau pe fakaapito
- Ko he fakamahino e fai e ia ana galuega ma te iloa, fakamaoni, fakaaloalo ma te pulea
- Ko he fakamahino e uhitaki ki na tulafono o te fenua
- Ko he fakamahino e he ia taliagia ni meaalofo, ni mea fakaoleolee pe ni lelei pe ho he mea e ono fakahehe ai ia i te fakatinoga o ona tiute pe fai he avanoa ke veake ai na tino ko te faiga ia.
- Ko he fakamahino he e faia e ia he tonu i he matakupu e tau tonu pe tau fakatafa ia kiei.
- Ko he fakamahino e ia fakafielmua ia loto o te fale fakamahino.

2.1.1 Fakaeteete ma Mautinoa

Ko te tuite o he fakamahino ke tautua ma te fakaeteete ma te mautinoa, ko te fakamahino e tatau ke fai ana tonu ki te mea e gata mai ai tona mafai, e aunoa me he fakatuatuai. Ko te auala e mafai ke fakamautinoa ai te mea tena, ko te fakamahino e tatau ke:

- malamalama ma fakamahani ki na holigatulafono takalahi;
- tapena lelei ka ko heki faia he fakamahinoga i te fale fakamahino.

2.1.2 Amio mamā ma Fakamaoni

Ko na fakamahino e tatau ke amio mama ma fakamaoni ke fakamautu ma hikihi ai te fakatalitonugia e tagata o te itu tau fakamahinoga. Ko na fakamahino e tatau ke taumafai ki te mea e gata mai ai to latou mafai ke fakamautinoa ko a latou mea e fai, i o latou kaiga ma i na tiute i te tofi, e tatau lava ke fai te mea e tatau i te tulafono kae ke fakaaloologia ai kilatou e tagata o Tokelau.

2.1.3 Fakatutuha ia tagata

Ko na fakamahino e tatau ke fakamautinoa, i te faiga o a latou galuega e fakatutuha ia tagata uma e tuha ai ma te tulafono.

Ko tona uiga, ko na fakamahino e tatau ke:

- fakatino o latou tiute ma fakaamanakia ia tagata uma (mo he fakatakitakiga, na vaega, na tino molimau, failautuhi o te fakamahinoga) e aunoa ma he fakailoga tagata;
- hē fiafia ki ni amioga he mafaufau i loto o te fale fakamahino. Ko na amioga he mafaufau e iei ai na tino fakailoga itukaiga tagata, pe ko fea te hau ai, pe fai ni gagana fakatafafai pe ni gaoioiga e fakaha i te tulafono.

2.1.4 Tu tautahi te Fakamahinoga

Ko he hihitemi fakamahinoga tautahi e taua lahi lele ki te fakatinoga o te amiotonu i lalo o te tulafono. Ko na tonu a na fakamahino e tatau ke fai tu tautahi ma heai ni fakatohina mai ietahi tino.

2.1.5 Hē fakakaukau

E manakomia e te amiotonu ni fakamahino e he gata e he fakakaukau, kae e kitea foki e he fakakaukau te faiaga o a latou tonu fai.

Ko te he fakakaukau e manakomia ai na fakamahino ke hē fakamahinoa e ia ni matakupu e tau tonu kiei, e tuha pe hokotaga kiei pe tau lava i te tino e afia i te matakupu. E matuā he tatau lava na fakamahino ke fai e kilatou ni fakamahinoga o ni tino o o latou kaiga, ve ko he avaga, he tamaiti, ni matua, pe ko he tei (uho - tuagaāne/tuafafine).

Kafai ko te Komehina e afia i he matakupu, ko te matakupu tena e tatau ke kave ki te Fakamahinoga Maualuga (Tulafono 88 o na Tulafono o Holigatulafono).

2.1.6 Fakatinoga a na Ofiha o Fakamahinoga

E tatau na fakamahino ke fakamautu e ia, e fakatonutonu lelei na galuega i loto o te Fale Fakamahino i taimi uma, ke fakamautinoa ko tagata uma i loto o te fale fakamahino e kikila lelei ma te ava e tatau ai.

2.1.6.1 Ko na uiga fakaalia i loto o te Fale Fakamahino

Ko na fakamahino e tatau ke:

- fakaaloalo ma onohai.
- Fakaaloaloga.
- atafai: kafai he mea hehe kua fai koe e tatau ke fakamolemole.
- na he fakatauemu ki he vaega pe he tino molimau.
- tokaga ki ni vaega pe ni tino molimau e mafatia.

E tatau ke fakamautinoa e te fakamahino ko na tino uma e tutu i mua o te fakamahinoga e fai na uiga fakaaloalo i te:

- tauhi te filemu i te fale fakamahino;
- e fakaaloalo ma e fakamoemoe e maua foki e ia te fakaaloalo o tagata uma i loto o te fale fakamahino.

2.1.6.2 Fehokotakiga i loto o te Fakamahinoga

Ko na fakamahino e tatau ke:

- fakaaoga te gagana faigofie e he ko ni kupu fakapitoa fakatetulafono;
- na he fai ni kupu fakatafafai pe fakafekai
- na he fakavavalea na tino molimau
- kafai e fakamaina ni mea, fakafaigofie, fakamanino ma leo lahi ke lagona. E taua lele ke:
- ko te vaega e hukehuke ma ietahi vaega ua e malamalama i na mea e tutupu i loto o te fakamahinoga ma aihea te tutupu ai na mea iena
- ke lagona lelei e te failautuhi na tala e fai ke hako ai te fakamaumauga; ma
- ke lagona lelei e na tino fakalogologo i loto o te fakamahinoga na tala e fai.

Malohiaga Faifakamahinoga

3 Malohiaga faifakamahinoga

Ko te uiga o te malohiaga faifakamahinoga ko te malohiaga e fakamahino ma fakaiku ai he matakupu fakapitoa. Ko te malohiaga faifakamahinoga e fakatulafonogia. Ko na fakamahinoga e galulue oioti i lalo o na malohiaga faifakamahinoga kua fakatatia mo kilatou i lalo o te tulafono. Kafai he fakamahinoga e galue i fafo o tona malohiaga faifakamahinoga, ko na gaoioiga uma iena e he taulia fakatetulafono.

E tolu ia vaega kautu o na malohiaga faifakamahinoga mo na Komehina:

- 1 Fakakogafenua
- 2 Holigatulafono i na Tulafono a te atunuku
- 3 Tagi i te va o ni tino.

3.1 Malohiaga Fakakogafenua

Ko te malohiaga faifakamahinoga fakakogafenua e fakahino ki te kogafenua fakafafanua e i loto ai te mafai e he fakamahino ke fai ai ni ana fakamahinoga. Ko na tulafono a Tokelau e fakaaoga i na fenua o Tokelau ma te tai hikotakamilo o Tokelau teia e hikohiko ai ona fenua (Vaega 7(3)(b) o te Tulafono o Huiga ki te Tulafono Fakapalemene o Tokelau 1986). E mafai ke fakamahino e te Komehina he matakupu e tutupu ona ko ni amioga i loto o te nuku, ma te tai tamilo i loto o te 12 maila mai te fenua ki moana.

E mafai foki ke fakamahino e te Komehina he holigatulafono o na Tulafono o Holigatulafono e fai i luga o ho he vaka pe he vakalele e:

- fakafaigaluega mo Tokelau; ma
- Malaga mai pe malaga atu ki Tokelau pe i na vainuku o Tokelau (Vaega 7(3) o te Tulafono o Huiga ki na Tulafono Falapalemene o Tokelau 1986).

3.2 Malohiaga Faifakamahinoga mo na Tulafono a te Atunuku

E i loto ai na itukaiga holigatulafono e mafai e te Komehina oi fakamahino, fakatahi ai ma na hala e mafai ke fakahala ai.

E heai he tino e molia ki te tulafono i hana gaoioiga na fai pe heki faia kafai e he ko he holutulafono i lalo o te Tulafono o Holigatulafono pe ko ni ietahi tulafono.

E iei na malohiaga faifakamahinoga o te Komehina:

- mo ho he holigatulafono e hala tupe oioti;

- mo ho he holigatulafono e fakahala i te falepuipui e he hilia i te tauhaga (Vaega 10 o na Tulafono o Huiga ki na Tulafono Fakapalemene o Tokelau 1970).

Ko na holigatulafono ieia ko o latou fakahalaga maualuga e he hilia atu i te 3 iunite pe 3 mahina i te falepuipui e tatau ke fakamahino e he Komehina (Vaega 10 o na Tulafono Toe Teuteu Fakapalemene 1986; Tulafono 112(5) o na Tulafono o Holigatulafono). Ko te fakahalaga pito maualuga mo na holigatulafono kua fakatatia mai i loto o te Pepa Fakaopopo 2 o te Tulafono o na Holigatulafono.

Kafai e iei he fakahalaga pito maualuga e hilia i te 3 iunite pe hilia i te 3 mahina i te falepuipui, ko te malohiaga faifakamahinoga e i te Fakamahinoga Maualuga foki.

Ko te fakahalaga pito maualuga e mafai ke fakatino e he Komehina i ho he matakupu ko he fakahalaga e 3 iunite (\$150) pe he 3 mahina i te falepuipui. Kafai e fakataga e te Tulafono o na Holigatulafono he fakahalaga e maualuga ake, e mafai oioti e te Fakamahinoga Maualuga oi fakatino he tulaga venei.

Ko te Fakamahinoga Maualuga oioti te iei hona malohiaga faifakamahinoga ke fakamahino ai te fahioti tagata fakamoemoegia ma te fahioti tagata pakivalea ma na holigatulafono e lamatia ai te atunuku ma ho he matakupu e afia ai te Komehina.

Ko na malohiaga faifakamahinoga o na Fakamahinoga i Tokelau ke fakamahino ai ni matakupu kua fakahino atu i na ata ienei.

Malohiaga faifakamahinoga ki na Tulafono a te Atunuku		
<i>Komehina (oioti)</i>	<i>Komehina pe ko te Fakamahinoga Maualuga</i>	<i>Fakamahinoga Maualuga (oioti)</i>
Fakahalaga pito maualuga e 3 mahina falepuipui hala e 3 iunite (\$150).	Fakahalaga pito maualuga e 1 tauhaga i te falepuipui pe hala tupe.	Finautino fakamoemoegia Finautino pakivalea ma na holigatulafono e lamatiaai te atunuku fakahalaga pito maualuga e hili atu i te i tauhaga i te fale puipui ma na holigatulafono a te komehina.

3.3 Malohiaga faifakamahinoga mo na tagi i te va o ni tino

Ko te malohiaga faifakamahinoga tenei e gafa ma ni kehekehega i te va o ni tino, ma i te va o te tino ma te malo e he aofia ai ni fakahaloga. E mahani lava ko ni tagi tupe. Ko na Komehina e iei o latou malohiaga ke fakamahino ai ni tagi mo te toe totogi o ni kaitalafu, ni meatotino pe ni meatotino kua fakakino e he hilia i te \$1,000 (Vaega 10 o te Tulafono o Huiga ki na Tulafono Fakapalemene 1972; Tulafono 142 o the Tulafono o Holigatulafono).

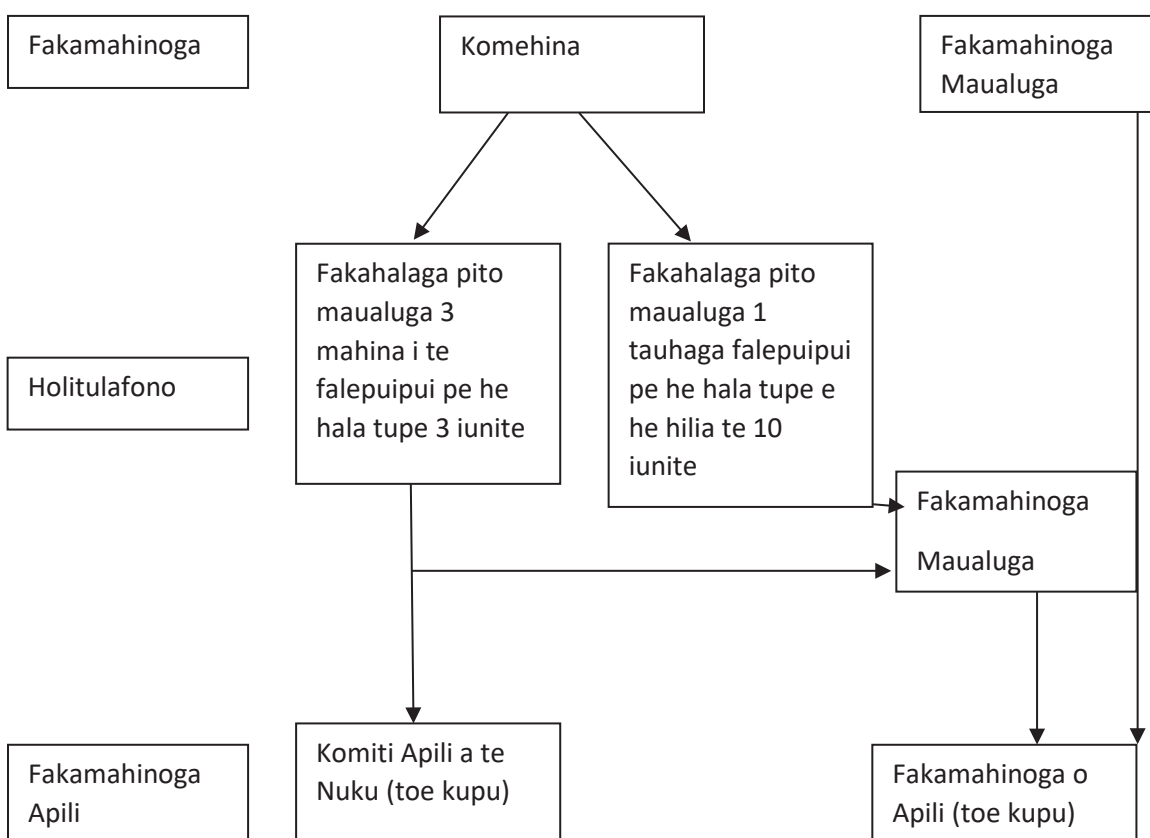
Ko ni tagi e hilia i te \$1,000 e tatau ke fakamahino i te Fakamahinoga Maualuga. Kafai ko te tagi e hilia i te \$1,000 e tatau na itu uma ke fakatau malilie ke tukutuku ki lalo te aofaki o te tupe e tagi kiei ki te \$1,000 kae ke mafai ai ke fai e te Komehina te fakamahinoga o te matakupu tena.

Malohiaga faifakamahinoga mo na tagi i te va o ni tino		
<i>Fakamahinoga</i>	Komehina	Fakamahinoga Maualuga
<i>Malohiaga Faifakamahinoga</i>	Kaitalafu, meatotino, fakakino he hilia i te \$1,000 (malilie ko te tagi e he hilia te aofakiga tenei)	Kaitalafu, meatotino, fakakino hilia i te \$1,000
<i>Apili</i>	Fakamahinoga Maualuga, Fakamahinoga mo Apili	Fakamahinoga mo Apili

3.4 Apili

3.4.1 Apili i ni tulafono i te va o te tagata ma te malo

Apili i ni tulafono i te va o te tagata ma te malo



3.4.1.1 Komiti Apili

Ko te Komiti Apili o na nuku takitahi e mafai ke fakamahino e ia na apili mai he vaega o na fakaikuga a na Komehina (Tulafono 140(1) o na Tulafono o Holigatulafono). Ko na holigatulafono e fakahala i te falepuipui i he vaitaimi e he hilia i te 3 mahina pe hala tupe oiti e mafai ke apili ki te Komiti Apili a te nuku. E he mafai ke fai ni apili agai ki na fakaikuga a te Komiti Apili.

3.4.1.2 Fakamahinoga Maualuga

E mafai he tino ke apili ki te Fakamahinoga Maualuga kae he ko te Komiti Apili a te nuku. Mo na holigatulafono ko o latou fakahalaga pito maualuga e hilia i te 3 mahina i te falepuipui ko te apili e fai agai ki te fakaikuga a te Komehina e fai ki te Fakamahinoga Maualuga.

3.4.1.3 Fakamahinoga mo na Apili

Ko na fakaikuga a te Fakamahinoga Maualuga e mafai ke apili ki te Fakamahinoga mo na Apili.

3.4.2 Apili i na tagi i te va o ni tino

Ko na fakaikuga a te Komehina i na tagi i te va o te tagata ki te tagata e apili ki te Fakamahinoga Maualuga. E heai ni apili ki te Komiti Apili a te Nuku. Ko na fakaikuga a te Fakamahinoga Maualuga e apili ki te Fakamahinoga mo na Apili.

Tiute ona ko he Holigatulafono na fai

4 Tiute ona ko he holigatulafono na fai

4.1 Fakatomuaga

Ko na Tulafono o Holigatulafono ko na tulafono kautu ia e fakatatia mai ai na holigatulafono ma na tulafono e tau ki na holigatulafono i Tokelau.

Ko te Vaega tenei e fakatalanoa ai:

- na agaga taki taua o na tulafono mo na holigatulafono agai ki te malo;
- puipuiga e mafai ke fakaaoga ke fakahao ai he tino molia mai na itu tau holitulafono;
- na itukaiga tagata ieia e mafua ia te kilatou na holigatulafono
- taumafaiga ke fai he holitulafono; ma
- holigatulafono i lalo o te tulafono e kehe mai ai ma na Tulafono o Holigatulafono.

4.2 Agaga taki taua o na Tulafono o Holigatulafono i te va o te tagata ma te malo

4.2.1 Mamā vagana kua fakamaonia te agahala

Ko he tahi o agaga taki taua i na tulafono o holigatulafono agai ki te malo, ko te tino molia e mamā lava vagana kua fakamaonia hana agahala. Vagana kua fakamaonia e te fakamahinoga na vaega fakapitoa uma o te holitulafono, ko te tino molia e mamā. E tatau ke manatua pea e te fakamahino te mea tena.

4.2.2 Ko ai te ia fakamaonia te moliaga

E tatau ke fakamaonia uma lele na vaega fakapitoa o te holigatulafono e te fakatino moliaga, ke matuā heai he mahalohalo talafeagai.

Kafai, i te fakaikuga o te matakupu a te fakatino moliaga, e heki kaumaia e ia ni fakamaoniga o na vaega fakapitoa o te holigatulafono, ko tona uiga e heai he matakupu ke tali kiei te tino molia ma e tatau ke fakaheai te matakupu.

Kafai te fakatino moliaga e ia fakamaonia uma na vaega fakapitoa o te holigatulafono, ko tona uiga ko te itu a te tino molia la e tatau ke tuku mai tana matakupu. Kafai kua uma te lagona e te fakamahinoga te matakupu a te fakatino moliaga ma he fakamatalaga a te tino molia, e tatau la i te fakamahinoga ke fai hana tonu pe kua fakamaonia e te fakatino moliaga tana matakupu ke matuā heai he mahalohalo talafeagai.

Manatua e he tatau ke fakamaonia he mea e te itu teteke. E o te itu a te fakatino moliaga ke fakamaonia uma na vaega fakapitoa o te holigatulafono ke matuā heai

he mahalohalo. Kafai kua uma to fakalogo ki na fakamaoniaga teteke, ei te fakamahinoga ke iei lava ho mahalohalo ki he vaega o na vaega fakapitoa, e tatau la ke fakaheai te matakupu.

4.2.3 Ke matua heai he mahalohalo talafeagai

Ko te uiga o te mea tenei, e tatau ke mautinoa e te fakamahinoga ko te tino molia e agahala e ve ona molia. Fatu ki na fakamaoniga kua tuku atu ki te fakamahinoga, e tatau lava te fakamahinoga ke matuā heai hona mahalohalo ko te tino molia e agahala. Kafai te fakamahinoga e iei ni ona mahalohaloga, ko te tino molia e he agahala e tatau ke fakaheai te matakupu.

4.2.4 He a te tatau ke fakamaonia

Ko te lahiga lava o na holigatulafono e lua ona vaega fakapitoa: Ko na vaega fakapitoa faitino ma na vaega fakapitoa fakatemafaufau. E mafai ke fakamaonia na vaega fakapitoa uma iena e lua.

4.2.5 Ko te Vaega na fakatino

Ko te mea tenei ko na faiga ma na gaoioiga e fai (f.t. kini o he tino) pe he gaoioiga e heki faia (f.t. he fagāia o he tamaiti) ieia e fakaha i te tulafono.

Ko na gaoioiga iena na fai pe heki faia ko na vaega fakapitoa faitino ia o te holigatulafono. Kua fakamaonia uma mai e te fakatino moliaga.

Ko he holitulafono e mafai ke fokotahi pe lahi ni gaoioiga na fai pe heki faia.

Kafai te fakatino moliaga e he ia mafaia ke fakamaonia he gaoioiga pe fakamaonia he gaoioiga e heki faia, ko te tino molia la e he tatau ke fakahala.

4.2.6 Ko te vaega fakapitoa fakatemafaufau (Maufaufau agahala)

Ko te lahi o na holigatulafono e manakomia ai te fakatino moliaga ke fakamaonia ko te tino molia e iei hona tulaga fakapitoa o tona mafaufau. Ko he fakaopoopoga tenei ki te vaega fakapitoa faitino.

Ko te vaega fakapitoa fakatemafaufau tenei e mafai ke:

- *he fuafuaga*: na fuafua lava e te tino molia ke fai te mea tena, pe na fofou ki he ikuga patino (f.t. tauai fatu ki he famalama i ni lagona fofou ke fakakino.);
- *iloa*: e iloa na mea uma lele na mafua ai te holigatulafono;
- *talitonuga*: mafaufauga hehē i na mea na maufa ai te holigatulafono;
- *fakatamala*: ko te heki kitea lava e te tino molia na mea e pa kiei ona ko tana mea na fai, ona kanei na kitea e he tino mafaufau lelei te mea e ono pa kiei ma he faia e ia he gaoioiga veia.

Ko na mafaufauga kautu e lua ki te vaega fakapitoa fakatemafaufau ko:

- he vaega fakapitoa e o ho he holigatulafono i te va o te tino ma te malo, vagana ai e fakahetaulia; ma
- e iei lava he mafaufauga veia ko tagata tautokatahi, e fakapatino na afainaga e mafua mai i a latou fakatinoga.

4.3 Haolotoga fakahao mai ai

Ko te mea lava e mahani ai, ko te fakaheamanakia o te tulafono e hē he puipuiga amanakia tena.

Ko te mahani, e finau te tino molia ko ia e he tatau ke nofohala aua:

- e heki fakamaonia e te itu a leoleo na vaega fakapitoa o te holigatulafono e aunoa ma he mahalohalo talafeagai; pe
- e iei tana puipuiga e takua i te tulafono e tau ki te holigatulafono (f.t. mafuaaga i lalo o te tulafono);
- he tahi o na puipuiga mahani e āvanoa f.t. fakaohohogia, puipuiga o te tagata.

Kafai te tino molia e ia kauamai he puipuiga, e tatau la i te tino molia ke kauamai ni ana fakamaoniaga ke lagolago ai te puipuiga. Kafai la e vena, e tatau te fakatino molia ke fakamaonia e tatau ke he fakataulia.

4.3.1 Fai mautinoa

4.3.1.1 Fakalavelave

E kehe mai ai i te tiute o he holigatulafono matuia, e he paku ki he tino molia te tiute o he gaoioiga na mafua i he fakalavelave fakafuaheki.

Fakatakitakiga, kafai ia Meto na fēke oi tatū ai ki a Alo, e heai he mafaufauga o Meto ko ia ke tago oi fakaokolima ki a Alo ko tona uiga ko ia e he nofohala i te holigatulafono ko te fakaokolima.

4.3.1.2 Fakaikuga fuafuagia

Ko te fakakautu foki e tau ki te mautinoa o he ikuga o he gaoioiga. Vagana ai e fakailoa manino ko he vaega fakapitoa e o he holigatulafono, ko te ikuga na fuafuagia e te tino molia e he taua.

Fakatakitakiga, kua fakalekoleko e Alo ia Meto, i he taumafaiga ke fakakata ma ke tokaga ake foki ki a te ia. Kafai e iku ake na gau he ivi kahokaho o Meto, ko Alo e nofohala i te fakaokolima e tuha lava pe heki fuafua e ia ke tupu he mea vena.

4.3.1.3 Mafuaaga

Ko te mafuaaga na fai ai te amio e he tāua. E tuha pe ko te mafuaaga a te tino molia he mafuaaga lelei, ko te mafuaaga tena e he afia ai te tiute. E i na fetau ki te fakahalaga ka tuku kiei.

Fakatakitakiga, kafai ia Meto e kaihohoa i te falekoloa ke fafaga ai tana fanau, ko Meto e hala lava i te kaihohoa.

4.3.1.4 Pahala i na fakamatalaga fakapitoa

Ko te tulafono e taumafai ke fakahala oioti na gaoioiga e mafai ke paku kiei te kino kae he kafai te tino molia e fakamaoni tana gaoioiga na fai, e tuha lava pe he pahala to te tino molia.

Fakatakitakiga, kafai ia Meto e tago oi kave he moega o Alo, ona i tona talitonu fakamaoni kae he hako ko te moega na foki ake e Alo, ko Meto e he agahala i te kaihohoa.

4.3.2 Hē lelei te Mafaufau

Ko he tino molia e hē he tiute e o ia mā, e he fakahala foki kafai ona he tauale e o te mafaufau i te taimi na fai ai te gaoioiga tenei e fakafehiligia, e he mafai la ke malamalama ia i te natula o te gaoioiga pe haofia e ia he gaoioiga hehe te na fai ko tona uiga e he lelei te mafaufau (Tulafono 116 o na Tulafono o Holigatulafono).

I he matakupu e tau ki te valea e tatau ke fakamaonia e te tino molia i te fuafuagia pe he io pe heai (ko te uiga, e ono veia nai lo te heai) ko te tino molia nae he lelei te mafaufau i te taimi o te holigatulafono ma ko te mea ia nae he lelei te tulaga o te mafaufau e veia ona manakomia.

Ko na Tulafono o Holigatulafono e faitau lava ko tagata uma e lelei na mafaufau vagana e iei he tahi fakamaoniga (Tulafono 116(1)(ii) o na Tulafono o Holigatulafono).

Kafai nae iei he tauale o te mafaufau o te tino molia ka e he veia e heki malamalama te tino molia i te natula pe ko te hehē o tana mea na fai, ko te tino molia la e iei lava tona tiute ki te fakamahinoga ona ko tana mea hehē na fai.

Kafai ko te tino e he agahala ona e he lelei te mafaufau ko na tino vena e i lalo o te puipuiga a te Tulafono 11 o na Tulafono Olamalolo.

4.3.3 Ko te konā e hē hao ai i te holitulafono

Ko te konā e hē puipuia ai i te moliaga. Ko te uiga o te mea tena, kafai kua fai e he tino he tino kona he holitulafono e he veake ka hao ai ona e konā. (Tulafono 82 o na Tulafono o Holigatulafono).

4.3.4 Tamaiti

Ko he tamaiti i lalo ifo o te 10 tauhaga te matua e heai hona tiute ona ko he fakatinoga na fai pe heki faia (Tulafono 114 o na Tulafono o Holigatulafono). E mafua tena ona i lalo o te tulafono ko tamaiti i lalo o te 10 tauhaga ko heki kilatou iloa te hako mai te hehe.

Ko he tamaiti i te va o te 10 ma te 14 tauhaga e heai hona tiute ona ko he fakatinoga na fai pe heki faia vagana ai kua fakamaonia, ko te taimi na fai ai te gaoioiga kua fakafehiligia, kua haofia e te tamaiti ko te gaoioiga e hehe (Tulafono 114(2) o na Tulafono o Holigatulafono).

4.3.5 Ofiha o fai fakamahinoga

Ko na ofiha o fakamahinoga e he ai ho latou tiute ona ko he fakatinoga na fai pe heki faia i luga o te agaga lelei i te fakatinoga o na galuega fakafamahinoga (Tulafono 84(1) o na Tulafono o Holigatulafono).

4.3.6 Fakamalohia

Ko te mahani, ko he tino e fakamalohia e he tahi tino ke fai he gaoioiga e heai la hona tiute agai ki te gaoioiga tena ona e heki faia i to latou loto fuatiaifo.

Na kaihohoa ia Meto i te falekoloa. Na ia fakamalohia ia Alo ke tago oi mumuni na koloa ma kave ki fafo o te falekoloa, na fakamataku veia kafai e he faia te mea tena, ko ana tamaiti e fai ki ei ni faiga kino. Ko Alo e he agahala i te kaihohoa.

4.3.7 Puipuiga ki te tagata ma na Meatotino

E iei te aia a te tagata ke puipuia mai ia ma ana meatotino. Ko tona uiga, ko te puipuiga mo te tagata e mafai ke he puipuiga ki he moliaga (Tulafono 116 o na Tulafono o Holigatulafono).

Fakatakitakiga, kafai ia Meto e tago oi tuki ia Alo, kae tago ia Alo oi tuki ia Meto ke puipuia ai ia, ko Alo la e he nofohala i te fakaokolima.

4.3.7.1 Agagataki

- e mafai e he tino oi fakaaoga te fakamalohi talafeagai kafai ko tona talitonu fakamaoni ko te fakamalohi tena e tatau lava aua tona puipuiga.
- ko te malohi e fakaaoga e tatau ke fai kiei he tonu kafai kua kikila uma ki na itu valevale o te matakupu.
- e tatau foki ke kikila ki te tulaga o te mafaufau o te tino molia.
- Kafai he tino molia na fai fakamalohia he mea aua te puipuiga o tana meatotino, e tatau ke lahi te afainaga na pa kiei te meatotino kae ke mafai ai ke hao mai te tino molia mai te holitulafono.

- kafai ko te tino molia ko ia te ia lagā te puipuiga, e tatau la ke maua mai ni fakamaoniaga mai te tino molia, o na manakoga ma na itu valevale. Ka fai la kua vena, ko te fakatino moliaga e tatau ke fakamaonia mai ko te tino molia e he ni gaoioiga mo te puipuiga o tona tagata te na fai pe mo te puipuiga o te meatotino.

4.3.8 Tau Fakaoho

Ko he puipuiga ki te fakaohofia e mafai ke fakataikole ai he moliaga o he finautino fakamoemoegia ki te finautino he fakamoemoegia. Ko te mea tenei e fakaaoga kafai na finau he tino e he tahi tino pe ko he tahi tino na ia fakaohoa te tino molia.

E mafai te fakaohoohe ke fetau ki te hala e fakahala ai kafai e iei nit ala na fai pe ni mea na fai na ala ai i na tulaga patino ienei, ma mafua ai te he lava o te fakautauta o te tino (tagaki ki te Tulafono 7 o na Tulafono o Holigatulafono).

4.4 Itukau

E amanakia e te tulafono e mafai ke hili atu i te fokotahi te tino e mafai ke afia i loto o ni holigatulafono. E aofia ai:

- Kilatou na kilatou faia te holigatulafono (tino holitulafono kautu);
- Kilatou ieia na fai ni o latou hao ki te fakatinoga o te holigatulafono auala atu i ni fakamalohiga, faufautuaga pe ni fehoahoaniga (hoa);
- Kilatou e peleni fakatahi e kilatou ke fai te holigatulafono;
- Kilatou na fehoahoani ki te tino molia i te umaga o te fakatinoga o te holitulafono (hoa i te umaga).

4.4.1 Tino Holitulafono Kautu

Ko he tino holitulafono kautu ko te tino ia e a ia na fakatinoga e faamalie ai na vaega fakapitoa o te holigatulafono ieia e fakafehili.

Ko te kavea ma tino holitulafono kautu, e tatau ke fakamaonia mo te tino molia e iei na vaega fakapitoa faitino ma te mafaufau o te holigatulafono. Fakatakitakiga, kafai e tuki e Anita ia Feletj, e mafai la ke kikila veia, ko Anita ko te tino holitulafono kautu o te holigatulafono ko te fakaokolima.

4.4.2 Hoa i te holigatulafono

Ho he tino e fai e ia he vaega o na gaoioiga ienei e nofohala i te holitulafono:

- ho he tino e ia faia he gaoioiga ke mafai ai pe fehoahoani ki he tahi tino ke fai te holigatulafono;
- ho he tino e ia fakamalohia he tahi tino ke fai te holigatulafono;

- ho he tino e faufautua ma talatalanoa ma he tahi tino ke fakataunuku te holigatulafono pe
- fakafoefoe e ia ke fakatino te holigatulafono e te tino holitulafono kautu (Tulafono 113(iv) o na Tulafono o Holigatulafono).

Ko te vaega fakapitoa faitino o he holigatulafono o he hoa e tolu ona vaega:

- fehoahoani, fakamalohia ma fakafoefoega;
- te holigatulafono na fai e te tino holitulafono kautu;
- na faifaiga a te hoa na mafua ai te holigatulafono (fakahahako pe i he tahi auala).

Ko te vaega fakapitoa tau te mafaufau mo he hoa e matea atu nai lo teia e manakomia mo he tino holitulafono kautu. Ko te he fiatokaga ma te fakatamala e he lava. Ko na vaega fakapitoa tau te mafaufau e tatau ke:

- iloa: ko te hoa e tatau ke ia iloa na mea taua e fakatino ai te holigatulafono; ma
- kautu: e tatau ko te kautu a te tino holitulafono kautu ko te fehoahoani, fakamalohi ma fakafoe.

Ko he tino e hoa ki he holitulafono, e agahala i te holitulafono kafai kua uma te fakatinoga (Tulafono 113 o na Tulafono o Holigatulafono).

Ko na vaega fakapitoa mo na hoa kafai kua uma te fakatino o te holigatulafono ko:

- te tino na fehoahoani kua holitulafono; ma
- kua iloa e te tino molia (hoa) ko te tino kua holitulafono; ma
- ko te tino molia (hoa) na ia talia ma fehoahoani ki te tino holitulafono; ma
- ko te tino molia (hoa) na ia talia ma fehoahoani ki te tino holitulafono kautu ke mafai ke hao mai te tino holitulafono kautu i he fakahalaga.

4.5 Taumafaiga

Ko he tino e iei ona tiute ke fakamahino ai ona ko te taumafai ke fai he holitulafono ma e tatau ke tutuha te fakahalaga e ve lava ko kilatou te na kilatou faia te holigatulafono tena (Tulafono 80 o na Tulafono o Holigatulafono).

Ko he taumafaiga ke fai he holitulafono kua fai uma lava na mea e fai ke fai ai te holitulafono tena (Tulafono 80 o na Tulafono o Holigatulafono).

Ko he taumafaiga e manakomia:

- ni gaoioiga e fakatino pe he fakatino e hokotaga ki te fakatinoga o te holigatulafono; ma

- na fuafua ke fakatino te holigatulafono; ma
- fakalave ki te holigatulafono i he ofo (a te tino holitulafono) pe ko ai lava.

Fakatakitakiga, Kua fuafua nei e Feleti ka kaihohoa mai hana punua pua i te hai a Puga. E havali atu la i te tafa hai. E fano ma he taga, he fauato ma he naifi. Teki lava kua tu mai ia Puga i tana hai. Liliu loa ia Feleti kua fano i te katoa ki te fale. Fano loa ia Puga oi lipoti te matakupu tena ki Leoleo. Kua fai e Feleti te holitulafono o te taumafai ke kaihohoa.

I ietahi matakupu, e matua he mafai lava e te tino molia ke fai he holigatulafono na fuafuaga. Ka ko te matuā he mafai foki e he lava ke hao ai te tino holitulafono.

Fakatakitakiga: kafai ia Anita e tuku tona lima ki loto o te taga o Feleti i he fuafuaga ke kaihohoa. Ko Anita kua agahala i te holitulafono ko te taumafai ke kaihohoa e tuha lava pe heai he mea i loto o te taga o Feleti.

4.6 Holigatulafono ki ietahi tulafono

Ko te tuhi tenei e fakaaoga ai ni fakatakitakiga mai na Tulafono o Holigatulafono. Kae lahi lele ietahi tulafono e iei ai na holigatulafono takalahi, ma e i lalo uma o te mafai fai fakamahino o te Komehina. Mo he fakatakitakiga, he holitulafono te he uhitaki ki he tulafono na fai e te Taupulega; he holitulafono te fai o he pihinihi faletupe pe he kamupani inihua e fakataga e te Fono mo te Malo Fakaauau; he holitulafono te he lehitala o he pepe kua fanau pe he tino kua oti.

Molimau mo te Fakamaoniaga

5 Molimau mo te fakamaoniaga

Ko te uiga o na fakamaoniaga ko na fakamatalaga tuhituhia uma, na pepa fakamaumauga ma na mea faitino e fakataga e he fakamahinoga pe manakomia e tuha ai ko na matakupu moni i lalo o na hakilikiliga e tuha ma te matakupu (Tulafono 163 o na Tulafono o Holigatulafono).

5.1 E tatau ke maua e ho he fakamahinoga ni fakamaumauga, faitino pe tukugutu

5.1.1 Fakamaumauga o na Fakamaoniaga

E aofia ai na fakamatalaga tuhituhia pe ko na fakamatalaga e kitea. Ko na pepa fakamaumauga ienei e i loto ai:

- Pepa fakamaumauga fakalauaitete (fakamaumauga a te nuku pe ko te Fono Fakamua, pepa fakamaumauga a te fakamahinoga, pe ko na lehitara)
- Pepa fakamaumauga patino ki te tagata lava ia (fakamaumauga tau pihinihi, maliliega, pepa o ni folafolaga)
- Peleni ma na lipoti
- Pepa fakamaonia
- Fakamatalaga tuhituhia i ni pepa fakamatalaga e kaumai i loto o na komipiuta
- Leo puke i ni puke leo pe ni ata.

Kafai e maua ni pepa fakamatalaga i tona tulaga muamua, e tatau foki ke tuku mai. Ko te mea tenei kua iloa, ko te tulafono ia o fakamaoniaga e hili te lelei.

Kafai te pepa fakamatalaga i tona tulaga muamua e he mafai ke maua i te taimi o na fakamahinoga, e mafai ke tuku mai i he kopi aua ko te fakamaoniaga ia e hili te lelei e mafai ke maua.

Ko ietahi matakupu e he manakomia ke fakamaonia i ni fakamaoniaga. E fakamau e na Komehina na fakailoaga tau fakamahinoga o na tulafono uma kua aloakia i Tokelau, ma te fakailoga o te malo (Tulafono 169 o na Tulafono o Holigatulafono).

5.1.2 Molimau faitino

Ko na mea faitino e fakahino ki na mea e tuku mai i te taimi o te fakamahinoga. Mo he fakatakitakiga, e mafai e te itu a leoleo ke tuku mai he kaukupega e mahalomia na fakaaoga ke fakaoko ai ni lavea ki te tino tagi, ke fai ma fakamaoniaga.

E mahani lava, e he lahi he mamafaga e kave ki na fakamaoniaga moni vagana ai e kaumai fakatahi ma ni ietahi fakamaoniaga e fakamatea ai te kaukupega ma e iei hona hokotaga ki na mea moni i te matakupu.

Kafai e tuku mai ni fakamaumauga tuhituhia moni pe ko na fakamaoniaga ki te fakamahinoga, kua kavea loa tena ma vaega e fakaaliali. E tatau te fakamahinoga ke fakamautinoa te tauhi fakalelei na fakamaoniaga ienei ke he fakakinoa, ma ko te fakamaoniaga tenei e maua mo ni hukehukega a te itu a leoleo ma te itu tautali.

5.1.3 Molimau tukugutu

Ko na molimau tukugutu ko ni fakamatalaga tautala o na mea moni.

5.2 Mafai ma te Tiute ke tu i mua o te fakamahinoga

Ko tagata uma e iei to latou mafai ke fai ai he molimau vagana ai e kikila te fakamahinoga ko te tino molimau e he malamalama i te fehili pe tuku atu e ia ni tali fakauiga lelei ona ko tona tagata matua, tauale, pe ni mafuaaga vena (Tulafono 164 o na Tulafono o Holigatulafono)

Ko te Tiute ke tu i mua o te fakamahinoga ko tona uiga e mafai ke manakomia e te fakamahinoga he tino molimau ke fai hana molimau. Ko na tino molimau uma e iei to latou tiute ke tu i mua o te fakamahinoga, vagana ai e iei he tahi fakatonuga i na Tulafono e lea mai e he manakomia ke fai he molimau (Tulafono 164 o na Tulafono o Holigatulafono).

5.3 Fakamatalaga puipuia

E iei na tulafono puipuia agai ki ni fakamatalaga e foki ki ni tino i he taimi o he hokotaga e mafua ai ni fakamatalaga e foki i he tulaga puipuia tau tulafono. E mahani lava ko na tino e he manakomia ke tu i mua o te fakamahinoga kafai ko na fakamatalaga na foki ake kia te kilatou i he tulaga puipuia.

Ko he faifeau e he tatau ke fakahalalau e ia he fakailoaga a he tino e fai ki he faifeau lotu ona ko tona tulaga faifeau vagana e lotomalie te tino e a ia te fakamatalaga ke fakailoa te fakamatalaga (Tulafono 170(1) o na Tulafono o Holigatulafono).

Ko he fomai e he tatau foki, vagana kua iei he fakatagaga mai te tino e a ia te fakamatalaga, ke ia fakailoa i he fakamahinoga, na fakamatalaga a he tino e fai ake kia te ia (vagana e fehiligia te tulaga o te mafaufau o te tauale) ho he talanoaga na fai ki te fomai e manakomia mo ni talagavai pe ni togafitiga mo te tauale (Tulafono 170(2) o na Tulafono o Holigatulafono).

Ko he loia e he tatau, vagana kua iei he fakatgagaga mai te tino e a ia te fakamatalaga, ke ia fakailoa ho he talanoaga na fai ki te loia i te taimi e faigaluega ai i te tulaga loia. (Tulafono 170(3) o na Tulafono o Holigatulafono).

5.3.1 Tautoga

Ko na fakamaoniaga e tatau lava ke fakatauto (Tulafono 167 o te Tulafono o Holigatulafono).

Kae ko na tamaiti i lalo ifo o te 14, e he faia hana tautoga e ve ona fakatatia ma ii te Tulafono 167. Ka ko heki faia ni a latou fakamatalaga ko tamaiti e tatau ke fai te takutinoga tenei. Tulafono 168 o na Tulafono o Holigatulafono:

“Ko au e takutino atu ke tautala i te hako, te hako katoa ma, e heai he tahi mea ka ko te mea hako.”

5.4 Ko te tino Molia

Ko te tino molia e iei ona mafai ma e iei tona tiute ke tu ai i mua o te fakamahinoga.

E mafai e te Komehina i ho he taimi o te fakamahinoga oi fehiligia te tino molia i ni fehili e manatu te fakamahinoga e tatau ke fai pe talafeagai kae ke mafai ai ke taunuku ki te mea moni e tuha ai ko te matakupu. Ko na tali a te tino molia ko ni fakamaoniaga i te matakupu e fakamahino. (Tulafono 132(1) o na Tulafono o Hiligatulafono).

Ko he fakamolemolega na fai ona ko he holigatulafono e he fakaheamanakiagia kafai he takutinoga pe he fakamataku pe he fakaoleolega na fai agai ki te tino e fakamo1emo1e, kafai e fakamaliegia te fakamahino ko na auala na fai ai te fakamolemolega e he mafai ke kui mai ai he fakamo1emoega he hako.

E mafai e te fakamahinoga ke poloaki he tino molimau e iei hona tiute ke fai ai hana molimau, ke tulaki i mua o te fakamahinoga. Kafai he tino molimau e te tulaki e tuha ai ma te poloakiga pe tukua foki e ia te fenua e aunoa ma he fakatagaga a te fakamahinoga, e mafai e te fakamahinoga oi fai he tuhi haihaia ke taofia ai te tino tena i te fakaoga o te Pepa 6 o te Pepa Fakaopoopo 1 (Tulafono 102(2) o na Tulafono o Holigatulafono).

Ko na fakamaoniaga uma e tatau ke fai kae iei te tino molia vagana ai e iei he fakaa1iga ki te tino molia ke tulaki i mua o te Komehina kae heki faia e ia te mea tena (Tulafono 103 o na Tulafono o Holigatulafono). Kafai na iei he fakaaliga ki te tino molia ke tulaki kae heki faia e ia te mea tena e mafai e te fakamahinoga oi tolopo te matakupu pe taumafai ke fai he fakaikuga o te tino molia kae he iei te tino molia.

5.5 Fakaogaga o na Fakamaoniaga

Ko te kautu e hukehuke ai he tino molimau e kalagagia e he vaega ko te hakiliga lava o ni fakamaoniaga mai te tino molimau e lagolago te itu a te vaega tena. Ko te tino molimau e mafai ke fai hana fakamaoniaga agai ki te fakamatea o te tino molia. Ko na fakamaoniaga venei e tatau lava ke fai ma te fakaeteete aua e mafai foki na tino molimau fakamaoni ke pahala i te fakamateagia o te tino molia.

Ko te kautu o te hukehukega o na tino molimau e tualua. Muamua ke maua ni fakamaoniaga ke lagolago ai te kikilaga pe ko te mau a te tahi itu ki te matakupu. Ko

te lua, ko te hukehukega e ono fakavaivai ai te fakamaoniaga a te tino molimau i te taimi na fakafehili ai lava muamua.

Ko te Komehina oioti te fai ni fehili ki te tino molia (Tulafono 132 o na Tulafono o Holigatulafono). Kafai e iei he itu e fia fai ni fehili ki te tino molia, ko na fehili iena e tuku atu ki te Komehina. Ko na fehili iena e fai e te Komehina ki te tino molia, kafai e talafeagai ai.

Ko he vaega taua o te hukehuke o te tino molimau ko te fakamautuga, pe ko te fakaheaogagia o te aoga o na fakamaoniaga a te tino molimau. Ko he itu hukehuke e hakili lava he auala ke fakaheaoga ai te aoga o na fakamaoniaga e auala tena i te taumafai ke famaonia e iei na mea kua he tutuha ai na fakamatalaga a te tino molia na fai muamua ma tana fakamatalaga kua fai i te taimi nei.

Kafai e fakamautu ko te tino molia pe ko ietahi tino molimau kua talapepelo, ko te mea tena e fetau lava ki tona fakaheaogagia. E he veia la ko te tino molia kua nofohala. E lahi na mafuaaga e mafai ai na tino ke talapepelo. E mafai te tino molimau ke nofohala i te tauto pepelo i lalo ote tulafono 76 o na Tulafono o Holigatulafono.

Ko te tulafono mahani e he tukua he avanoa ki te itu a leoleo ke kaumai ai ni fakamaoniaga o na itu kino o te tino molia. Kae e mafai e te tino molia fakaaoga tona tagata ke fai ma matakupu e auala tena i te faia o ni faiga ke fakamaonia ai ona itu lelei.

I na tulaga vena, e mafai e te itu a leoleo oi hukehuke te tino molimau (kae he ko te tino molia) agai ki te itukaiga tino e iei te tino molia.

Hauhiuniga mo na Fakamahinoga

6 Hauhiuniga mo na fakamahinoga

Ka ko heki faia te Fakamahinoga e tatau te Komehina ke:

- fakamautinoa kua tapena uma e te failautuhi te lihi o na matakupu o te aho,
- taumafai ke iei he leoleo i te fakamahinoga.

6.1 Tatala ki tua i ni Tukutukuga

6.1.1 Fakamatalaga

Ko te tatala ki tua i ni tukutukuga e taua lele ona e aofia ai te aia tatau o te tagata ke haoloto ai. Ko te aia tenei e i loto o te Takutinoga a te Lalolagi mo te Aiatatau a Tagata, ma kua opo ki loto o na tulafono 16 o te Tulafono Fakavae a Tokelau.

E heai he tino e haihaia e aunoa mahe tuhi haihai, vanaga ai na tulafono e fakataga ai ni tulaga venei. E mafai he tino molia ke tatala ki tua i ho he lakahaga o na fakamahinoga (Tulafono 122(1) o na Tulafono o Holigatulafono).

Kafai he tino kua haihaia i lalo o he tuhi haihai, ko te tino tena e tatau ke kaumai ki te fakamahinoga.

Kafai kua kaumai ki te fakamahinoga, e tatau te fakamahinoga ke:

- tuku te tino molia ke taofia fakamalohi e leoleo,
- tuku ki ni ietahi puipuiga malu e kikila te Fono e talafeagai,
- tatala ki tua i ni tukutukuga i ni fakatatiaga e fakatonu e te fakamahinoga.

Ko he tino molia e he tatau ke taofia fakamalohi i he vaitaimi e hilia atu i te 7 aho vagana e pa ki he tulaga e tatau ai ma talafeagai ke taofia fakamalohi, ka puipuia pea te tino molia ke pa ki te taimi o tona fakamahinoga (Tulafono 121(2) o na Tulafono o Holigatulafono). E mafai e te fakamahinoga oi fakatonu ke taofia mo he vaitaimi mataloa, kae heai he fakatonuga ke taofia e hilia i te 30 aho. E heai he fakatapula ki te aofaki o na fakatonuga e mafai ke fai (Tulafono 121(4) o na Tulafono o Holigatulafono).

6.1.2 Tatala ki tua i he Apili

E iei na taimi e apili ai e he tino tona fakahalaga ma e kikila te fakamahinoga ki he tulaga e tatala ai ki tua i ni tukutukuga. E mafai e te Fakamahinoga oi:

- Fakatonu ke tatala ki tuai i ni tukutukuga te tino molia i he tupe pe he togi tupea, ke pa ki te taimi e fai ai te apili;
- Tekena te tatala ki tua i ni tukutukuga (Tulafono 121(1) o na Tulafono Holigatulafono).

6.1.3 Mafuaaga e mafai ai ke tatala ki tua i ni tukutukuga

E iei na mafuaaga e talafeagai ke he talia ai te tatala ki tua i ni tukutukuga. E i loto ai:

- te puipuiga o te aiatatau o tagata uma ki o latou haolotoga tautokatahi teia e takua i loto o te Takutinoga a te Lalolagi mo te Aiatatau a Tagata;
- te taumafai o te tino ke fano kehe ma Tokelau i te taimi e tatala ai ki tua i ni tukutukuga;
- te itukaiga, tulaga ma te fakapokepoke o te holigatulafono e fakahala ai;
- te mamafa o na fakamaoniaga agai ki te tino molia, kae iei foki te talitonuga e ono mama te tino molia;
- te talaaga ma na tulaga o te tino molia, e iei ai te matua, tulaga o te tino ma te mafaufau, ni amioga na fai muamua ma ona hokotaga ki te nuku;
- pe na i lalo o he fakahalaga pe nae fakatalitali mo he fakamahinoga te tino molia i te taimi na molia ai i tana holigatulafono;
- aia tauanoa te tino molia ki;
- pe ka aia te tino molia ki na molimau ma na hukehukega a leoleo;
- pe toe fai ni ietahi holigatulafono;
- te fakapokepoke o te tino molia ki te tino na afaina;
- na manakoga o te kaiga o te tino molia.

6.2 Tino afaina

Ko te tino e afaina ona ko ni holigatulafono e mahani lava ko ia ko te molimau kautu i na fakamahinoga e tau ki te holigatulafono. E heai ni tulafono patino e iei ai ni kikilaga ki na tino e afaina i na holigatulafono; ko na fakamahino e tatau lava ke fakaaloalo ma alolofa ki na tino iena.

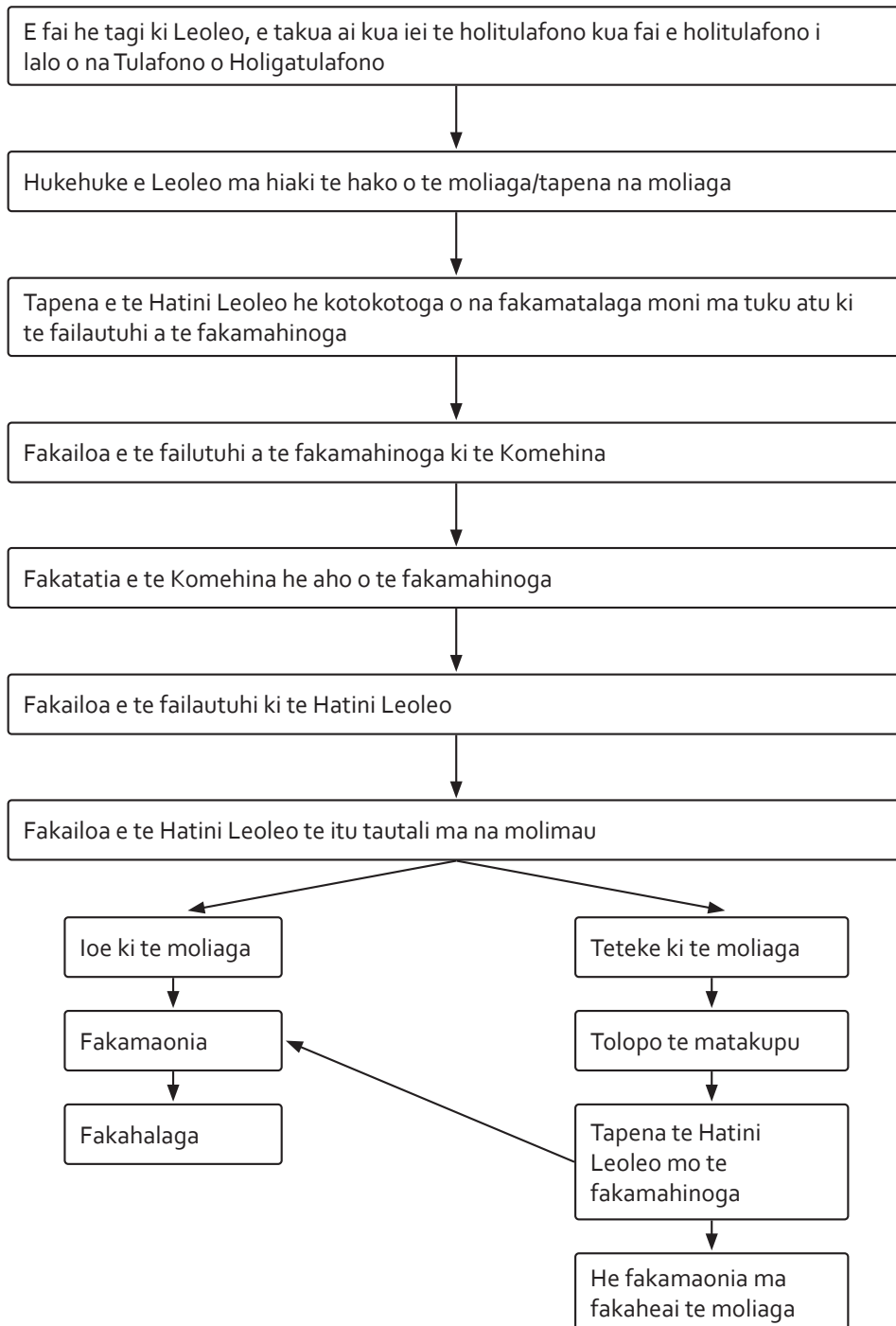
6.3 Tautala mo he tahi tino i he fakamahinoga

E fai e te fakamahino te tonu ki na tino e tautatala i loto o te fakamahinoga. Kafai he tino e fofou ke tautala he tino ma ona hui (f.t. he tamaiti holitulafono e fofou ke tautala tona matua pe ko tona tamana ma ona hui) pe he tino e fia maua he fehoahoani tau te tulafono, e tatau lava ke fakafehili ki te fakamahinoga. Ko te matakupu tenei e gafa ma te Tulafono 94 o na Tulafono o Holigatulafono.

Ko ni fakatalohaga mo he fehoahoani tau te tulafono e tuku ki te Fono mo te Malo Fakaauau ko ia te faia te tonu e tuha ai ko te Tulafono 94(3) ma te (4).

Kafai he Komehina e ia manakomia ni fehoahoaniga fakapitoa tau te tulafono, e tatau ke Komehina ke fakatalohaga ki te Fono mo te Malo Fakaauau i lalo o te Tulafono g6 o na Tulafono o Holigatulafono.

6.4 Ko te ata tenei ko te auala e kaumai ai he matakupu ki te Komehina



Tulakiga Muamua

7 Tulakiga muamua

7.1 Fakamatalaga

I te fono fakamahino muamua, ko te fakamahino e kikila ki he vaega pe ko na mea uma ienei:

- pe i loto o te malohiaga faifakamahinoga o te Komehina Tulafono te matakupu tenei,
- pe lagolago e na fakamatalaga te moni o na moliaga kua fai,
- kafai e he tulaki, ko tona uiga kave he fakatonuga mo he tuhi haihai ke tulaki ai i luga o te Fakamahinoga,
- loa ke hui ai (kafai e iei),
- tali a te tino molia,
- taofia fakamalohi,
- tatala ki tua i ni tukutukuga,
- na matakupu e tolopo.

E fai loa he moliaga, oi fakamautinoa loa e te fakamahinoga ke auai te tino molia ma ietahi molimau e auala i ni:

- poloakiga; ma ni
- tuhihaihai.

Ko te poloakiga ke tulaki he auala aloakia e fakamautinoa ai te auai mai o na tino, kae maihe lava kilatou ieia e he omamai lava i o latou lotofuatia ifo, ki te fakamahinoga. Kafai he fakamahinoga e kikila e iei he tino e mafai ke fai hana molimau talafeagai e tau ki he matakupu, ko te tino tena e manakomia ke auai ki te fakamahinoga.

Kafai he molimau e he auai ki te fakamahinoga, e fai e te fakamahinoga he fakatonuga ke haihai mai te tino tena (Tulafono 102(2) o na Tulafono Holigatulafono).

7.1.1 Vaega o na fakamatalaga

- E heai he tino e tatau ke fakahalagia i he holitulafono na fai kafai te tino tena nae i lalo o te 10 tauhaga te matua (Tulafono 114(2) Tulafono Holigatulafono).
- E heai he tino e tatau ke fakahalagia i he holitulafono na fai kafai ei te matua ka taigole mai e 10 tauhaga kae i lalo o te matua e 14 tauhaga, vagana nae iloa e te tino ko te gaioiga pe ko te he faia o he mea nae hehe pe veia nae

teteke ki te tulafono (Tulafono 114(2) Tulafono Holigatulafono ma te vaega 9 o te Tuhi Taki).

- Kafai he tino kua tatau ke molía mo he holitulafono ko te fakamahinoga e tatau ke fakalogologo ki te matakupu i he vave e ve ona fakatagagia e na tulaga e tatau. Ko te loa o he taimi o te fakataliga i te taimi o te fakamahinoga e ve ona fakatagagia e na tulaga e tatau ai ke tuku atu ki te tino molía e te fakamahinoga (Tulafono 128 Tulafono Holigatulafono).
- E heai he fakahalaga mo he holigatulafono vagana ai te fahioti tagata e mafai ke fai i tua mai o he 2 tauhaga kama mai i te aho na fakatino ai te holitulafono (Tulafono 104(1) Tulafono Holigatulafono).
- Ko na matakupu uma i te fakamahinoga a te Komehina e tatau ke fai i luma o te Komehina ma ni hui o te Taupulega e ve ona filifili kiei. Ko te Komehina e ono mafai ke talanoa te matakupu ma na hui o te Taupulega ie ia e iei kako heki kavatua te fakaikuga (Tulafono 83 Tulafono Holigatulafono).
- Ka ko heki kamata he fakamahinoga, e fehoahoani lahi ki te Komehina ke matau e ia na elemeni o he holitulafono e molía ai he tino kua holitulafono ma, ke iei he lihi mo na elemeni ina faila o na moliaga takitahi.

7.2 Fakamahinoga i te tulakiga muamua

- 1 Kafai kua ta te taimi ke kamata ai he fakamahinoga, e fakailoa e te Komehina ka kamata te galuega a te fakamahinoga mo te aho ma fakafeiloaki aloakia ia tagata uma kua auai.
- 2 E talohaga te Komehina ki te Failautuhi mo Fakamahinoga ke faitau te matakupu muamua.
- 3 Kafai i te taimi ma te nofoaga kua filifilia ko te tino molía kua tu i mua o te fakamahinoga kae heai he tino e tu mai ke molía e ia te matakupu, ko te fakamahinoga e ono mafai ke fakaheai e ia te matakupu pe tolo ki tua te fakamahinoga (Tulafono 133 o Tulafono Holigatulafono).
- 4 Kafai i te taimi ma te nofoaga kua tu he tino ke molía e ia te matakupu [e iei na fakamaoniaga], he tino molía kua kave kiei he fakaaliga ke hau ki mua o te Komehina ma e he hau, ko te fakamahinoga e ono mafai ke fakamahino ma fakahala te tino molía [ke fakamaonia aloakia] mo te holitulafono tena e he iei (Tulafono 134 o Tulafono Holigatulafono). Kikila ki na matakupu fakavae mo na fakahalaga i te vaega 11.1 – 11.4 o te Tuhi Taki ei loto ai na auala e faufau ma fatufatu ai te faiga o he fakaikuga o he fakahalaga.
- 5 I he tahi itu, e mafai e te fakamahinoga ke tolo ki tua te fakamahinoga (Tulafono 134 o Tulafono Holigatulafono). Kafai te matakupu kua tolo ki tua, e tatau ke

- fakafou te fakaaliga e takua ai te aho fou e fai ai te fakamahinoga ke kave ki te tino molía ke iloa mai e ia.
- 6 Kafai, i te taimi kua tulaki ai te Failautuhi fakailoa te matakupu, ko te tino molía e fano ki te fakamahinoga, e fakailoa ai e te Failautuhi te koga e nofo ai te tino molía kafai ehe iloa.
 - 7 E fakailoa e te Komehina ki te tino molía, ko te fakatino moliaga e faitau mai te fakamatalaga moni o te moliaga (Tulafono 131(1) o Tulafono Holigatulafono) ma fakailoa ki te tino moliaga, ko ia e tatau ke fakalogo fakalelei ki te moliaga kua molía ai ia, ma e fakafehili mulimuli pe kua malamalama ia ki te moliaga kua molía ai ia.
 - 8 Ko te fakatino moliaga e faitau e ia na moliaga takitahi, kafai e hilia atu i te tahi o moliaga. Mai na moliaga takitahi, e tatau ke aofia ai te holitulafono kua molía ai, te vaega o te tulafono e talafeagai, ma ho he tulaga talafeagai e fakailoa ai i te katoatoa ma te hako ki te tino molía te moliaga kua molía ai ia ona ko he holitulafono.
 - 9 E fehili te Komehina ki te tino molía pe malamalama ia ki na vaega kua molía ai ia. Kafai e tali te tino molía ehe malamalama ia ki na vaega kua molía ai ia pe 'ioegia' kae ehe mautinoa, e tatau ke fakamatala e te Komehina na vaega kua molía ai te tino molía fakatahi ai ma na elemeni ki te holitulafono kua molía ai te tino molía. Ko te lihi o na elemeni e tatau ke i loto o te faila a te fakamahinoga eve ona takua i luga.
 - 10 Kafai kua malamalama te tino molía ki na vaega kua molía ai ia, kua fakafehili loa ki te tino molía pe ioegia e ia to na moliaga pe heai.
 - 11 Kafai he tino molía kua ioegia ki to na moliaga, e fakamaumau loa e te Komehina Tulafono te ioegia a te tino molía ma fakaaauu te fakamahinoga ki te fakahalaga vagana ai e iei he mafuaaga tatau ke tolo ai te fakamahinoga ki he tahi aho. E tuha ai ma na fakahalaga, kikila ki te vaega 7.2.1 o te Tuhi Taki.
 - 12 Kafai te tino molía e teteke ki te moliaga, pe he ia talia foki ke fai ha na tali, e tatau te fakamahinoga ke fai ha na tali, e hē agahala. Ka ko heki fakatulagaina he aho ke fai ai te fakamahino o te tino molía e fakafehili te Komehine ki te tino molía pe iei he tino molimau e amanaki ia ke fai molimau ki loto o te fakamahinoga ma e tokafia (Tulafono 164 Tulafono o Holigatulafono). E fakafehili foki te Komehina ki te fakatino moliaga pe tokafia ia tino molimau e amanaki ia ke fai molimau ki loto o te fakamahinoga, ke iloa ai pe hea te leva e fai ai te fakamahinoga. E mafai ai te matakupu ke tolopo ki he tahi aho ke fai ai te fakamahinoga o te tino molía (Tulafono 91 o te Tulafono o Holigatulafono) kae ke lava ai he taimi ke tapenapena ai te fakatino moliaga ma te tino molía i te

fakatulagaga o laua tino molimau ki te fakamahinoga ma ke tapena lelei mo te fakamahinoga.

7.2.1 Faiga o he Fakaikuga/Fakahalaga

- 1 Kafai te tino molía e ioe kua agahala, ma kafai ko te holitulafono e patino lava ki te tino molía pe heai, i na matakupu tau holitulafono, e mafai e te Komehina ke fehoahoani i te fakaleleiga ma fakalototele ma fakafaigofie te fakatukutonuga i he auala filemu o te matakupu tau fakamahinoga e fai mo he holitulafono o he tulaga fakapitoa pe totino, i luga o ni tukutukuga mo te totogiga o he tupe tau fehoahoani pe ko ie tahi tukutukuga e fakamaonia e te fakamahinoga (Tulafono 130(1) Tulafono o Holigatulafono).
- 2 Kafai he fakatukutonuga o he matakupu tau holitulafono kua fakamaonia e te fakamahinoga, ko te fakamahinoga e tatau ke fakatonu e ia te matakupu tau fakamahinoga ke taofia (Tulafono 130(2) Tulafono o Holigatulafono) ka koi taumafai i te fakatukutonuga o he matakupu.
- 3 Kafai te fakaleleiga ma fakalototele ma fakafaigoie te fakatukutonuga i he auala filemu o he matakupu tau fakamahinoga ehe talafeagai pe teteke e ho he itu o te moliaga, oi fakafehili ai e te Komehina ki te tino molía pe kua hauni ia mo te fakaikuga ka fai i tena taimi.
- 4 Kafai kua ioe te tino molía, oi kua fakailoa ai e te Komehina ki te tino molía e faitau mai e te fakatino moliaga te lipoti o fakamatalaga a Leoleo, kua maea ai te fakafehiligia o te tino molía pe io pe teteke ia ki na fakamatalaga kua laulau mai e te fakatino moliaga.
- 5 Matau, ko te tali ioe ki he holitulafono ko he tali ioe oiti ki na elemeni o te holigatulafono, kae ehe ko he tali ioe ki na fakamatalaga kua tuku mai i te lipoti a Leoleo. Kafai e teteke te tino molía ki na fakamatalaga a Leoleo e tuha ai e he talafeagai ki na elemeni o te holitulafono, e mafai e te Komehina ke fakaaau ki te fakaikuga/fakahalaga.
- 6 Kae kafai ko na fakamatalaga e teteke kiei te tino molía e fakatatau hako ki na elemeni o te holitulafono na molía ai te tino molía, oi kua fehili ai te Komehina ki te fakatino moliaga mo ha na tali mai ma pe hea foki te fofou ia ke fai. E mafai e te fakatino moliaga ke filifili e ia pe toe iloilo na fakamatalaga o te moliaga i he auala ke mafai ai ke fakanofotonu te matakupu ma ke fakaaau loa te fakamahinoga ki te fakaikuga/fakahalaga.
- 7 I he tahi foki itu, e mafai ke fai he fakamahinoga fakapitoa ke iloilo ai na fakamatalaga mooni ke fuafua kiei te fakaikuga pe kote fakahalaga. Kafai ko te fakaikuga o he fakamahinoga e lagolago malohi ki te itu o te fakatino moliaga, kua mafai ai loa ke fakaaau ki te fakahalaga.

- 8 Kae kafai ko te fakaikuga o he fakamahinoga e hapoti pe lagolago te itu a te tino molía e tuha ai ma ta na finauga fakatatau ki he elemeni o he holigatulafono e fokotahi pe hilia atu, e tatau ai te Komehina ke fakaheai e ia te ioegia a te tino molía ma tuku kiei te tali teteke ki te moliaga ma fakamautu he aho mo te fakamahinoga o te tino molía.
- 9 Kafai e talia e te tino molía na fakamatalaga a te fakatino moliaga, kua fehili ai te Komehina ki te tino molía pe e iei ni a na tahi fakamatalaga e fia tuku ki te fakamahinoga ke fehoahoani ki to na moliaga i te taimi e fatufatu ai he fakaikuga/fakahalaga talafeagai e tuku atu e te fakamahinoga.
- 10 Atonu e mafai e te Komehina oi fakafehili te tino molía e uiga ki ho he fakatamatalaga taua ma patino ki te tino molía e mafai ke fehoahoani ki te Komehina ke iloilo ai he fakaikuga/fakahalaga talafeagai ke fai.
- 11 Kafai e manatu te Komehina e tatau ma talafeagai, e mafai ke tuku he avanoa ki he hui Taupulega ke tuku mai ai he fautuaga ka ko heki faia te fakahalaga.
- 12 E iloilo e te Komehina te fakahalaga e pitohili o na talafeagai ke tuku atu ai he fakahalaga, e fakaamanakia na matakupu fakavae ma na taki e maua i te vaega 10.1 – 10.4 i loto o te Tuhi Taki ei loto ai foki na auala e faufau ai he fakaikuga fakahalaga.
- 13 Matau, kafai he tino molía e tatala ki tua aunoa ma he fakahalaga kua holitulafono e tuha ai ma te tulafono 130(3) Tulafono o Holigatulafono, ehe mafai te tino molía KE TAKUNOFOHALA MA FAKAHALA ona ko te tatala ki tua o he tino molía, kua fakatatauina ehe he fakahalaga.
- 14 E heai he tino i lalo ifo o te 16 tauhaga e fai hona fakahalaga e falepuipui ai (Tulafono 136(3) o na Tulafono Holigatulafono). Kae maihe, e he tatau lele he tino ke fai hona fakahalaga vagana kua fakamaonia muamua tana agahala.

7.2.2 E mama, e he Agahala – Na lakahaga ka Hohoko

Kafai te tino molia e tali mai e he agahala, e tatau loa ke fai he fakamahinoga. E mafai te fakamahinoga ke fai i te taimi lava tena, pe tolopo ki he tahi aho (Tulafono 91 o na Tulafono Holigatulafono). Kafai te tino molia e fakamaonia tana agahala, ko te mea la e mulimuli mai e lau tona ikuga ma tona fakahalaga.

Faiga o te fakamahinoga o he tino molía

8 Faiga o te fakamahinoga o he tino molía

8.1 Fakamahinoga o he tino matua kua molía e tali mai e he agahala

- 1 Matau, i he moliaga i he fakamahinoga a he Komehina i loto o Tokelau, ko te Komehina e ono mafai i ho he vaega o te matakupu tau fakamahinoga oi tuku atu ni fehili ki te tino molía e ve ona manatu te fakamahinoga kua tatau pe fetau ai mo he taunukuga ki te mea moni e fakatatau ki te matakupu ma ko na tali a te tino molía e tatau ke fai ma fakamaoniga i luga o te matakupu (Tulafono 132 Tulafono o Holigatulafono).
- 2 Kafai i te aho o te fakamahinoga, ko te tino molía kua kave kiei te fakaaliga ke hau ki mua o te fakamahinoga ma e he hau kae hau te fakatino moliaga, ko te fakamahinoga e ono mafai ke fakamahino ma fakahala te tino molía mo te holitulafono tena e he iei, ma kafai kua takufonofohala te tino molía, fakaauau ki te fakahalaga o te tino molía (Tulafono 134 Tulafono o Holigatulafono).
- 3 Ko te fakamahinoga e ono mafai ke tolo ki tua te fakamahinoga (Tulafono 134 Tulafono o Holigatulafono). Kafai kua tolo ki tua te fakamahinoga, e tatau ke kave he fakaaliga fou o te aho e fai ai te fakamahinoga ki te tino molía ke iloa e ia.
- 4 Kafai te tino molía kua tu i mua o te fakamahinoga kae heai te tino e tu mai ke molía e ia te matakupu, ko te fakamahinoga e ono mafai ke fakaheai e ia te matakupu pe tolo ki tua te fakamahinoga (Tulafono 133 Tulafono o Holigatulafono).
- 5 Kafai te tino molía ma te fakatino moliaga kua tu i mua o te fakamahinoga, e fehili te Komehina ki te fakatino moliaga pe kua malie ia ke fakaauau te fakamahinoga. E ono he fofou te fakatino moliaga ke fakaauau te fakamahinoga. Kafai kua manatu te fakatino moliaga ke fakaheai te moliaga (Tulafono 119 Tulafono o Holigatulafono) pe fakafehili ke tolo ki tua te fakamahinoga ona ai kua he avanoa he tino molimau i ni mafauaaga e tauale pe kua malaga atu ki fafo, mtm.
- 6 Kafai kua malie te fakatino moliaga ke fakaauau te fakamahinoga, kua fehili ai te Komehina ki te tino molía pe tumau ia ki ta na takutinoga ko ia ehe nofohala, e fautuagia ke fehili te Komehina ki te fakatino moliaga ke toe faitau na vaega o te moliaga ki te tino molía oi kua foki ai te avanoa ki te tino molía ke takutino e ia ko ia kua nofohala. E tatau ke fakamaumau i te faila o te moliaga te takutinoga a te tino molía 'kua nofohala', ke hui ki te takutinoga ko ia 'e he nofohala'. Ona mafai ai loa te fakamahinoga ke fakaauau ki te fakahalaga e takua mai lalo o te vaega 7.2.1 o te Tuhi Taki.

- 7 Kafai te tino molía e takutino ko ia e he nofohala, ona fehili ai te Komehina ki te tino molía pe kua malie ia ke fakaauau te fakamahinoga. E ono iei ni mafuaaga tatau ma te tino molía ke he talia e ia te fakamahinoga ke fakaauau ma manatu ke tolo ki tua te fakamahinoga. Fakatakitakiga, he tino molimau taua ehe avanoa ke hau ki mua o te fakamahinoga ona e tauale pe kua malaga ki fafo, mtm.
- 8 Kafai kua malilie uma na itu ki te moliaga ke fakaauau te matakupu, kua lea ai te Komehina ki te fakatino moliaga ke kalaga te tino molimau ke fai he fakamatalaga tau fakamahinoga e manakomia ke fakamaonia.
- 9 Kafai kua uma te tuku mai o na fakamaoniga a te fakatino moliaga, oi kua foki ai te avanoa ki te tino molía ke tuku mai ni a na fakamaoniga ki mua o te fakamahinoga, pe iei foki he molimau ma he tino molimau e fia fai.
- 10 Ka ko heki tuku maia he molimau mai ho he tino molimau ki mua o te fakamahinoga, e fakailoa muamua e te Komehina ki te tino molimau ke fai he tautoga pe he takutinoga aloakia ke kaumai ai ko te mea moni ia:

Ko he tautoga pe he takutinoga aloakia e tatau ke fai e te fakamahino i ni kupu e fetau e kamata i na kupu "E tauto/takutino aloakia" ma e fakaiku i na kupu "ko na fakamaoniga ka ke kaumaia ko te mea moni ia" (Tulafono 167 Tulafono o Holigatulafono).

Ko he tino molimau e foliga mai e i lalo o te 14 tauhaga te matua, ko te takutinoga "E takutino atu e au e tautala au ma te mea moni, te mea moni katoa ma e heai he tahi mea ka ko te mea moni", pe he takutinoga e foliga ki ei te uiga (Tulafono 168 Tulafono o Holigatulafono).
- 11 E fehoahoani lahi ki te Komehina ke iloa na fakamaoniga talafeagai ki te matakupu i te taimi o te fakamahinoga, kafai e toe kikila ki te lihi o na elemeni o te holitulafono e molía ai te tino molía, atonu ko na elemeni uma o he holitulafono e tatau ke fakamaonia e na fakamaoniaga e kaumai e te fakatino moliaga e heai he mahalohaloga ke nofohala ai te tino molía. Ko te lihi tenei e mafai foki ke fehoahoani ki te Komehina ke iloilo na fakamatalaga moni ma hako e tuku mai e te tino molía e tuha ai ma te matakupu e feagai ma ia.
- 12 Matau e heai he fehili e tatau ke tuku atu ki te tino molía vagana e fai e te Komehina tautahi, e heai he fehili e tatau ke tuku atu ki te tino molía ma e heai he tali e tatau ke talia mai te tino molía, e kehe mai i na fehili ma na fehili e fetau tonu ma te matakupu (Tulafono 132(2), (3) Tulafono o Holigatulafono).
- 13 Matau ko te Komehina e he tatau ona i he tulaga o he toe hukehukega, kae tatau ke fakatonutonu i he fuafuaga ke fakataga ai te tino molía ke fai he fakamatalaga katoa o te mea moni o te matakupu e ve ona fofou te tino molía ke talitonugia te fakamatalaga (Tulafono 132(4) Tulafono o Holigatulafono).

- 14 Ko he tino molía teia e teteke ke tali ki he fehili e tuku atu e te fakamahinoga, ehe tatau ke tukuakia fakaholitulafono mo te faia o te mea tena, ka ko te fakamahinoga e ono mafai ke maua e ia mai te teteke he fakakuigaga e ve ona manatu ia kua tonu (Tulafono 132(5) Tulafono o Holigatulafono).
- 15 Ko te Komehina e ono mafai ke talanoa te matakupu ma na hui o te Taupulega ie ia e iei kako heki kavatua te fakaikuga (Tulafono 83 Tulafono o Holigatulafono).
- 16 E tuha ai ma te fuafuaga pe nofohala te tino molía pe hea, kikila ki te vaega 10 o te Tuhi Taki e i loto ai foki ata ki te faiga o he fakaikuga.
- 17 Vagana ai kua nofohala te tino molía, kua kikila ai te Komehina ki he fakahalaga. Toe kikila ki te vaega 11 o te Tuhi Taki ki na matakupu fakavae o te faiga o he fakahalaga, te auala e fai ai, na taki, ma te fakatulagaga o te faiga o he fakahalaga ma te fakatakitakiga o te tuhituhia ai te faiga o he fakaikuga ke fakahala.
- 18 Manatua kafai te tino molía e tatala ki tua e aunoa ma he fakahalaga kua holitulafono e tuha ai ma te tulafono 139(3) Tulafono o Holigatulafono, EHE MAFAI KE NOFOHALA MA FAKAHALA te tino molía ona ko te tatalaga ki tua i lalo o tenei tulafono e tatau ke takua veía kua he fakamaonia te holitulafono.
- 19 Ko ietahi vaega taua ke matau mai te Tulafono o Holitulafonoe fakatatau ki na fakamahinoga tau holitulafono e fai e te Komehina.
 - Taofiga e te Malo Fakaauau o he matakupu tau fakamahinoga (Tulafono 120).
 - Taofiga i lalo o he puipuiga (Tulafono 121).
 - Tatala ki tua o he tino i he tupe (Tulafono 122).
 - Ke hikitia ma taofia i he fakafalepuipui i Niu Hila (Tulafono 141(4)).
 - Fakaaliga fakamahinoga (Tulafono 169).

Fefaiakiga o he Tino Talavou Holitulafono

9 Fefaiakiga o he tino talavou hoolitulafono

9.1 Takiala

Ko na takiala ienei e ono fehoahoani ki te fakamahinoga kafai e fakamahino ni tino talavou.

Kafai e tulaki he tino i mua o te fakamahinoga, ma ko te tino tena e foliga mai e heki katoa te 14 tauhaga te matua, e tatau ke hiaki e te fakamahinoga pe kua fia te matua o te talavou tenei ka ko heki kamatalia te fakamahinoga. E tatau ke iloa e na Leoleo te matua o te tino, aua ko kilatou te gafa ma te faiga o na hukehukega ma fai te tonu ke molia. Kafai e he iloa e Leoleo te matua o te tino molia, e tatau la i te fakamahinoga ke hakili ki na matua pe ko na lehitara pe kua fia te maua o te talavou.

9.2 Fefaiakiga ke puipuia he Tino Talavou

Kafai e mafai i te fakamahinoga, kafai e tu he tino talavou i mua o te fakamahinoga e tatau ke puipuia malie.

Kafai he matakupu agai ki te tino talavou e kalagagia, e hili atu te fakailoa ifo, ko tagata lautele ke tulaki kehe mai te fakamahinoga. Kae e tatau ke fakamanino foki ko ho he tino e hokotaga ki te matakupu, na kaiga o te talavou hoolitulafono, pe ho he tino e afia i te faiga o te fakamahinoga, e mafai ke nonofo pea.

9.3 Fehoahoaniga mo he Tino Talavou

E mahani lava, ko te fakamatalaga a te tino talavou e tatau ke fai kae iei ona matua pe ko te tino e ia kikilagia. E mafua te mea tenei ona:

- e mafai kilatou ke faufautua lelei ki te tino talavou; ma
- e mahani lava e nonofo ma kilatou ni fakamatalaga taua i te tulaga o te tino talavou – pe olo ki te akoga, pe iei ni o latou fakafitauli ma leoleo, pe nonofo i te kaiga.

He mafaufauga lelei foki, kafai e kamata te matakupu, ke fehili ki te tino talavou pe i fea ona matua.

Ko he tino talavou e tatau lava ke mafai ke iei he tino e talanoa kiei, ma he tino ke tautala mo kilatou, kafai ko te mea ia e fofou kiei. E mafai he matua, he kaiga pe he tino o te kautautua. E aoga ke hakilikili pe iei he tino venei e mafai ke tautala mo te tino talavou.

Manatua ko te lahiga o na moliaga o ni matakupu i te va o he tino ma te malo, e fakahino ki ni hooligatulafono e ono faigata ke malamalama kiei. E hili atu ai te taua ke fakamalamalama pe heā te moliaga nai lo te faitau kiei.

Ko te fai foki o te fakamatalaga e he he mea faigofie, ma ko ni kupu fakapitoa te fakaaoga i te fakamaumauga o te fakamatalaga. Kae ko te mea moni lava e tatau ke ke iloa, pe talia e te tino talavou te moliaga pe heai. E ioegia? Kafai io, kua tatau ai la ke fakamau e agahala i te moliaga.

Ko te fakaaoga o te gagana faigofie ko te faiga ia e pito hili te lelei, kae ke haofia ai e te tino talavou pe hea te tutupu.

9.4 Teteke ki te Moliaga – Fakamahinoga Puipuia

Kafai he tino talavou e he ioegia te moliaga, ko ia e he hala, ko te matakupu la e fakaaouu e ve lava o ia he tino matua. I he tahi fakakupuga, kua tatau ke fai he fakamahinoga puipuia, ke mafai ai ke fulifuli e koe pe hala pe heai.

Fehili ki te tino talavou pe aihea te manatu ai ia ko ia e he hala. Ko ietahi taimi e he kilatou haofia ko ta latou mea na fai ko he hoolitulafono. Ko he fakatakitakiga ko te kaihohoa kafai ni tamaiti e toka tolu na kaihohoa e kilatou ni meakai, ka ko te tahi tino la na tuku te tau kikila na he tino e hau. Ko ietahi taimi ko te tino tena e he ioe ki te moliaga ona e veake ko tona heki fano ki lotofale, ko ia la e heki hoolitulafono. Ka he hehē lahi lele te mea tena, i te fakatetulafono.

Fakaeteete foki, e i na meaake ko he taimi muamua tenei kua tulaki ai te tamaiti tenei i mua o te fakamahinoga.

E tatau ia Leoleo ke tuku mai a latou fakamaoniaga i te auala mahani. Kae e mafai foki koe ke fehoahoani ki he tamaiti, kafai koe e fakafehili ki na Leoleo ma na molimau.

Kafai kua pa ki te taimi e fai ai te fakamaoniaga a te itu tautali, fakaaoga te gagana faigofie ma fakamaotino e koe, ko na tino uma i loto o te fakamahinoga e fakaaoga foki e kilatou te gagana faigofie. E ono manakomia koe ke fehoahoani ki te tamaiti i te faiga o a latou fakamatalaga, i te faia o ni fehili e mafai ai ke fakailoa mai e kilatou ta latou pito o na fakamatalaga.

Fakafaigofie na fehili ma fakahahako te faiga ve ko te:

- Lea mai ake pe hea te na tupu?
- Hea la te na hohoko?
- Aihea te lea vena ai koe?

Hove e ono fai ni fehili a leoleo kae e tatau ke fakamaotino e koe e talafeagai na fehili iena, ma e malamalama lelei kiei te tamaiti. E iei foki ni taimi e tatau ai koe ke fakalavetala ma hiaki ki te tamaiti pe malamalama kilatou. Ko he faiga e mafai ai ke hiaki pe kilatou haofia ko te toe fai e kilatou o te fehili i ni ietahi fakakupuga.

9.5 Fakahalaga o ni Tino Talavou holitulafono

E tatau lava koe ke fakapatino hau kikilaga kafai e fai he fakahalaga o he tamaiti holitulafono aua ko te fakamamafa lahi e i te toe akoakogia o te tino holitulafono nai lo he fakahalaga.

Ka ko heki faia hau tonu pe vefea te fefaiakiga o te tino talavou holitulafono tenei kua fakamaonia tana agahala, e tatau ke maua e koe ho he fakamatalaga e tau ki te tamaiti:

- ana faifaiga mahani;
- hikomaga o te kaiga;
- lipoti i te akoga; ma/pe
- tona talaaga tau te olamalolo.

Ko na fakamatalaga ienei e fehoahoani ki te fakamahinoga i te fefaiakiga o te matakupu tenei ke amanakia ai te tino talavou holitulafono.

9.6 Fakahalaga

He tino i lalo o te 10 tauhaga te matua e he mafai ke hala i he holigatulafono: Tulafono 114(1) o na Tulafono o Holigatulafono.

Ko he tino i te va o te 10 ma te 14 e he mafai ke hala vagana e iloa e te tino tena ko te gaoioiga na fai pe heki faia e hehe pe he tuha ai ma te tulafono. Tulafono 114(2) o na Tulafono o Holigatulafono.

Fakaikuga

10 Fakaikuga

Ko te fakaikuga a te fakamahinoga, e fai fakatatau ki na tulafono e fetau ki na vaega fakapitoa o te matakupu. E tatau ke iei ni fakatatiaga lelei e mulimuli kiei na fakamahinoga i te faiga o ana tonu. Ko na tonu iena e tatau ke tuhituhia.

I te faiga o ni fakaikuga, ko te fakamahinoga e tatau ke tutuha tana kikila toe he fakaitukau. Ko na itu uma e tatau lava ke tuku kiei he avanoa talafeagai ke fai ai ho latou leo ka ko heki faia he tonu mo te matakupu.

E fakaopopo atu ki fakamaumauga aloakia a te fakamahinoga, e tatau foki lava na Komehina ke fai foki ni a latou fakamaumauga o na finauga ma na molimau e fai, ma fakamaumau foki o latou lagona ki na finauga ma na molimau.

10.1 Tukuatuga o te Fakaikuga

E tatau ke fai e te fakamahino te fakaikuga. E matua heai lava he avanoa e foki ai te fakatagaga ki hē tahi tino ke fai e ia te tonu. E tuha lava pe iei ni hui o te Taupulega i loto o te fakamahinoga, ko te tonu e fai tautahi lava e te Komehina.

Ko na fakaikuga a na fakamahinoga uma e tatau lava ke tuhituhia. Ko na fakaikuga takitahi e tatau ke i loto ai na mafuaaga kua fai ai te tonu, ma e tatau ke haini ai te Komehina. (Tulafono 93 o na Tulafono o Holigatulafono).

Ko na fakaikuga a na Komiti Apili a na nuku e tatau ke malilie uma kiei ma haini uma kiei na fakamahino.

10.2 Ko te faiga e tuhituhia ai he fakaikuga o he holigatulafono i te va o he tagata ma te malo

10.2.1 Fakatomuaga

Ko te palakalafa muamua e fakamatalatala ai na vaega o te matakupu.

10.2.2 Fai he fakamatalaga pukupuku agai ki na vaega fakapitoa o te matakupu

Fai he kotokotoga o na vaega fakapitoa ma fakamatala te mea moni na tutupu. Fai oioti na fakamatalaga talafeagai o te mea na tutupu. Fakamatala auiliili oioti kafai e manakomia.

10.2.3 Te Tulafono

- Taku kiei te tulafono e talafeagai
- E taua ke fehili koe ki a te koe lava "Ko ai te tatau ke ia fakamaonia e iei moni he holitulafono na fai?"

- Ko te holigatulafono e tatau ke fakamaonia uma e aunoa ma he mahalohalo
- Ko na vaega fakapitoa o te holigatulafono e tatau ke fakamaonia
- I he matakupu i te va o te tagata ki te tagata, ko na vaega fakapitoa uma lele o te tagi e tatau ke fakamaonia i te fakatuhuhaga o na molimau.

10.2.4 Ko te hukehukega o na fakamatalaga fakapitoa e tatau ke fakamaonia.

E tatau ke fakamatea na fakamatalaga fakapitoa i na fekehekeheakiga, ma na mafuaaga na fai ai ho he tonu agai ki na fekehekeheakiga i na molimau.

10.2.5 Na fakamatalaga fakapitoa o te matakupu e talafeagai

Apalai te tulafono ki na fakamatalaga fakapitoa e talafeagai.

10.2.6 Toe Vaega

I he matakupu tau holifulafono i te va ma te malo, ko te toe vaega e tatau ke taku mai ai pe agahala te tino tautali pe mama.

I he matakupu tau holitulafono i te va o te tagata ma te tagata, ko te toe vaega e tatau ke taku mai ai pe ko te tino tautali e ōno pe he ōno togihala.

10.2.7 Tonu

Ko te fakatonuga a te fakamahinoga e tatau ke manino ma ke tuha ai ma te faiga o na fakahalaga pito maualuga, pe ko he tau e tuku atu e te fakamahinoga tena.

10.2.8 Ata o te faiga o na fakaikuga o na fakamahinoga

Fakatomuaga

Ko te fakailoaga muamua o te matakupu ki te fono fakamahino

Ko na Fakamatalaga o na matakupu

Fakamatala ai pe hea te na tupu

Te tulafono

Taku mai na tulafono e talafeagai ma pe o ai te tiute ke fakamaonia na fakamatalaga takitahi.

Ko te fakaaogaga o te tulafono ki na fakamatalaga

Manatu taua agai ki te matakupu e talanoa

Fakaikuikuga

Fakaikuga (agahala pe heai)

Fakahalaga

Ko na fakahalaga e fefaiaki kehe kafai kua lagona uma na fakamatalaga talafeagai a na itu uma.

10.2.9 Kikilaga ki he Matakupu

Ko Puga na molia nae konā i he nofoaga fakamua. Molia i lalo o te Tulafono 52 (konā) o na Tulafono o Holigatulafono.

E takua e Leoleo, ko te taeao o te 25 Aukuho 2005, nae inu pia ai ia Puga ma Lata i na hitepu i tua o te falekoloa fakafeagai ma te fale o Hieni. E tuha ko te aoauli na kitea mai ai e Hieni i tona fale ko Puga kua konā ma kua kamata oi piha i te koga e iei. Na takua e Hieni, kua lahi na pia a Puga kua inu, kua konā foki ia Puga oi laukupu taufolua ake ai ki to latou fale. Telefoni loa e Hieni ia Leoleo. Ko te tokalua taulelea na kave e Leoleo ki o la fale. Na fehiligia uma na tamaloloa ma na ioe ko kilaua na inu ka nae finau lava ko kilaua nae he konanā.

Ko te faiga e fai ai he fakaikuga

1 Fakatomuaga

Ko te palakalafa muamua e fakailoa mai ai te matakupu

Ko te matakupu tenei e uiga ki a Puga na molia i te konā i he nofoaga fakamua ma na fakatupu piha. Ko te moliaga e molia i lalo o te Tulafono 52(i) o na Tulafono o Holigatulafono.

2 Kotokotoga o na fakamatalaga o te matakupu

Fakamatala ai te mea na tutupu

Ko te taeao o te 25 Aukuho 2005, ko Puga ma Lata nae inu pia i na hitepu i tua o te falekoloa fakafeagai ma te fale o Hieni.

E tuha ko te aoauli na kitea mai ai e Hieni i tona fale ko Puga, he tamaloa he kīkī, e inu pia ma kua kamata piha i te koga lava tena.

Na takua e Hieni, ko te taimi kua lahi ai na pia a Puga e inu, oi laukupu taufolua ake loa ia Puga ki to tona kaiga.

Telefoni loa e Hieni ia Leoleo. Kave loa e loeloe te tokalua taulelea ki o la fale.

E tuha ai ko te lipoti a Leoleo, ko na tamaloa uma na fehiligia, ma na ioe ko kilaua nae inu ko kilaua foki nae laukupu taufolua kae finau lava ko kilaua nae he konanā.

3 Ko te Tulafono

Ko ai te ia fakamaonia na fai te holigatulafono?

I lalo o te Tulafono 52, ko te Fakatino Moliaga e tatau ke fakamaonia e aunoa ma he mahalohalo talafeagai, ko Puga nae konā, nae i he nofoaga fakamua, na fakatupu piha.

E fakamaonia vefea e te Fakatino Moliaga tana matakupu?

E tatau ke kaumai ni fakamatalaga e na tino o te nuku (kui mai i te lipoti a leoleo ma na molimau) ke fakamaonia ai e aunoa ma he mahalohaloga talafeagai, ko Puga na holutulafono.

E he he tiute e o Puga ke fakamaonia ko ia e heki holutulafono.

Vaega Patino o te holigatulafono e tatau ke fakamaonia

Vaega Patino o te hgoligatulafono i lalo o te Tulafono 52(i):

- he tino (te tino molia)
- konā
- nofoaga fakamua
- fakatupu he piha.

Ko tona uiga e tatau ke fakamaonia ko:

- Puga nae konā
- Puga nae konā i he nofoaga fakamua
- Puga na fakatupu piha.

E taua lele ke fakamaonia uma na vaega patino o te holigatulafono.

I lalo o te tulafono, kafai e iei he vaega patino o na vaega patino e heki fakamaonia, ko tona uiga ko Puga e heki holutulafono e veia ona molia ai.

4 Hukehukega o na fakamatalaga ieia e tatau ke fakamaonia

Ni vaega moni e he fakafehiligia

Ko na fakamatalaga kua tuku atu ki te fono fakamahinoga e fakaalia ai ko na vaega moni ienei e he fakafehiligia:

- 1 Ko Puga he tino he kīkī.
- 2 Ko Puga nae inu i na hitepu i tua o te falekoloa fakafehagai ma te fale o Hieni.

3 Ko Puga na fakatupu piha oi laukupu taufolua ai ki te fale o Hieni.

4 Ko Puga nae inu i he nofoaga fakamua.

Na vaega moni e fakafehiligia

1 Nae konā ia Puga?

5 Kikilaga

Ko he tino e konā kafai kua lahi hana alakaholi e inu ma ko te mea e pa kiei, kua he ve lava ko tona uiga mahani. Na ioegia ko Puga na inu alakaholi ma ko ana mea na fai e he ko ona uiga mahani. Kafai la ko Puga he tino he kīkī, ko tona uiga la hove ko te alakaholi te na mafai ai ke fakatupu piha ma laukupu taufolua. Ko tona uiga, ko Puga nae konā.

6 Fakaikuga

He a tau fakaikuga ki te matakupu?

Ko Puga nae konā i he nofoaga fakamua ma fakatupu piha.

7 Ikuga

Ko Puga e agahala i te holitulafono i lalo o te Tulafono 52 o na Tulafono o Holigatulafono. Ko Puga kua nofohala.

Faiga o na Fakahalaga

11 Faiga o na fakahalaga

E uma lava te fakalogologo o te fakamahinoga ma fulifuli uma na molimau talafeagai ma kua fakahala e ia te tino tautali, kua tatau te fakamahinoga ke tuku atu he hala talafeagai. Ko te hala pito maualuga e mafai ke tuku atu e te fakamahinoga kua fakatatia atu i loto o na Tulafono o Holigatulafono.

Kafai he tino kua uma te nofohala, pe na hao mai i he holigatulafono, ko te tino tena e he tatau ke toe fakamahino pe fakahala i te holigatulafono lava tena ma na fakamatalaga iena (Tulafono 111 o na Tulafono o Holigatulafono).

11.1 Manatu taki e fai ai na fakahalaga

E 4 ia mafuaaga lalahi e fai ai he fakahalaga:

Taofiofiga: Ko te hala e fai ke taofiofia ai te tino holutulafono mai te toe holia o te tulafono, ma, ke fakailoa ai ki ietahi tino ke he faia teia tulaga.

Puipuia: Ko te hala e puipuia ai te tino holutulafono mai te toe faia o te mea lava e tahi.

Toe Fakafofou: Ko te hala e fehoahoani ki te tino holutulafono ke liua na amio ma he toe holutulafono.

Fakahalaga: Ko te hala e fakahala ai te tino holutulafono i ona uiga holutulafono.

11.2 Fuafuaga o na fakahalaga

Ko te tulaga o na hala e fai i na matakupu takitahi, he tonu lava e fai e te fakamahinoga. Ko te malohiaga faifakamahinoga o te fakamahinoga e fakatatia ai te hala pito maualuga e mafai ke foki. Ko te hala i he matakupu patino e tatau ke hako ma talafeagai.

I te fuafuaga o na fakahalaga, e manakomia te fakamahinoga ke fakapaleni:

- te ogaoga o te holutulafono
- na manakoga o na nuku
- te vave ma te hako o te fakaikuga o te matakupu.

Ka ko heki faia he tonu ki te hala, e tatau ke foki e te fakamahinoga he avanoa ki te tino holutulafono ke fai ai hona lagona ki te hala. E mafai e te tino holutulafono oi fakailoa ki te fakamahinoga ni itu e mafai ai ke fakamama; ko na itu ia e mafai ke fakamāmā ai te hala. E mafai foki ke fakailoa mai e Leoleo ki te fakamahinoga ni

fakamatalaga talafeagai; ko na fakamatalaga iena e mafai ke fai ma mafuaaga e atili mamafa atu ai te fakahalaga.

Ko na itu e fakamama ai ni hala ei loto ai te:

- ioegia te hoolitulafono
- kua halamō moni
- toe totogio he vaegatupe
- fakatau fakamagalo
- tamaiti o na tauhaga o te tino hoolitulafono
- fatoa maua i he hoolitulafono.

Ko na vaega e mafai ai ke fakamamafa te fakahalaga:

- ita he mafaufau ma te fakahaunoa
- hoolitulafono ho
- Fakakino ni meatotino
- na tauhaga ma te tulaga fakaalofa o te tino kua afia
- tau o na meatotino na kaihohoa
- ni gaoioiga na fai ma te mautinoa
- fakapokepoke ki tagata lautele.

11.3 He kikilaga fuafuagia mo te faiga o na fakahalaga

E i te Komehina te malohiaga ke:

- Fakaheai ni moliaga tuha pe kua iei ni fakamaoniaga ke fakahala.
- Fakamalolo te tino molia e he faia hona fakahalaga (Tulafono 139 o na Tulafono o Holigatulafono).
- Fakatonu te tino hoolitulafono ke faigaluega mo te nuku
- Fakahala i he hala tupe
- Fakatonu te tino nofohala ke toe totogi ni tupe na ia kaihohoa pe toe fakafoki ni meatotino na ia kavea
- Fakatonu te tino nofohala ke totogi e ia he tau
- Fakatonu ke toe fakafoki he meatotino
- Tuku te tino hoolitulafono ki lalo o te kikilaga a leoleo (Tulafono 138 o na Tulafono o Holigatulafono)

- Akoaki te tino holutulafono.

11.4 Fakanofonofoga mo na fakahalaga

E tatau ke fuafua lelei e te fakamahinoga na itu uma. E tatau ke fai i ni auāla e maina ki tagata i te fakatulagaga tenei:

- 1 Fakatomuaga
- 2 Kotokotoga pukupuku o na fakamatalaga fakapitoa
- 3 Fakaaoga te fakahalaga talafeagai
- 4 Toe Vaega ma na Fakatonuga.

11.4.1 Ko te tuhiga o na tonu o na fakahalaga

11.4.1.1 Fakatomuaga

- Ko te palakalafa muamua e taku mai ai pe he fakahalaga e o he a
- Ko ai te taku e koe i te tonu o na fakahalaga.

Ko te fakahalaga tenei e o Puga na holutulafono ki he tulafono i lalo o te Tulafono 52(i) o na Tulafono o Holigatulafono.

11.4.1.2 Kotokotoga o na fakamatalaga

Ko te aho 25 o Aukuho 2008 ko Puga ma Lata nae inu pia i he nofoaga faitele i te tafa fale o Hieni. Ko Puga nae taufolua faikupuleaga ki te kaiga o Hieni ma fakapiha ai te kaiga o Hieni. Ko Puga nae konā.

I te umaga o te fakamahinoga ko Puga na fakahala i he holutulafono i lalo o te Tulafono 52(i) o na Tulafono o Holigatulafono.

11.4.1.3 Fai te fakahalaga talafeagai

- Tuhi te hala e fakahala ma te tulafono talafeagai.

I lalo o na Tulafono o na Holigatulafono ko te hala pito mauāuga e mafai ke tuku atu ki he tino e fakahala i he holutulafono i lalo o na Tulafono 52 he hala e 3 ia iunite fakahalaga (\$150) pe 3 mahina i te falepuipui.

E ia te au foki te mafai i lalo o na Tulafono 136 o na Tulafono o Holigatulafono:

- ke tautalagia;
- ke fakatonu ke galue mo te nuku mo he vaitaimi e he hilia i te 3 mahina;

Tulafono 138 ma te 139 foki tuku mai ai foki te mafai ke:

- fakatonu ni galuega i lalo o te kikilaga a leoleo (Tulafono 138(1); pe

- ke fakamaonia te holigatulafono ma kae fakaheai tona fakahalaga fakatahi ai ma ni tukutukuga fakapitoa e apalai pe heai foki ni tukutukuga fakapitoa. (Tulafono 139(1)).

Agagataki o te faiga fakahalaga ke fakamatea i te matakupu e talanoa nei:

E ko mataua ko te taimi muamua tenei kua tulaki ai te tino molia i mua o te fakamahinoga. Kua fakamautinoa mai e leoleo ko te taimi muamua tenei kua molia ai koe i he holitulafono. Ona la ko koe koi tamaiti ko koe foki he tamaiti akoga i te USP, e lahi ni mea lelei e ono ke maua i to lumanaki. Ona la ko te tulaga tena, ko au e toe fia kikila kia e koe i loto o te fono tenei. I mua mai o te fakahalaga tenei, ko au e fofou ko koe ke tuku tau inu. Kikila ki to lumanaki koi mua.

- Mafaufau ki na lagona o te tino kua afaina i he holigatulafono ma tagata lautele.

Ka ko fakaaoga te fakamatalaga a Hieni ko koe kua uma te fakatokehe ake kia te ia ma tona kaiga ko koe foki kua napā ki tau mea na fai. Kua fakamaonia mai foki e Hieni kua talia e tona kaiga tau fakatokehega.

- Fakamatea ma fakamau na vaega e fakamakeke atili ai, kafai e iei.
- Fakamatea ma fakamau na vaega e mafai ai ke fai he fakaleleiga, kafai e iei.

Fakamau pe ni a ni au kaitalafu kua fai, kafai e iei, kae fakailoa manino te mea ono pa kiei kafai e toe molia kae na he fakavahega pe fai ni fakamataku patino pe ko ni au takutinoga. f.t. "E lea atu moni lava e au ko koe e fano lava ki te falepuipui".

- Hea te fakahalaga pito hili talafeagai, kafai e iei, i te fuafua atu ki na mea uma lele i te matakupu tenei?

Kafai koe kua mafaufau atili ki te matakupu, kua uma foki to fakatokehe ona ko te holigatulafono na ke faia ma i te matauga foki ko koe he tamaiti aoga i te USP, e talitonu au ko te hala pito talafeagai ki tau matakupu ko te he fakamaonia o te moliaga ma fakaheai ho fakahalaga ona ko ni tukutukuga fakapitoa. Ko na tukutukuga iena, e tatau ke kē tauhahia i te 12 mahina koi mua.

11.4.1.4 Vaega Mulimuli ma na Fakatonuga

- Fakamau manino na vaega mulimuli ma na fakatonuga
- Kafai e fai he fakahalaga, ko tona uiga e tatau ke fakailoa ko te itu teteke "KUA FAKAMAONIA TANA HOLITULAFONO ma kua FAKAHALA ke..."
- Fakamau te fakahalaga pe ko te hala e tuku, na vaega fakapitoa e fakatonugia ma he tahi lava fakatonuga ke fai MANINO.

Ko tona uiga, ko te vaega mulimuli, e ko fakatonugia ai koe, Puga, e he fakamaonia tau holitulafono, i lalo o te Tulafono 139(3)(i). Kae, e iei ni tukutukuga fakapitoa kua tuku ki a Puga ma e tatau ke tauhihi kiei.

Ko na tukutukuga fakapitoa ko:

- taofia tau inu mo te 12 mahina koi mua
- he toe holitulafono i te 6 mahina koi mua.

Kafai e he ke talia pe he uhitakia na tukutukuga iena ko koe la kua holitulafono i te fakahēfiatokaga i lalo o te Tulafono 74 o na Tulafono o Holigatulafono. Ko te he uhitakia e koe o na tukutukuga, e mafai foki ke fai te holitulafono o te konā i lalo o te Tulafono 54 o na Tulafono o Holigatulafono.

Hukehukega Kamata

12 Hukehukega kamata

12.1 Ietahi auala e fofou ai he fekehekeheakiga

E amanakia e te Tulafono o Holigatulafono te ono fofou o na tino ke fofou ni fekehekeheakiga i fafo o te fale fakamahino. I na matakupu i te va o he tagata ma te malo, e ono lagolagolia e te fakamahinoga ke fai he fakaleleiga ma, ke fakamalohia ma fakafoefoe te fakatotokaga o ni fakanofonofoga ka ko heki pa ki te taimi ke fai ai te fakamahinoga.

E ono fakafoefoe e te fono fakamahino he fakaleleiga i na vaega oioti e tau ki na holigatulafono i te va o te tagata ki te tagata pe ko na matakupu tau lava ko te va o tagata, e ve la ko he fakaokolima (Tulafono 130(1) o na Tulafono o Holigatulafono). I na matakupu la vena, ko te tino molia e ono malie ke totogi e ia he tau pe fai he teuteuga i ni ietahi auala. E tatau ke malie te fono fakamahinoga ki na fakatatiaga ma na tukutukuga o te maliliega (Tulafono 130(1) o na Tulafono o Holigatulafono).

Kafai e fakataga mai e te fakamahinoga ke fai he fakatotokaga mo he mataupu tau ki te va o te tagata ma te malo, e tatau ke fakatonugia e te fono fakamahino ke taofia tana galuega mo te matakupu tena mo he taimi he tumau. E he veia ko te tino molia kua hao, e he veia foki ka fai ai lava tona ikuga. Kafai e holi e te tino molia te maliliega, ko ia ka fai ma fili o te fono fakamahino ma e ono fakaaauau ona fakamahinoga.

I na matakupu i te va o te tagata ma te tahi, e tatau te fono fakamahino, ki te mea e mafai, oi fakatalanoa he fakaleleiga i te va o na itu ma fakamalohi kiei ke fakatotoka to latou fekehekeheakiga i ni auala filemu (Tulafono 146 o na Tulafono o Holigatulafono).

12.2 Hukehukega Kamata

12.2.1 Tulaga Mahani

E fai he hukehukega kamata kafai:

- i te taimi ko heki kamata he fakamahinoga, na fai ai he talohaga a te fakatino moliaga ke kave te matakupu ki te Fakamahinoga Maualuga;
- ka ko heki faia pe i te taimi koi fai ai e fakamahinoga, e kitea e te Komehina ko te matakupu e tatau ke kave ki te Fakamahinoga Maualuga (Tulafono 129(3) o na Tulafono o Holigatulafono).

I he matakupu i te va o he tagata ma te malo, ko te kautu o he hukehukega kamata ke mafai e te Komehina oi fuafua pe lava na fakamaoniaga, ma te tulaga fakatetulafono, ke kave ai te tino molia ke fakamahino i te Fakamahinoga Maualuga.

E tatau te Komehina ke kui kehe mai i na mea ienei i he fakamahinoga kamata:

- fuafuagia pe fakaali he manatu agai ki te tulaga agahala pe ko te he agahala o te tino molia i he matakupu i te va o te tagata ma te malo;
- talitonu pe he talitonugia o he tino molimau;
- na he tiakia ni fakamaoniaga.

Oioti lava te fehili mo te Komehina pe i na fakamaonia nei te holutulafono o te tino molia e he fakamahino kafai na fakamaoniaga a te fakatino moliaga e he fakatulavea. Kafai e fakamaonia e he fakamahino te holutulafono o te tino molia, ko te matakupu la kua tatau ke fakaauau ki te Fakamahinoga Maualuga. Kafai e he fakamaonia te holutulafono o te tino molia e he fakamahino, e tatau ke fakamalolo te tino molia e te Komehina mo he taimi.

12.2.2 Ko te faiga o te Hukehukega

E tatau te failautuhi ke fakamatala ki te tino molia tona moliaga, ma te kautu o te fakamahinoga kamata.

E tuha lava pe ko te tino molia e tali ko ia e hala, he hala pe taofia i te fai o hana tali, e tatau te Komehina ke:

- fakamaumau i ni tuhituhiga ma he fakatautoga, na fakamatalaga a na molimau uma lele. E mafai e te tino molia ke fakafehili na molimau fakatino moliaga. Ko na tali ki na fehili iena e kavea ma vaega o na fakamaoniaga a na tino molimau.
- talia uma lele na mea faitino e fuafua e te fakatino moliaga ke fakaali i loto o te fakamahinoga.

Kafai kua fulifuli uma e te Komehina na fakamaoniaga ka kua fakaali uma na mafuaaga tatau ka tuku atu ai te tino molia ki te fakamahinoga, e tatau te Komehina ke:

- fakamautinoa e malamalama te tino molia i te moliaga;
- fehili ki te tino molia pe fofou ia ke fai hana fakamatalaga ke puipuia ai ia;
- fakamatala ki te tino molia ko ia e he fakamalohia ke fai hana fakamatalaga kae kafai ko ia e fofou ke fai hana fakamatalaga, ko tana fakamatalaga ka kavea ma vaega o na fakamaoniaga i loto o te fakamahinoga.
- fehili ki te tino molia pe fofou ia ke fai hana fakamatalaga i he tautoga kafai e fofou ke fai he fakamatalaga.

E mafai e te tino molia oi kalagagia ni tino molimau mo tona puipuiga. E mafai te fakatino moliaga ke fai ni ana fehili ki na tino molimau iena ma ko na tali ka kavea ma fakamaoniaga.

E tatau ke fulifuli e te Komehina na fakamaoniaga uma ma fai hana tonu pe tapunia te matakupu aua e heai he matakupu ke tali pe tatau ke kave te tino molia ki te fakamahinoga.

E heai he matakupu ke tali kafai:

- e heai ni fakamaoniaga kua tuku atu ke lagolago ai na vaega fakapitoa o te holigatulafono; pe
- ko na fakamaoniaga kua tuku atu e he lava ke mafai ai e he fakamahino oi fai he fakaikuga e aunoa ma he mahalohalo talafeagai ko te tino molia e agahala i te holigatulafono.

Kafai te tino molia e kave ki te fakamahinoga, e tatau ke foki he kopi o na molimau a na tino molimau ma he fakamaumauga o te hukehukega, ki te tino molia.

Ko te auala e fai ai kafai e iku ake ko te tino molia e kave oi fakamahino kua fakatatia mai i loto o te Tulafono 129 o na Tulafono o Holigatulafono.

Holigātulafono Takalahi

13 Holigātulafono takalahi

Ko te kautu o te vaega tenei, ke fehoahoani i te fefaiakiga o na holigatulafono takalahi.

Ko na holigatulafono kua lihi atu i te vaega tenei e iei:

- te fakamatalaga o te holigatulafono kafai e tagaki ki te tulafono talafeagai
- na vaega fakapitoa o te holigatulafono e manakomia ke fakamaonia
- he fakamaumauga, e i loto ai na fakamatalaga; ma
- te hala pito maualuga e mafai ke fai.

13.1 Ko na Vaega e Manakomia

1. Ko te ioga o te tino i te moliaga e tatau ko te tino molia ia i loto o te fakamahinoga;
2. Te aho ma/pe ko te taimi na molia mai na tupu ai te holigatulafono;
3. Ko te koga e takua na tupu ai te holigatulafono e tatau ke tuhituhia.

13.2 Na vaega fakapitoa o te holigatulafono e manakomia ke fakamaonia

Ko te vaega o na vaega fakapitoa o te holigatulafono e manakomia ke fakamaonia, e lihi uma lele ai na vaega fakapitoa o te holigatulafono e manakomia ke fakamaonia ai he holigatulafono.

Ko te vaega o na vaega fakapitoa o te holigatulafono e manakomia ke fakamaonia e aoga lele, ona e maua mai ai ni takitala ke hiaki ai e te vaega a leoleo ma fakamaonia ai na mea uma lele e tatau ke fakamaonia ka ko heki faia he tonu, kua agahala te tino molia.

13.3 Fakamaumauga

Ko na fakamaumauga e i loto ai na fakamatalaga agai ki te fakamateaga o te tino molia, hea te manakomia ke fakamaonia e te itu a leoleo ma te tino molia ma ki he tulaga vefea. Ko te mea lava e mahani ai, ko te tino molia e heai hana mea e manakomia ke fakamaonia. Kae ko na fakamaoniaga e kaumai e te itu a leoleo e tatau ke tali atu kiei "kafai e fia fakatumau lava he talohaga he nofohala".

13.4 Fakahalaga

Ko te vaega o na fakahalaga e fakamatala mai ai te hala pito hili te maualuga mo na holigatulafono takitahi.

Tulafono 8 o na Tulafono o Holigatulafono – Mumuni he Fanauga o he Pepe

Fakamatalaga

Ho te tino e ia tiakia he tino oti o he tamaiti i he fuafuaga ke mumuni tona fanau mai, e tuha pe ko te tamaiti kua oti ka ko heki fanau, i te taimi e fakafanau mai ai, pe i te taimi kua fanau mai ai, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) tiakia
- (iii) tino oti o he tamaiti
- (iv) fuafuaga ke mumuni tona fanau mai.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, ko te fakatino moliaga e tatau ke fakamatea te tino molia i loto o te fale fakamahino.

E tatau ke tuku mai na fakamaoniga e te fakatino moliaga ke fakamaonia ai ko te tino molia te na ia tiakia te tino oti o te tamaiti i he fuafuaga ke mumuni tona fanau mai.

(2) Ko ai te ia faia te fakamaoniga

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma e aunoa ma he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia e ia he mea, kae kafai e fakamautu e te tino molia e iei te mahalohalo talafeagai, ko tona uiga ko te tino molia e he agahala ma, e tatau ke tapunia te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono e aunoa ma he mahalohalo talafeagai, e mafai lava ke iei he puipuiga mo te tino molia.

Ko te tino molia e tatau ke fakamautu hona puipuiga i te fakapaleniga o na molimau (e ono ko te, i lo ko teai).

Fakahalaga pito maualuga

E 3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 9 o na Tulafono o Holigatulafono - Fautua ke toai

Fakamatalaga

Ho he tino e fautuagia, pe fakaohoohe he tino ke toai, pe fehoahoani ki he tino i te fakatinoga o te toai, e holitulafono.

Vaega fakapitoa o te Holigatulafono

- 1 (i) ho he tino (tino molia)
 - (ii) na fautua pe na fakaohoohe
 - (iii) he tino ke toai
- 2 (i) he tino (tino molia)
 - (ii) na fehoahoani pe na fakamalohi atu
 - (iii) ki he tino i te fakatinoga o te toai.

Fakamatalaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono malo.

E tatau ke tuku mai na fakamaoniga e te fakatino moliaga ke fakamaonia ai ko te tino molia ko ia te na faufautua ke toai. Ko te holitulafono ko te fai o na fautuaga. E ono heai he tino na oti.

Pe

Ko te tino molia na ia fakaohoohe te tino ke toai. Ko te holitulafono ko te fakaohoohe ke toai. E ono heai he tino na oti.

Pe

Hove ko te tino molia na fehoahoani pe na fakamalohia te tino teia na toai. Hove na taumafai ke toai kae e ono heai he tino na oti.

(2) Ko ai te ia fakamaonia

Ko te fakatino moliaga e tatau ke ia fakamaonia uma na vaega fakapitoa o te holigatulafono e aunoa ma he mahalohalo talafeagai.

E he manakomia te itu teteke ke fakamaonia he mea, kae kafai e mafai e te itu teteke ke fakamautu, hana tali ma, e kikila koe, e iei lava te mahalohaloga, ko tona uiga e he agahala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono, e aunoa ma he mahalohalo talafeagai, e mafai lava ke iei he puipuiga mo te tino molia.

E tatau ke fakamautu e te tinomolia tona puipuiga i te fakapaleniga o na molimau (e ono ko te, i lo ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 12 o na Tulafono o Holigatulafono - Hauaga ki he Tamaiti

Fakamatalaga

Ko he tino e ia tauhia he tamaiti i lalo ifo o te 16 tauhaga, ma e ia haofia ko ia e hōnafai ki te tamaiti pe tukutiaki e ia te tamaiti, pe fakataga e ia ke hōnafai pe tukutiaki te tamaiti, ma e ono pa ai ni mafatiaga ki te tamaiti, afainaga ki tona tino, afainaga ki tona olamalolo. pe kino ai foki te mafaufau, pe iku ai ki ni ietahi afainaga ki te tino pe ko te mafaufau o te tamaiti, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) nae tauhi pe kikila e ia
- (iii) he tamaiti i lalo ifo o te 16 tauhaga
- (iv) hōnafai pe tukutiaki te tamaiti
- (v) i ni auala e ono maua ai te tamaiti
- (vi) i ni mafatiaga, pe ni afainaga ki tona tino, pe ko tona olamalolo, pe afaina ai tona mafaufau, pe ko he tahi lava afainaga ki te tino pe ko te mafaufau o te tamaiti.

Ko te holitulafono tenei e aofia ai he tino e fakataga e ia ke hōnafai te tamaiti pe pe ko he tahi lava afainaga ki te tino pe ko te mafaufau o te tamaiti.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, ko te fakatino moliaga e tatau ke fakamatea te tino molia i loto o te fale fakamahino.

(2) Ko ai te ia faia te fakamaoniaga

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma ke aunoa ma he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia e ia he mea, kae kafai e fakamautu e te tino molia e iei te mahalohalo, ko tona uiga ko te tino molia e he agahala ma, e tatau ke tapunia te matakupu.

Ko te holigatulafono e manakomia te haofia. Ko te tino molia e he agahala vagana na haofia lava e ia ko ia e hōnafai pe tukutiaki pe ia haofia lava kae fakataga lava e ia ke hōnafai te tamaiti pe tukutiaki. E he lava te fakatamala.

(3) Puipuiga

E tatau ke fakamautinoa e te tino molia hana puipuiga i te fakapaleniga o na molimau (e ono ko te, i lo teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 14 o na Tulafono o Holigatulafono - Fakaokolima

Fakamatalaga

- (1) He tino e fai mautinoa ma aunoa ma he mafuaaga fakatetulafono, fakaokolima ki he tahi tino, e holitulafono.
- (2) He tino e fakatupu e ia he fakaokolima ki he tahi tino i lalo o ni tulaga kafai e oti he tino, he holigatulafono fahioti tagata he fakamoemoegia te kua fai, e holitulafono.

Vaega Patino o te Holigatulafono

Tulafono 14(1)

- (i) he tino (tino molia)
- (ii) fai mautinoa
- (iii) aunoa ma he mafuaaga fakatetulafono
- (iv) fakaokolima
- (v) ki he tahi tino.

Tulafono 14(2)

- (i) he tino (tino molia)
- (ii) fakatinoa he fakaokolima
- (iii) teia, kafai na iku ki te oti, ko na vaega fakapitoa o te holigatulafono ki te fahioti tagata he fakamoemoegia kua tulaki mai.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fai fakamahinoga.

E tatau ke fakamautinoa e te fakatino moliaga ko te tino molia te na fakaokolima mautinoa ki te tahi tino e aunoa ma he mafuaaga fakatetulafono pe i na fakatatiaga kua fakatatia mai i te palakalafa (2).

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu he mau e te itu tautali e iei lava na mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

(4) Mafuaaga fakatetulafono

E tatau ke fakamaonia e te fakatino moliaga te heai o he mafuaaga fakatetulafono ite manuka o he tino.

Ko ni fakatakitakiga ienei o ni mafuaaga fakatetulafono. Kote vaega taua lava pe ko te mafuaaga na manuka ai e “talafeagai”:

- E talafeagai te mafuaaga ke akoako ai he tamaiti pe ko he tino ite loto malie ke i lalo ote kikilaga a te tino molia e iei te fakatagaga (Tulafono 15(3) o te Holigatulafono, na Gaoioiga & Fakamaoniaga).
- E talafeaga te mafuaaga ke taofia te pule ki te ola, ke taofia ai te fai o he holutulafono e ono mafua ai te manuka vave ma matuiā o he tino pe ko he meatotino, pe taofia o he gaoioiga e ono mafua ai te manuka vave ma matuiā o he tino pe ko he meatotino (Tulafono 15(4) o te Holigatulafono, na Gaoioiga & Fakamaoniaga).
- E talafeaga te mafuaaga ke taofia ai te fakaauauga pe fakafouina o te holiga o te filemū pe kafai ko te mafuaaga e talafeagai ma te lamatiaga na maua mai te holiga o te filemū (Tulafono 16 Holigatulafono, na Gaoioiga & Fakamaoniaga).

Fakahalaga Pito Maualuga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga pe 1 tauhaga i te falepuipui (Fakamahinoga Maualuga).

Tulafono 15 o na Tulafono o Holigatulafono - Fakaokolima

Fakamatalaga

Ko he tino e fakaokolima ki he tahi tino kae heai he mafuaaga fakatetulafono e holitulafono.

Vaega Fakapitoa o te holigatulafono

- (i) he tino (tino molia)
- (ii) na fakaokolima ki he tahi tino
- (iii) e aunoa ma he mafuaaga fakatetulafono.

Fakamainaga

(1) Fakamaoniaga o te moliaga

E tatau ke fakamaonia e te fakatino moliaga ko na vaega fakapitoa uma kua heai lava he mahalohalo talafeagai e i ei.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu he mau e te itu tautali e iei lava na mahalohaloga talafeagai, ko tona uiga e hē hala te tino molia matapunia loa te matakupu.

(2) Fakamateaga

I te fakamahinoga, e tatau ke fakamatea te tino molia e te fakatino moliaga, e auala i he fakamatalaga, ko te tino tena ei loto o te fakamahinoga.

E tatau ke kaumai e te fakatino moliaga ni molimau ke fakamaonia ai ko te tino molia ko ia te na fakaokolima.

(3) Fakauigaga o te fakaokolima

E fakauiga venei e na Tulafono te "fakaokolima"

- (i) ko te paki fakamalohi atu ki te fuatino o he tahi, fakahahako pe i he tahi auala; pe
- (ii) ko te fakamataku e auala i ni fakakupuga, pe ni faifaiga ke paki fakamalohi atu ki te fuatino o he tahi tino kafai ko te tino e ia faia te fakamataku kua mafua ai te talitonu o te tahi tino i ni ana mafuaaga talafeagai, e mafai e te tino oi fakataunuku ana fakamatakuga.

Ko te tulaga na tutupu ai te fakaokolima kua molia e taua lele. E tatau ke mafaufau ma kikila fakalelei ki:

- te tulaga nae iei; ai ma
- ko fea tonu te na tupu ai te fakaokolima kua molia.

(4) Mafuaaga fakatetulafono

E tatau te fakatino moliaga ke fakamaonia e ia e heai he maufaaga fakatetulafono o te fakaokolima.

Ni fakatakitakiga o ni mafuaaga fakatetulafono:

- He papā fuafuagia ke akoaki he tamaiti, pe he tino e i lalo o te kikilaga a te tino molia, e fakataga. (Tulafono 15(3) na Tulafono o Holigātulafono).
- He paki fuafuagia ke taofiofi ai te pule ki te ola, ke puipuia ai tutupu o he holutulafono e ono afaina ma lavevea ai ni tino pe ko ni meatotino, pe, ke taofiofi ai he gaoioiga e ono tupu ai ni afainaga pe lavevea ai ni tino pe ni meatotino. (Tulafono 15(4) na Tulafono o Holigātulafono).
- Ko he tino e kitea e ia te fakatupuga o he miha e fakatonuhia i te fakalavelavega ke taofia ai tona fakaauauga pe ko te toe fakatupuga, ma e mafai ke taofia e ia ho he tino e fai e ia, ke tuku atu ai te tino holutulafono ki loto o te puipuiga a he leoleo (Tulafono 16 Tulafono o Holigātulafono).
- Te fakaaoga lahi o te malohi i ni takaloga e tuha ai ko na tulafono o te tafaoga tena.

(5) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigātulafono e aunoa ma he mahalohaloga talafeagai, e iei lava he puipuiga mo te tino molia.

Kafai e kaumai e te itu tautali ni mafuaaga o te fakaokolima (f.t. pe na fai ke puipuia ai ia), e tatau lava ke kikila pe talafeagai te fakamatalaga.

E tatau lava ke fakamautu e te tino molia he puipuiga e fakamaliegia ai te fakamahinoga, fatu ki te fakapaleniga o na molimau (e ono ko te, i lo ki teia).

Fakahalaga pito maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 18 o na Tulafono o Holigatulafono - Holi kaiga

Fakamatalaga

- (1) Ko te holi kaiga ko tona uiga ko te feuhuakiga i te va o –
 - (i) he matua ma hana tamaiti
 - (ii) he tupuna ma hona makupuna
 - (iii) tuagane ma he tuafafine
 - (iv) tuatina ma he ilamutu (teine)
 - (v) matua-hā ma he ilamutu (tama)
 - (vi) na tino i loto o te puipuiga o na hokotaga toto e veia ona fakamatala mai i te Tulafono o Fakaipoipoga 1986, kafai e iloa e te tino molia te hokotaga i te va o na itu e lua.
- (2) Ko te tino e ia faia te feuhuakiga mataga e holutulafono

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) na feuhuaki
- (iii) ma he tino kua i te lihi i te palakalafa (1)
- (iv) na ia iloa te hokotaga o na itu e lua.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia na feuhuaki ma te tino o tona kaiga e veia ona takua ma nae ia iloa lava to la hokotaga.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

E tatau ke iloa e te tino molia to lā hokotaga.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga (\$1,000) pe 1 tauhaga falepuipui (Fakamahinoga Maualuga).

Tulafono 19 o na Tulafono o Holigatulafono - Feuhuakiga fakaholitulafono

Fakamatalaga

- (1) ko he tino e feuhuaki fakaholitulafono ma he tahi –
 - (i) (I) kafai ko te tino e afia kua 16 oioti ona tauhaga te matua, ma e heki malie ki ei te kua afia;
 - (II) kafai ko te tino e afia e i lalo ifo o te 16 tauhaga tona matua, e tuha pe na malie kiei te tino kua afia pe heai;
 - (ii) i he maliega na fai ona na fakamataku pe kua fakaogohia;
 - (iii) i he maliega na fai ona ko te tahi tino na fakafoliga ki te avaga a te tahi;
 - (iv) i he maliega na fai ona na fakatalapepelo e tuha ai ko te natula o te gaoioiga, e holitulafono.
- (2) Ko te talitonuga o te tino holitulafono ki na tauhaga o te tino kua afia e he taulia i he moliaga o te feuhuaki fakaholitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 19(1)(i)

- 1 (i) he tino (tino molia)
 - (ii) na feuhuaki
 - (iii) ma he tino kua 16 oioti ona tauhaga te matua e aunoa ma he maliega o te tino na afia PE ma he tino i lalo ifo o te 16 tauhaga te matua e tuha pe na malie pe heai.

Tulafono 19(1)(ii)(iii)(iv)

- 2 (i) he tino (tino molia)
 - (ii) na feuhuaki ma he tahi
 - (iii) i he maliega na maua i te fakamataku pe ko te mataku na e fakaogohia, pe fakafoliga ko te avaga a te tahi tino PE fakahehe i te natula o te gaoioiga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia na feuhuaki ma te na afia i na tulaga i te lihi. Ko te holitulafono tenei e aofia ai te fakamalohia, ma te feuhuakiga fakamalohia ka kua fakaipoipo.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

Ko te heai o he maliega e aofia uma ai te malie ona na fakamataku i te fakaogohia, fakatagafai ko te avaga a te tino kua afia, ma talapepelo ki te tino kua afia i te natula o te gaoioiga.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga (\$1,000) pe 1 tauhaga i te falepuipui (Fakamahinoga Mauuluga).

Tulafono 20 o na Tulafono o Holigatulafono - Feuhuakiga ma he tino e he katoatoa te malohio te mafaufau

Fakamatalaga

He tino e feuhuaki ma he tino e he katoatoa te malohi o te mafaufau, kae iloa pe tatau lava ke iloa ko te tino tena e he katoatoa te malohi o te mafaufau, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) na feuhuaki
- (iii) ma he tino e he katoatoa te malohi o te mafaufau
- (iv) kae iloa pe tatau lava ke iloa ko te tahi tino e he katoatoa te malohi o te mafaufau.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia na feuhuaki ma te tino e he katoatoa te malohi o te mafaufau.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 21 o na Tulafono o Holigatulafono - Fai amio mataga

Fakamatalaga

- (1) He tino e faia he amio mataga ma he tahi tino, e holutulafono.
- (2) Kafai ko te tino e afia e he katoatoa te malohi o te mafaufau pe i lalo o te 16 tauhaga te matua e heai he puipuiga ki he moliaga i lalo o te tulafono tenei e veia ko te tino afia na malie ki te holigatulafono, pe ko te tino molia e talitonu ko te tino na afia nae lelei lava tona mafaufau pe nae he i lalo ifo o te 16 tauhaga te matua pe hea lava.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) na fai amio ki he tino
- (iii) mataga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te na fai amio mataga ki te tahi tino.

“mataga” ko tona uiga ko te faiga pe ko na mea uma na fai e iei lava ni foliga fakafehuakiga. Ko te mea na tupu, i na tulaga tau feuhuakiga, e matuā he talafeagai ki he tino o te nuku e lelei te mafaufau.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

I he matakupu e afia ai he tino e he katoatoa te malohi o te mafaufau pe he tino e heki katoa tona 16 tauhaga te matua, e heai he puipuiga.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 22 o na Tulafono o Holigatulafono - Mulilua ma te Faitaaga Fakamatalaga

Ho he tino e feuhuaki ma he tahi tino e hē he avaga e a ia, kua holutulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) na feuhuaki
- (iii) ma he tino e hē he avaga e a ia.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na feuhuaki ma he tino e he ko tana avaga.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ie iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 23 o na Tulafono o Holigatulafono - Tino He Fakaipoipo

Fakamatalaga

Kafai e nonofo fakatahi he fafine ma he taulelea e ve he ulugaliki fakaipoipo kae ko kilaua ko heki fakaipoipo, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he taulelea ma he fafine (tino molia)
- (ii) e nonofo he ulugaliki
- (iii) e heki fakaipoipo.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, ko te fakatino moliaga e tatau ke fakamatea te tino molia i loto o te fonu fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na nonofo ma te tahi tino (tane/fafine) e ve he ulugaliki ka ko kilaua ko heki fakaipoipo.

E tatau lava ke fakamautu ko na tino molia nae nonofo fakatahi e ve he ulugaliki fakaipoipo.

E tatau lava ke fakamaonia ko na tino molia e heki faia ha la fakaipoipoga i Tokelau.

(2) Ko ai te ia faia te fakamaoniga

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono e aunoa ma he mahalohalo talafeagai.

E he manakomia te itu teteke ke fakamaonia he mea, kae kafai e ia fakamautua e iei lava te mahalohaloga talafeagai, ko tona uiga ko te tino molia e he agahala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono, e aunoa ma he mahalohalo talafeagai e mafai lava ke iei he puipuiga a te tino molia.

Ko te tino molia e tatau he fakamautu tana puipuiga i te fakapaleniga o te io ma te heai (e ono veia i lo te heai). Ko te puipuiga e taua lele ona ko te fakamaoniaga tena ko na tino ienei e tokalua kua fakaipoipo ma tuku mai te pepa fakaipoipo.

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 24 o na Tulafono o Holigatulafono - Fakatafe Tama

Fakamatalaga

- (1) Ko he tino e faia e ia he mea ma te mautinoa ke fakatafe ai he manava o he matua pe he teine, e tuha pe faitama pe heai, e aunoa ma he mafuaaga fakatetulafono, e holitulafono.
- (2) Ko he fafine, e tuha pe faitama pe heai, i he tulaga fakaholitulafono, e inu pe fakataga he tino ke fakainu ia i he vaikona pe he vailakau/fualakau pe ni ietahi lava mea kokona, pe i he tulaga fakaholitulafono, e fakaaoga e ia lava pe fakataga e ia ke fakaaoga ki a te ia ho he meafaigaluega pe he tahi mea lava, i he fuafua ke fakatafe he pepe, e holitulafono.
- (3) Ko he tino e ia kaumaia pe kave ho he mea, kae iloa lava ka fakaaoga i ni tulaga fakaholitulafono ke fakatafe ai he tama a he fafine pe he teine, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 24(1)

- (i) tino (tino molia)
- (ii) faufuaga ke fakatafe ai he tama
- (iii) a he fafine pe he teine
- (iv) heai he mafuaaga fakatetulafono.

Tulafono 24(2)

- 1 (i) he fafine (tino molia)
- (ii) fai kia te ia lava pe na fakataga he tino ke fai ake kia te ia
- (iii) he vailakau kokona pe he vaialakau/fualakau fakaha pe ki ietahi lava vailakau kokona ke fakatafe ai he tama
- (iv) heai he mafuaaga fakatetulafono.

Tulafono 24(2)

- 2 (i) he fafine (fino molia)
- (ii) na fakaaoga he meafaigaluega pe he tahi lava mea pe na fakataga e ia he tahi tino ke fakaaoga he meafaigaluega pe he tahi lava mea ki a te ia
- (iii) tulaga fakaholitulafono
- (iv) fuafua ke fakatafe ai he tama
- (v) heai he mafuaaga fakatetulafono.

Tulafono 24(3)

- (i) tino (tino molia)
- (ii) kaumi pe na foki e ia he mea
- (iii) kae ia iloa
- (iv) e fuafua ke fakaaoga ke fakatafe ai he tama
- (v) heai he mafuaaga fakatetulafono.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, ko te fakatino moliaga e tatau ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke tuku mai e te fakatino moliaga ni fakamaoniaga ke fakamaonia ai ko te tino molia, e aunoa ma he mafuaaga fakatetulafono, te na ia fakatafea te tama, pe na ia inua te vaikona pe ho tahi lava mea ke fakatafe ai tana tama.

Ko te "Aunoa ma he mafuaaga fakatetulafono" ma te "fakaholitulafono" i loto o te tulafono tenei, ko tona uiga ko ni mafuaaga fakateolamalolo. Ko te fafine e takua, e tuha pe faitama. Ko te vaega fakapitoa taua ko te fuafua ke fakatafe.

(2) Ko ai te ia faia te fakamaoniaga

E tatau te fakatino moliaga ke fakamaonia ko na vaega fakapitoa uma e aunoa ma he mahalohalo talafeagai.

E he manakomia ke fakamautinoa he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei te mahalohalo talafeagai, ko tona uiga la ko te tino molia e he agahala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga ko na vaega fakapitoa o na holigatulafono kua aunoa ma he mahalohalo talafeagai, e mafai lava ke iei he puipuiga o te tino molia.

Ko te tino molia e tatau ke fakamautu e ia i te fakapaleniga o na molimau (e ono ko te, i lo teia).

Fakahalaga Pito Maua

3 ia iunite pe 3 mahina i te falepuipui.

Tulafono 26 o na Tulafono o Holigatulafono - Fai Kau Nofotalau

Fakamatalaga

- (1) Ko he tino e hilia i te fokotahi o te avaga e holitulafono.
- (2) Ko te fai kau nofoitalau ko te –
 - (i) tino, e ia iloa lava ko ia kua fakaipoipo kae toe fai lava hana tahi fakaipoipoga aloakia ma he tahi tino; pe
 - (ii) ko he tino e fai hana fakaipoipoga aloakia ma he tino e ia iloa kua fakaipoipo kafai ko na itu e lua e fai ni a la fakapiopioga pe kafai ko te tino molia he tino nofomau i Tokelau.
- (3) Ko te mea moni i te itu teia ko na itu e lua, kafai ko heki fakaipoipo, nae he ki la haofia oi fakakonekalate he fakaipoipoga, e he ko he puipuiga tena kafai e fakahala i te nofoitalau.
- (4) Ko ho he fakaipoipoga e taulia uma i lalo o te tulafono tenei, e kehe mai ai ma he gaoioiga pe he hehe e o te tino molia i te nofoitalau, kafai e iei he tahi auala e taulia.

Vaega Fakapitoa o te Holigatulafono

Tulafono 26(2)(i)

- (i) he tino (tino molia)
- (ii) e ia iloa lava ko ia kua fakaipoipo
- (iii) na fai tana fakaipoipoga
- (iv) ma he tahi tino
- (v) te kaiga o te tino molia ko Tokelau, pe ko te fakaipoipoga na lehitara i Tokelau.

Tulafono 26(2)(ii)

- (i) he tino (tino molia)
- (ii) na fai tana fakaipoipoga aloakia
- (iii) ma he tino
- (iv) e ia iloa kua fakaipoipo
- (v) te kaiga o te tino molia ko Tokelau, pe ko te fakaipoipoga na lehitara i Tokelau.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, ko te fakatino moliaga e tatau ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te kua holia te nofoitalau kae ia iloa ko te tino e avaga ia kiei kua uma te fakaipoipo pe ko te tahi tino kua uma te fakaipoipo.

(2) Ko ai te ia faia te fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma ke aunoa ma he mahalohalo talafeagai.

Ko te tino tautali e he manakomia ke fakamaonia e ia he mea, kae kafai te tino tautali e ia mafaia oi fakamaonia e iei te mahalohalo talafeagai, ko tona uiga ko te tino molia e he nofohala ma kua tatau ke tapunia te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa uma o te holigatulafono, ke aunoa ma he mahalohalo talafeagai, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamaonia e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko te, i lo teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 27(1) o na Tulafono o Holigatulafono - Kaihohoa

Fakamatalaga

I te Tulafono 27 (1) ko te Kaihohoa ko te kave tauanoa, pe kave e ve lava e a ia, pe hē fai fakaleleia pe tiaki, pe ko he tahi lava faiga, o ho he mea na kaihohoa, ona e mafaufau –

- (i) ke fakaheai he mea totino a te tino e a ia, pe manumanu ki te meatotino; pe
- (ii) foki ki he tino i lalo o ni tukutukuga ke toe fakafoki mai kae heki toe fakafoki maia te mea a te tino na ia kavea; pe
- (iii) kua i he tulaga kua he toe mafai ke maua, pe toe fakafoki e ve ko na tukutukuga i te aimi na kaumai ai.

Vaega Fakapitoa o te Holigatulafono

- 1 (i) he tino (tino molia)
 - (ii) na kave he tauanoa, pe
 - (iii) kave e ve lava e a ia, pe tiaki, pe hea lava he mea e fai kiei
 - (iv) ho he mea e mafai ke kaihohoa
 - (v) ona e mafaufau
 - (vi) ke he toe iei he mea veia a te tino e a ia, pe ko te e manumanu ki te meatotino
 - (vii) fofou ke kave ma ia.
- 2 (i) he tino (tino molia)
 - (ii) kave fakakaihohoa, pe
 - (iii) kave e ve lava e a ia, pe tiaki, pe hea lava he mea e fai kiei
 - (iv) he mea na kaihohoa
 - (v) ona e fofou
 - (vi) ke foki te mea ke fakaaoga e he tahi tino kae toe fakafoki mai
 - (vii) e ono he mafai e te tino molia oi fakatino.
- 3 (i) he tino (tino molia)
 - (ii) kave fakahaihohoa, pe
 - (iii) kave e ve lava e a ia, pe tiaki, pe hea lava he mea e fai kiei
 - (iv) he mea na kaihohoa
 - (v) ona e fofou

(vi) ke he toe iei he mea veia a te tino e a ia, pe ko te tahi tino e manumanu ki te mea

(vii) ke fakaaoga te mea ke he toe tukua e ve ko te tukutukuga na fai i te taimi na kaumai ai.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahino.

E tatau ke fakamaonia e te itu fakatino moliaga ko te tino molia ko ia tena ia kavea fakakaihohoa, pe na ia tiakia te meatotino i he mafaufauga ke nahe toe iei he mea veia a te tino e a ia.

“Kave” e i loto ai te tago kiei ma nofo ma ia:

- i ni faiga fakatogafiti
- fakamataku
- i he pahala e o te tino e a ia kae iloa lava e te tino e ia kavea he auala vena tena maua ai; pe
- kafai na maua, ma ko te taimi na maua ai nae veake te tino na ia maua e mafai ke iloa pe ko ai te a ia te mea

“Tino e a ia” e i loto ai ho he tino e i loto o na tino e a latou te mea, pe he tino e ia te ia pe pule e ia, pe iei ni ona lagona fakapitoa ki te mea kaihohoa.

Pe iloa te tino e a ia pe heai, e tatau lava ke fakamaonia e te fakatino moliaga pe ko ai moni te tino e a ia. E tatau foki te fakatino moliaga ke fakamaonia e heki malilie na tino e a latou te meatotino ki te kavega o te mea.

Manatunatu pe aihea na kave ai te mea e te tino molia ma pe na kave nei i ni mafaufauga lelei. E mafai ke iei he puipuiga a te tino molia kafai e iei hona lagona e iei foki tona hao ki na meatotino e takua (ko tona uiga, ko te tino molia e talitonu ma te fakamaoni ko na meatino e a ia).

(2) Mafaufauga ke matuā fakaheai he meatotino a te tino e a ia

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia nae iei ona mafaufauga ke taofi ma fakaaoga te mea e ve lava e a ia. E i loto ai foki he tulaga veia ko te mea kua fakatau pe kua foki e te tino molia ma he tahi tino.

(3) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga ko na vaega fakapitoa uma kua he toe iei he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia he mea, kae kafai e fakamautu e te itu tautali e iei te mahalohalo talafeagai ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(4) Puipuiga

Kafai na fakamaonia e te fakatino moliaga na vaega fakapitoa uma o te holigatulafono ma kua aunoa ma he mahalohaloga talafeagai, e ono iei lava he puipuiga mo te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko te kae he ko teia).

Fakahalaga pito Maualua

- Kafai te tau o te meatotino na molia kua kaihohoa e he hilia i te \$1000, ko te fakahalaga maualuga e 3 iunite fakahalaga pe 3 mahina falepuipui.
- Kafai te tau o te meatotino na molia kua kaihohoa e hilia i te \$1000, ko te fakahalaga maualuga (a te Komehina Tulafono) e 3 iunite fakahalaga pe 3 mahina falepuipui, pe (ko te fakahalaga a te Fakamahino Hili) e 12 iunite fakahalaga pe 1 tauhaga falepuipui.

Tulafono 27(4) o na Tulafono o Holigatulafono - Kaihohoa

Fakamatalaga

Ho he tino e ia kavekehea pe fakaaoga fakakaihohoa te eletihe kua holitulafono.

Vaega Falapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) kave pe fakaaoga
- (iii) eletihe
- (iv) i he mafaufauga e he totogia.

Fakamainaga

(1) Fakamateaga

E tatau ke fakamatea e te fakatino moliaga te tino kua molia i loto o te fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia na fakaaoga fakakaihohoa e ia te eletihe.

(2) E fai e ai te fakamaoniaga

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma o te holigatulafono ke heai lava he mahalohalo talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e mafai e te itu tautali oi fakamautu e iei he mahalohalo talafeagai ko tona uiga ko te tino molia e he agahala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga e aunoa ma he mahalohalo talafeagai i na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga o te tino molia.

Ko te tino molia la e tatau ke ia fakamautua tana puipuiga i te fakapaleniga o na fakamaoniaga (e ono ko te kae he ko teia).

Fakahalaga Pito Mauuluga

- Kafai te tau o te meatotino na molia kua kaihohoa e he hilia i te \$1000, ko te fakahalaga mauuluga e 3 iunite fakahalaga pe 3 mahina falepuipui.
- Kafai te tau o te meatotino na molia kua kaihohoa e hilia i te \$1000, ko te fakahalaga mauuluga (a te Komehina Tulafono) e 3 iunite fakahalaga pe 3

mahina falepuipui, pe (ko te fakahalaga a te Fakamahino Hili) e 12 iunite fakahalaga pe 1 tauhaga falepuipui.

Tulafono 27(6) o na Tulafono o Holigatulafono - Kaihohoa

Fakamatalaga

I te Tulafono 27(6): Ko te tino e kaihohoa e taofi, talia, pe maua e ia he mea kaihohoa ke fai ki ei ni ana faiga, ma fai kiei ni ana gaoioiga fakakaihohoa pe he lelei, pe e heki faia kiei ni ana gaoioiga e tuha ai ko te agahala tena.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) taofi pe talia pe maua
- (iii) ho he mea kaihohoa
- (iv) e iei ona tukutukuga
- (v) na fakakaihohoa pe heki fakamaoni i te heki faia o hana gaoioiga ki te mea tena
- (vi) e tuha ai ko na tukutukuga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te ia taofia te meatotino ma heki mulimuli ki na tukutukuga.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma ke heai he mahalohalo talafeagai. E he manakomia te itu tautali ke fakamaonia he mea, kae kafai e fakamautu e te itu tautali e iei te mahalohalo talafeagai, ko tona uiga ko te tino molia e he agahala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono kua heai he mahalohalo talafeagai, e iei lava te puipuiga a te itu tautali.

E tatau ke fakamautu te tino molia tona puipuiga i te fakapaleniga o na fakamaoniaga (e ono ko te kae he ko teia).

Fakahalaga Pito Mauuluga

- Kafai te tau o te meatotino na molia kua kaihohoa e he hilia i te \$1000, ko te fakahalaga mauuluga e 3 iunite fakahalaga pe 3 mahina falepuipui.

- Kafai te tau o te meatotino na molia kua kaihohoa e hilia i te \$1000, ko te fakahalaga maualuga (a te Komehina Tulafono) e 3 iunite fakahalaga pe 3 mahina falepuipui, pe (ko te fakahalaga a te Fakamahino Hili) e 12 iunite fakahalaga pe 1 tauhaga falepuipui.

Tulafono 27(7) ma te (8) o na Tulafono o Holigatulafono - Kaihohoa

Fakamatalaga

I te Tulafono 27(7): Ko he tino e ia maua mai pe ia faia ke maua e he tahi tino he mea kaihohoa, i ni auala fakakaihohoa pe fakatagāfai, tukuhako pe kui mai i he konekalate e fai i ni auala fakakaihohoa pe fakatagafai, e holitulafono i te kaihohoa o te mea tena.

I te Tulafono 27(8): Ko he tino e ia fakakinoa, fakaheai, mumuni pe matua fakaheai katoa pe he vaega e o he ho pepa fakamaumauga mo ho he mea e fai fakakaihohoa, pe mo he gaoioiga he lelei, e holitulafono i te kaihohoa o te pepa fakamaumauga tena.

Vaega fakapitoa o na Holitulafono

Tulafono 27(7)

- (i) he tino (tino molia)
- (ii) maua mai e ia
- (iii) he mea kaihohoa
- (iv) fai fakakaihohoa pe fakatagafai.

Tulafono 27(8)

- (i) he tino (tino molia)
- (ii) fakakino, fakaheai, pe fakahehaofia
- (iii) he vaega pe ko he katoaga o he pepa fakamaumau
- (iv) fai fakakaihohoa pe mo he gaoioiga he lelei.

Fakamainaga

(1) Fakamateaga

E tatau ke fakamatea e te fakatino moliaga te tino kua molia i loto o te fakamahinoga.

E tatau ke kaumai e te fakatino moliaga ni fakamaoniaga ke fakamaonia ai ko te tino molia ko ia te na ia maua mai i ni auala he lelei pe na ia fakakinoa foki te pepa fakamaumau.

(2) E fai e ai te fakamaoniaga

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma ke heai he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia he mea, kae kafai e fakamautu e te itu tautali e iei lava te mahalohaloga talafeagai, ko tona uiga ko te tino molia e he agahala ma tapunnia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono ke heai he mahalohalo talafeagai, e mafai lava ke iei he puipuiga a te tino molia.

E tatau la ke fakamautu e te tino molia tona puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

- Kafai te tau o te meatotino na molia kua kaihohoa e he hilia i te \$1000, ko te fakahalaga maualuga e 3 iunite fakahalaga pe 3 mahina falepuipui.
- Kafai te tau o te meatotino na molia kua kaihohoa e hilia i te \$1000, ko te fakahalaga maualuga (a te Komehina Tulafono) e 3 iunite fakahalaga pe 3 mahina falepuipui, pe (ko te fakahalaga a te Fakamahino Hili) e 12 iunite fakahalaga pe 1 tauhaga falepuipui.

Tulafono 28 o na Tulafono o Holigatulafono - Maua ni mea

Fakamatalaga

He tino e talia e ia ni mea kaihohoa kae ia iloa lava ni mea na kaihohoa pe na maua i ni auala he lelei, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) talia ni koloa kaihohoa
- (iii) iloa ko na koloa na kaihohoa pe na maua i ni auala he lelei.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fakamahino.

E tatau ke fakamaonia e te vaega fakatino moliaga ko te tino molia na ia talia ni koloa kaihohoa kae ia iloa lava ko na koloa ni mea kaihohoa pe na maua i ni auala he lelei.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleni o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 29 o na Tulafono o Holigatulafono - Fakaliliu ki he tahi tino Fakamatalaga

Ko he tino, e aunoa ma he mafuaaga fakatetulafono kae e he veia ka nofohala ai i te kaihohea, e fakaliliu e ia ki he tahi tino, te fakaaogaga e ia o he meatotino a he tino, e holitulafono.

Vaega Fakapitoa o te Holitulafono

- (i) he tino (tino molia)
- (ii) kave pe na fakaliliu e ia
- (iii) mea totino e mafai ke fakagaoi
- (iv) aunoa ma he mafuaaga fakatetulafono
- (v) ke fakaaoga.

Fakamainaga

(1) Fakamateaga

E tatau ke fakamatea e te fakatino moliaga te tino molia i loto o te fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia tena ia fakaliliua fakaholitulafono he meatotino a he tahi tino.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma ke heai he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia he mea, kae kafai e fakamautu e te itu tautali e iei te mahalohalo talafeagai, ko tona uiga ko te tino molia e he nofohala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono ke heai he mahalohalo talafeagai, e mafai lava ke iei he puipuiga a te itu tautali.

E tatau ke fakamautu e te tino molia tona puipuiga i te fakapaleniga o na fakamaoniga (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite takahalaga pe 3 mahina i te falepuipui.

Tulafono 30 o na Tulafono o Holigatulafono - Hē Tauhi Feagaiga

Fakamatalaga

- (1) Ko he tino tauhi feagaiga na fuafua e ia ke fakatogafiti, ma, i tona he uhitakia o te feagaiga, na ia tataki kehea ai ho he vaega o te feagaiga ke fakaaoga ki ni mea e heki fakatagā i te feagaiga, e holitulafono.
- (2) Ona ko na tulafono ienei, ko te tino e gafa ma te feagaiga pe he tino fakatonutonu ko ia te ka kavea ma tauhi feagaiga ki te meatotino kua tuku mai ke pulepulea.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) he tauhi feagaiga
- (iii) fuafua ke fakatogafiti te feagaiga
- (iv) na kave pe na fakaaoga te meatotino o te feagaiga
- (v) i he auala e heki fakatagā i te feagaiga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau te itu fakatino moliaga ke fakamatea ko te tino molia nae ko te tauhi feagaiga na ia kavea pe na ia fakaaoga te meatotino o te feagaiga e aunoa ma he fakatagaga ma na fuafua ke fakatogafiti te feagaiga.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga pe 1 tauhaga i te falepuipui (Fakamahinoga Maualuga).

Tulafono 31 o na Tulafono o Holigatulafono - Fakavalea

Fakamatalaga

- (1) Ko he tino e fakavalea pe fakapepelo pe ni a lava ni ietahi faiga fakavalea ko tona uiga –
 - (i) fakavalea ia tagata lautele pe ho he tino na ia iloa pe heki ia iloa;
 - (ii) fai pe fakamalohia he tino ke fakatino, fai, talia, fakataga pe fakakino he vaega o he pepa fakamaonia taua pe ko te pepa katoa e holutulafono.
- (2) Ko he tino e fai hana kaitalafu pe fai hana totogi fakavalea, e holutulafono.

Vaega Fakapitoa o te Holigatulafono

- 1 Tulafono 31(i)
 - (i) he tino (tino molia)
 - (ii) fakahehe PE na talapepelo ki he tahi tino
 - (iii) ko te fakahehe pe ko te talapepelo tena na manuia ai te tino molia pe ko he tahi tino.
- 2 Tulafono 31(ii)
 - (i) he tino (tino molia)
 - (ii) fakahehe PE na talapepelo
 - (iii) ko te fakahehe pe ko te talapepelo tena na fakaoleole ai PE na mafua ai te tahi tino ke
 - (iv) fai PE talia PE fakaheai he tupe teu ki te faletupe pe he tupe gogō.
- 3 Tulafono 31(2)
 - (i) he tino (tino molia)
 - (ii) maua hana tupe gogō pe na maua fakakaitalafu hana mea totino
 - (iii) i he auala fakavalea.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te vaega fakatino moliaga ko te tino molia na talapepelo ki te tahi tino na mafua ai te tuku atu o he tau ki te tino molia.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga pe 1 tauhaga i te falepuipui (Fakamahinoga Maualuga).

Tulafono 32 o na Tulafono o Holigatulafono - Fakahehe

Fakamatalaga

- (1) He tino e fai e ia he tuhituhiga talapepelo i he fuafuaga ke fakatogafiti pe fakahehe e ia he tino, e tuha lava pe mautinoa pe he mautinoa, e holitulafono.
- (2) I te tulafono tenei ko na "tuhituhiga talapepelo" ko tona uiga ko ni tuhituhiga e –
 - (i) fai veia ko he vaega pe ko te tuhituhiga katoa na fai e he tino e heki faia e ia pe fakataga e ia te faiga; pe
 - (ii) fai veia ko te tuhituhiga katoa pe he vaega o na tuhituhiga na fai mo he tino e heki fakataga e ia te faiga; pe
 - (iii) teia, e ui lava e fai veia na fai e te tino lava teia na ia faia moni pe fakataga te faiga, pe fai veia na fai mo te tino teia na ia fakataga moni te faiga, te taimi, aho ma te koga na fai ai, kafai e aoga, he numela pe he fakailoga e fakamatea ai na tuhituhiga, e talapepelo te fakamaumauga; pe
 - (iv) fai veia ko te tutuhiga katoa pe he vaega taua na fai e he tino pepelo pe he tino kua oti, pe fai veia na fai mo he tino vena; pe
 - (v) na fai i te igoa o te tino e ola mai pe na fai e te tino lava tena pe i he fakatagaga a te tino tena, i he fuafuaga e ono talia veia na fai e he tino moni pe tino tauanoa, kae he ko te tino lava na ia faia ma ia fakataga ke fai.
- (3) I na tulafono ienei ko te "fai o he fakamaumauga talapepelo" e i loto ai te faia o he huiga taua ki he fakamaumauga moni, e tuha pe he mea na fakaopopo, fakakino, titina, kavekehe pe hea lava.
- (4) Ko te holitulafono i lalo o te tulafono tenei e katoatoa –
 - (i) i te taimi lava e uma ai te fai o te fakamaumauga ma ona fuafuaga taua, e ui lava ko te tino holitulafono e heki ia fuafuagia he tino fakapitoa ke ia fakaaoga pe fefaiaki e ve lava he pepa moni, pe tatau ke mafua ona ko he talitonuga veia e lelei ke fai pe taofiofi mai te faia o he mea.
 - (ii) e uina lava ko na fakamaumauga talapepelo e he katoatoa, pe fai veia e he ni pepa e taulia i te tulafono, kafai e fai i he auala e taku mai ai na fuafua ke fai e ve lava he pepa moni.
- (5) He tino e ia maua te fakatinoga o he fakamaumauga kae fakatagafai ko na mea i loto e kehe ma na mea moni i loto, e holitulafono.

Vaega Fakapitoa o na Holigatulafono

Tulafono 32(1)

- (i) he tino (tino molia)
- (ii) na fai he fakamaumauga talapepelo
- (iii) i he fuafuaga ke fakatogafiti PE fakavalea he tino.

Tulafono 32(5)

- (i) he tino (tino molia)
- (ii) fakahehe e ia te fakamatalaga o te pepa ki he tahi tino
- (iii) ko te fakamatalaga tena na tauanau ai he tahi tino ke fai he pepa.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na faimautinoa e ia he fakamaumauga talapepelo PE e he hako tana fakamatalaga na fai ki te tahi tino agai ki na mea i loto o te fakamaumauga ma tauanau ai te tahi tino ke malie ki te pepa tena.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

“Fakamaumauga talapepelo” ko na fakamaumauga e fai mo he mafuaaga e veia ona fakatatia mai i te potu palakalafa (2) o te Tulafono 32 o na Tulafono o Holigatulafono.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga pe 1 tauhaga i te falepuipui (Fakamahinoga Maualuga).

Tulafono 34 o na Tulafono o Holigatulafono - Mū nafuafuagia

Fakamatalaga

Ko he tino e ia fuafuā ma e aunoa ma he mafuaaga fakatetulafono e –

- (i) huhunu e ia he meatotino; pe
- (ii) fakakino pe talepe he meatotino i ni pomu, fanaika, mea fakapāpā; pe
- (iii) lamatia ai ni ola o ni tino e auala i te afi pe ni pomu, fanaika, mea fakapāpā.

E 3 ia holitulafono e aofia ai.

Vaega fakapitoa o te holigatulafono

Tulafono 34(1)(i)

- (i) he tino (tino molia)
- (ii) huhunu ni meatotino
- (iii) na fuafuagia
- (iv) aunoa ma he mafuaaga fakatetulafono.

Tulafono 34(1)(ii)

- (i) he tino (tino molia)
- (ii) fakakino pe talepe he mea totino
- (iii) i ni pomu/fanaika/mea fakapāpā
- (iv) na fuafuagia
- (v) aunoa ma he mafuaaga fakatetulafono.

Tulafono 34(1)(iii)

- (i) he tino (tino molia)
- (ii) lamatia ni ola o tagata e auala i te afi pe ni pomu, fanaika, mea fakapāpā
- (iii) na fuafuagia, ma
- (iv) e aunoa ma he mafuaaga fakatetulafono.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, ko te fakatino moliaga e tatau ke fakamatea e ia te tino molia e auala tena i he fakaaliga ko te tino tena ei loto o te fakamahinoga.

Ko te fakatino moliaga e tatau ke tuku mai e ia ni molimau ke fakamaonia ai ko te tino molia, ko ia lava te na ia faia te holitulafono, mo he fakatakitakiga, ko te tino

moliala te na ia tutua te afi, fakakinoa te mea totino i te fakaaoga o ni pomu, fanaika ma na mea fakapāpā.

(2) Ko ai te ia fakamaonia

E tatau lava ke fakamaonia e te fakatino moliaga ko na vaega fakapitoa uma o te holitulafono e aunoa ma ni ietahi mahalohaloga talafeagai.

E hē manakomia ke fakamaonia he mea e te tino tautali, kae kafai e fakamautu e te tino tautali, e iei lava te mahalohalo talafeagai, ma kua talia e koe, ko tona uiga ko te tino moliala e hē agahala, ma tapunia loa te matakupu.

(3) Fai mautinoa ma holitulafono

“Fuafuagia ma holitulafono” ni vaega fakapitoa taua e o te holigatulafono tenei.

E tatau te fakatino moliaga ke ia fakamaonia ko te tino moliala na ia fuafua lava ke huhunu te meatotino. E tatau foki ke fakaali e te fakatino moliaga e heai he mafuaaga fakatefulafono na tutu ai te afi (mo he fakatakitakiga, na fai ona he fakatonuga e a te Puluenuku ke huhunu te lapihi).

(4) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono e aunoa ma he mahalohaloga talafeagai, e mafai lava ke iei he puipuiga ma te tino moliala.

E mafai e te tino moliala oi kaumai ni molimau ke fakaali ai ko ia na fakamalohia ke fai te holitulafono. E tatau ke fakamautu te tali a te tino moliala te puipuiga i te fakapaleniga i te fakapaleniga o na molimau (e ono io nai lo te heai).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga te fakahalaga pe 3 mahina i te falepuipui.

Tulafono 35 o na Tulafono o Holigatulafono - Mū ona ko te Fakatamala

Fakamatalaga

Ko he tino e fakatupu e ia he mū ona ko te fakatamala e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (te tino molia)
- (ii) fakatupu he mū
- (iii) fakatamala.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, e tatau ke fakamatea te tino molia e te fakatino moliaga i loto o te fakamahinoga.

E tatau ke kaumai e te fakatino moliaga ni molimau ke fakamaonia ai ko te tino molia, ko ia te na ia faia te holitulafono, (tona uiga, ko te tino molia lava te na ia kamata te mū).

E mafai he mu ke tutupu ona na tutu lava ke mu, pe ona ko he gaoioiga na fai pe he gaoioiga foki e heki faia, ma mafua ai te mu.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma, e aunoa ma he mahalohaloga talafeagai.

E hē manakomia ke fakamaonia he mea e te tino molia, kae kafai e fakamautu e te tino molia ma talia e te fakamahinoga, e iei lava te mahalohalo talafeagai, ko tona uiga ko te tino molia e hē agahala ma tapunia loa te matakupu.

Ko te "fakatamala" he vaega fakapitoa taua e o te holigatulafono tenei. Ko te fakatino moliaga e tatau ke fakamaonia e ia, ko na mea a te tino molia na fai pe e heki ia faia he fakatamala, ma, e he ko te mea ia a he tagata mafaufau lelei e ono fai i ni tulaga veia.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono e aunoa ma he mahalohaloga talafeagai, e mafai lava ke iei he puipuiga mo te tino tautali.

E tatau te tino tautali ke fakamautu hana puipuiga, ma ke talia e te fakamahinoga fatu ki te fakapaleniga o na molimau (e ono ko te, i lo teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga te fakahalaga pe 3 mahina i te falepuipui.

Tulafono 36 o na Tulafono o Holigatulafono - Fakakino o na meatotino

Fakamatalaga

Ko he tino e fai ma te mautinoa e ia ma e heai hana mafuaaga fakatetulafono e talepa pe fakakino ai he meatotino a he tahi tino e holutulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) meatotino a he tahi tino
- (iii) talepe pe fakakino
- (iv) fai ma te mautinoa, ma
- (v) aunoa ma he mafuaaga fakatetulafono.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, e tatau ke fakamatea te tino molia e te fakatino moliaga, e auala tena i he fakamatalaga ko te tino tena ei loto o te fakamahinoga.

E tatau ke kaumai e te fakatino moliaga ni molimau ke fakamaonia ai ko te tino molia ko ia te na ia fakakinoa ma talepea te meatotino.

(2) Fakamaoniaga o te moliaga

E tatau ke fakamaonia e te fakatino moliaga ko na vaega fakapitoa uma kua heai lava he mahalohalo talafeagai e iei.

E hē manakomia ke fakamaonia he mea e te tino molia, kae kafai e fakamautu e te tino molia tana tali, ma talia e te fakamahinoga, e iei lava te mahalohalo talafeagai, ko tona uiga ko te tino molia e hē agahala ma tapunia loa te matakupu.

(3) Fai ma te mautinoa, ma, aunoa ma he mafuaaga talafeagai

“Fai ma te mautinoa, ma, aunoa ma he mafuaaga talafeagai”, ni vaega fakapitoa taua e o te holigatulafono tenei.

E tatau ke fakamaonia e te fakatino moliaga na fai ma te mautinoa e te tino molia ke fakakino pe talepe te meatotino ma e aunoa ma he mafuaaga tatau. E tatau ke fakamaonia e te fakatino moliaga, e heai he mafuaaga tatau na fakakino pe talepe ai te mea totino.

“Meatotino a he tahi”: E tatau ke fakamaonia e te fakatino moliaga ko te meatotino na fakakino pe talepe, e he a te tino tautali.

(4) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigātulafono e aunoa ma he mahalohalo tulafeagai, e mafai ke iei lava he puipuiga mo te tino molia.

E tatau ke fakamautu e te tino tautali he puipuiga e fakamaliegia ai te fakamahinoga, fatu ki te fakapaleniga o na molimau (e ono ko te, i lo teia).

Fakahalaga pito Maualuga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga pe 1 tauhaga i te falepuipui (Fakamahinoga Maualuga).

Tulafono 37 o na Tulafono o Holigatulafono - Manu Tataka

Fakamatalaga

He tino e a ia, pe tauhi e ia he meaola e tataka i he nofoaga faitele, pe i he koga patino e o he tino e aunoa ma he fakatagaga, e holitulafono.

Vaega Patino o te Holigatulafono

1 Tulafono 37

- (i) he tino (tino molia)
- (ii) e iei PE fakaaoga PE tauhi e ia ni meaola
- (iii) ko te meaola tena
- (iv) e tataka i na nofoaga faitele PE
- (v) na kave ki loto o he nofoaga faitele kae he nonoa pe tuku ki loto o he hai PE
- (vi) nae i loto o he koga patino e o he tino e aunoa ma he fakatagaga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia e a ia te meaola te nae tataka i te nofoaga faitele ma tataka ki he koga patino e o he tino e aunoa ma he fakatagaga.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).

Tulafono 38 o na Tulafono o Holigatulafono - Hopo tuakoi

Fakamatalaga

(1) He tino e aunoa ma he mafuaaga fakatetulafono e –

- (i) i loto pe i luga o he fale; pe
- (ii) i loto o he pa pe he koga vena; pe
- (iii) i he vaka pe he tavale,

e o he tahi tino e holitulafono.

(2) He tino e –

- (i) fano ki he tokiga e a he tino, fatoaga, fenua pe he fale o he tahi tino fuafua ke fai he holitulafono;
- (ii) aunoa ma he mafuaaga fakatetulafono na fano ai pe nofo i te tokiga, fatoaga, fenua pe he fale o he tahi tino ka na uma lava te lea kiei ko ia e he ulu, pe fano kehe foki, hea lava te tulaga e iei,

e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 38(1)

- (i) he tino (tino molia)
- (ii) aunoa ma he mafuaaga fakatetulafono
- (iii) nae i loto pe i luga o he fale, pe he pa pe he tahi koga vena, pe ko luga o he vaka pe he tavale.

Tulafono 38(2)(i)

- (i) he tino (tino molia)
- (ii) fano ki loto o he tokiga, fatoaga, fenua pe he fale
- (iii) o he tahi tino
- (iv) fuafua ke fai ai he holitulafono.

Pe

Tulafono 38(2)(ii)

- (i) he tino (tino molia)
- (ii) aunoa ma he mafuaaga fakatetulafono
- (iii) ulu pe nofo lava i he tokiga, fatoaga, fenua ma he fale

(iv) o he tahi tino

(v) na lea kiei ko ia e he ulu ki loto pe lea ko ia ke fano

(vi) e heki uhitaki.

Fakamainaga

(1) Fakamateaga

I te fakamahinoga, ko te fakatino moliaga e tatau ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke iei ni fakamaoniga e te fakatino moliaga ke fakamaonia ai ko te tino molia ko ia te na ulufale ki te fale pe ko he vaka pe na fano ki te fenua o he tahi tino i he fuafuaga ke fai he holitulafono pe nofo i te fenua o te tahi ka kua uma te lea kiei ko ia e he ulu ake pe ko ia ke fano kehe.

(2) Ko ai te ia faia na fakamaoniga

E tatau lava ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma ke aunoa ma he mahalohalo talafeagai.

Ko te itu tautali e he manakomia ke fakamaonia e ia he mea, kae kafai e fakamaonia e te itu tautali e iei lava te mahalohalo talafeagai, ko tona uiga ko te tino molia e he agahala ma tapunia te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono ke aunoa ma he mahalohalo talafeagai, e mafai lava ke iei he puipuiga mo te tino molia.

E tatau ke fakamautu e te tino molia tona puipuiga i te fakapaleniga o na molimau (e ono ko te, i lo teia).

Fakatakitakiga o he "mafuaaga fakatetulafono" ko – ho he ahiahiga, ulufale i he fakatagaga a te tulafono, pe talia e te tino e o ia te fale, ni tino e olo fai na uaea moli, uaea telefoni.

Fakahalaga Pito Mauualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 39 o na Tulafono o Holigatulafono - Tuhituhiga Matagā

Fakamatalaga

- (1) He tino e ia iloa lava ma heai hana mafuaaga fakatetulafono –
 - (i) fakatau atu, ke fakaaliali ke fakatau pe fakaaliali ke matamata kiei ia tagata lautele, he tuhi, ata, ata tifaga, lipine, ata puke, fakamaumauga, tuhituhiga pe ni mea faitino e iei ni mea mataga pe he tuha ai; pe
 - (ii) fakaali fakalauaitete ni fakaalialiga matagā pe he tuha ai,e holutulafono.
- (2) Ho he tino e iei ni ana tuhi, ata, ata tifaga, lipine, ata puke fakamaumauga, tuhituhiga pe ni mea fai tino pe ni mea, e holutulafono.

Vaega Fakapitoa o te Holigatulafono

- 1 Tulafono 39(1)(i)
 - (i) he tino (tino molia)
 - (ii) fai mautinoa
 - (iii) fakatau PE fakaaliali ke fakatau PE fakaaliali ke matamata kiei ia tagata lautele
 - (iv) e matagā ma he tuha ai
 - (v) he tuhituhiga, fakamaumauga PE he mea faitino PE he mea
 - (vi) aunoa ma he mafuaaga fakatetulafono.
- 2 Tulafono 39(1)(ii)
 - (i) he tino (tino molia)
 - (ii) fai mautinoa
 - (iii) fakaaliali ke kitea e tagata lautele
 - (iv) matagā PE he tuha ai
 - (v) aunoa ma he mafuaaga fakatetulafono.
- 3 Tulafono 39(2)
 - (i) ko he tino e
 - (ii) kaumi e ia pe ia te ia he
 - (iii) mahini vili ata he tatau, pe he fetau, pe ko he tahi meafaitino he tatau pe he fetau

- (iv) he nuhipēpa pe he tuhi, pe he pepa, pe he ata puke, he molu, he fakatagata, he ata pe he ata lolomi, pe ni ietahi ata vena.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia na fai mautinoa te fakaaliali ki tagata lautele na tuhituhiga, fakamaumauga, PE ni mea faitino PE ni mea PE he fakaalialiga mataga PE he tuha ai.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigātulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleni o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

- 3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).
- 20 ia iunite fakahalaga pe 1 tauhaga i te falepuipui (Fakamahinoga Mauuluga).

Tulafono 40 o na Tulafono o Holigatulafono - Talapepelo i he lipoti ki Leoleo

Fakamatalaga

Ko he tino e —

- (i) teteke ki na fakamatalaga moni ma he talitonu ki te hako o na fakamatalaga, lipoti e ia ki he leoleo he holitulafono kua fai, i he fakamatalaga tuhituhia pe tukugutu ki, pe
- (ii) fai he gaoioiga pe he fakamatalaga i he fuafuaga ke fakamaumau taimi, pe ke tataki kehe ni leoleo pe ni tino fehoahoani, mai ni a latou galuega e fai, pe fakahefia tokaga ki te mea tena,

e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 40(i)

- (i) he tino (tino molia)
- (ii) teteke ki te moni ma he talitonu ki te hako
- (iii) na mafua ai oi fai he fakamatalaga tuhituhia pe tukugutu
- (iv) ki he ofiha leoleo
- (v) ko te fakamatalaga e he hako ma nae he talitonu lava te tino molia e hako.

Pe

Tulafono 40(ii)

- (i) he tino (tino molia)
- (ii) na fai tana gaoioiga pe ko he fakamatalaga
- (iii) fuafuagia pe he fakamatalaga
- (iv) na fakamaumau ai ma tataki kehe ai na a leoleo pe
- (v) fakatokaga hehē na leoleo ki he tahi mea.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia tuhia pe na mafua ai te tuhi o he fakamatalaga ki leoleo, pe ko te tino molia te na ia faia te

gaoioiga pe ko te fakamatalaga i he fuafuaga ke fakamaumau na lihoi ma te taimi o na leoleo.

(2) Ko ai te ia faia na fakamaoniaga

E tatau ke fakamaonia e te fakatino moliaga kua heai he mahalohalo talafeagai i na vaega fakapitoa uma o te holigatulafono.

E he manakomia te fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei he mahalohalo talafeagai, ko tona uiga ko te tino molia e he hala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono kua heai he mahalohalo talafeagai iei, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia hana puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 41 o na Tulafono o Holigatulafono - Tukuakiga i he Holigatulafono

Fakamatalaga

Ko he tino e —

- (i) fuafua ke fakamalohia pe maua mai hana mea mai he tahi tino, momoli, pe taufakamataku ke molia te tino tena pe he tahi tino i he holigatulafono, e tuha lava pe ko te tino ka molia pe taufakamataku i ni moliaga, e agahala i te holutulafono tena pe heai, pe
- (ii) i te fuafuaga e ve ona takua i te potu palakalafa (i), e taufakamataku ai ko he tino ka molia e he tahi tino; pe
- (iii) e fai e ia ke maua e he tino he pepa e i loto ai he moliaga pe he taufakamataku e veia ona takua i te tulafono tenei, ma ia iloa na mea i loto o te pepa, ko te tino tena,

e holutulafono.

Vaega fakapitoa o na Holigatulafono

Tulafono 41(i)

- (i) he tino (tino molia)
- (ii) fuafua ke maua mai hana mea i ni auala fakaholutulafono mai he tahi tino
- (iii) molia pe tau fakamataku ke molia he tahi tino i he holigatulafono.

Pe

Tulafono 41(ii)

- (i) he tino (tino molia)
- (ii) fuafua ke maua mai hana mea mai he tahi tino i ni auala fakaholutulafono
- (iii) taufakamataku he tino ma lea kiei ko ia ka momoli e he tahi tino veia ko ia kua holutulafono.

Pe

Tulafono 41(iii)

- (i) he tino (tino molia)
- (ii) na ia faia ke maua e he tahi tino
- (iii) he pepa fakamaumau e i loto ai ni moliaga pe na holutulafono ma taufakamataku ko te tino e molia ka
- (iv) kae ia iloa lava na mea i loto o te pepa fakamaumau.

Fakamainaga

(1) Fakamateaga

E tatau ke fakatino moliaga ke fakamatea ma fakahino te tino tena i te fakamahinoga.

E tatau ke fakamautinoa e te fakatino moliaga ko te tino molia ko ia tena ia faia te taufakamataku, nae ia iloa lava na mea i loto o te pepa fakamatalaga ma fuafua ke maua mai hana mea i ni auala fakaholitulafono.

(2) E fai e ai te fakamaoniga

E tatau te fakatino moliaga ke fakamaonia ko na vaega fakapitoa o te holigatulafono e heai he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia he mea, kae, kafai e fakamautu e te itu tautali e iei te mahalohalo talafeagai, ko tona uiga ko te tino molia e he agahala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa o te holigatulafono kae heai he mahalohalo talafeagai, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia tona puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Pe hako pe hehe te moliaga o he holigatulafono, e he taulia.

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 42 o na Tulafono o Holigatulafono - Fakahalalau Tala

Fakamatalaga

He tino e ia iloa lava e he hako kae fakahalalau lava e ia ni tala hehē e ono afaina ma taku kino ai he tahi tino, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) fakahalalau ni tala
- (iii) kae ia iloa e he hako
- (iv) e ono fakakino ai
- (v) te tahi tino.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia fakahalalaua na tala kae ia iloa lava e he hako ma e ono fakakino ai he tahi tino.

(2) Ko ai te ia faia na fakamaoniga

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma o te holigatulafono ke heai he mahalohalo talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava te mahalohalo talafeagai, ko tona uiga ko te tino molia e he hala oi tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa uma o te holigatulafono ma heai he mahalohalo talafeagai, e mafai lava ke iei he puipuiga o te tino molia.

He puipuiga lelei kafai te lipoti e hako.

E tatau te tino molia ke fakamautu tana puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 43 o na Tulafono o Holigatulafono - Fakalavelave i he nofoaga faitele

Fakamatalaga

He tino e fakalavelave i he nofoaga faitele, pe aunoa ma he mafuaaga fakatetulafono, e kavea ma fakatupu fakalavelave i he nofoaga faitele, kua holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) fakalavelave faimautinoa i he nofoaga faitele PE aunoa ma he mafuaaga tatau ma e ia iloa ko ia kua fakatupu fakalavelave i he nofoaga faitele.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fonu fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia fakatupua te fakalavelave ma, na fuafua lava e te tino molia ke fakalavelave pe, ko he tino molia te na fakatupu fakalavelave i he nofoaga faitele ma, nae iloa lava e te tino molia te mea tena.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 44 o na Tulafono o Holigatulafono - Miha i he Nofoga faitele

Fakamatalaga

He tino e, aunoa ma he mafuaaga fakatetulafono, miha i he nofoaga faitele e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) aunoa ma he mafuaaga fakatetulafono
- (iii) miha
- (iv) i he nofoaga faitele.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia ma fakailoa i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia na miha i he nofoaga faitele ma e heai he mafuaaga fakatetulafono mo te miha.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 45 o na Tulafono o Holigatulafono - Amioga He Mafaufau Fakamatalaga

Ko he tino e —

- (i) i he koga e kitea atu ai he nofoaga faitele, fai amioga he mafaufau, he talafeagai, pe i ni auala e fakatupu vevehi, pe
- (ii) i he nofoaga faitele, fai kupu ki he tino i he mafaufauga ke fakamataku, fakapopole, pe fakaita ai te tino tena; pe
- (iii) i he koga e lagona mai i te nofoaga faitele e fai ni kupu fakamataku pe fakakino ma e he fia tokaga pe iei he tino e afaina pe he fiafia ki ana kupu; pe
- (iv) laukupu, fai kupu mataga, i he nofoaga faitele pe i he koga e lagona mai ai e he tino i he nofoaga faitele,

e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- 1 Tulafono 45(i)
 - (i) he tino (tino molia)
 - (ii) nae fai amioga he mafaufau PE mataga pe fakatupu vevehi
 - (iii) i he koga e kitea atu ai he nofoaga faitele.
- 2 Tulafono 45(ii)
 - (i) he tino (tino molia)
 - (ii) i he nofoaga faitele
 - (iii) faikupu ki he tino
 - (iv) fakamataku, PE fakapopole, PE fakaita ki te tino tena.
- 3 Tulafono 45(iii)
 - (i) he tino (tino molia)
 - (ii) e lagona mai i he koga faitele
 - (iii) fai kupu fakamataku pe fakakino
 - (iv) he tokaga pe iei ni tino e popole pe fakakino i na kupu iena.
- 4 Tulafono 45(iv)
 - (i) he tino (tino molia)
 - (ii) fai kupu faifai PE he mafaufau, pe laukupu

(iii) i he nofoaga faitele pe i he koga e lagona mai e he tino i he nofoaga faitele.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia ma fakamatea i loto o te fonu fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia nae fai amioga he mafaufau i na vaega e fa ieia kua fakamanino atu.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 46 o na Tulafono o Holigatulafono - Pihapihao

Fakamatalaga

He tino e ia faia pe fakatupu e ia he pihapihao tauanoa ma he mafaufau i loto o he nuku e holitulafono.

Vaega Fakapitoa o he Holitulafono

- (i) he tino (tino molia)
- (ii) na fai e ia pe na fakatupu e ia te ia
- (iii) te pihapihao tauanoa ma te he mafaufau
- (iv) i loto o te nuku.

Fakamainaga

(1) Fakamateaga

E tatau ke fakamatea e te fakatino moliaga te tino molia i loto o te fakamahinoga.

E tatau ke fakamautinoa e te fakatino moliaga ko te tino molia tena ia faia pe na fakatupu e ia te pihapihao tauanoa ma he mafaufau i loto o te nuku.

“pihapihao tauanoa ma he mafaufau” ko na pihapihaga ieia e he talafeagai ma na aganuku ma na nofonofoga a te nuku.

(2) E fai e ai te fakamaoniga

E tatau ke fakamaonia e te fakatino moliaga na vega fakapitoa uma ke heai he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia he mea, kae kafai e fakamautu e te itu tautali e iei te mahalohalo talafeagai, ko tona uiga e he agahala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga ko na vega fakapitoa o te holigatulafono kua heai he mahalohalo talafeagai kiei, e mafai lava ke iei he puipuiga mo te tino molia.

E tatau ke fakamautu e te tino molia tona puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga pe 3 mahina i te falepuipi.

Tulafono 47 o na Tulafono o Holigatulafono - Fetogi Fatu

Fakamatalaga

He tino e togi pe hahau e ia he fatu pe he tahi mea lava, e ono lavea, fakakino pe fakalavelave ki he tahi tino, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) tauai pe fetogi
- (iii) he fatu pe ko he tahi mea
- (iv) ono lavea, fakakino pe fakalavelave.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino molia ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino molia ko te tino molia ko ia te na togi te fatu ma fakakino pe fakalavelave ki te tahi tino.

“hahau” ko te fakaaoga o he meafaigaluega e ve he mātā, ke fakalele.

(2) E fai e ai te fakamaoniga

E tatau ke fakamaonia e te fakatino molia na vaega fakapitoa uma e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali kae kafai e fakamautu e te itu tautali e iei he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino molia na vaega fakapitoa o te holigatulafono e aunoa ma he mahalohalo talafeagai, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 48 o na Tulafono o Holigatulafono - Holi Mamalu

Fakamatalaga

He tino, e aunoa ma he mafuaaga talafeagai, tau fatiotio pe tau kikila ki loto o he fale, kua holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) aunoa ma he mafuaaga talafeagai
- (iii) tau fatiotio pe tau kikila
- (iv) ki loto o he fale.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te nae tau fatiotio pe tau kikila ki loto o te fale e aunoa ma he mafuaaga talafeagai.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 49 o na Tulafono o Holigatulafono - Fualakau Fakaha

Fakamatalaga

Tulafono 49(2)

E tuha ai ma te palakalafa (3) ko he tino, vagana kafai he fomai pahi e ia fai mautinoa te:

- (i) kaumi o he fualakau fakaha ki Tokelau; pe
- (ii) e maua kiei ni fualakau fakaha,

kua holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 49(2)(i) ma te (ii)

- (i) he tino (tino molia)
- (ii) e hē he fomai pahi
- (iii) e fai mautinoa
- (iv) kaumaia he fualakau fakaha ki Tokelau PE he maua kiei ni fualakau fakaha.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia na ia kaumaia na fualakau fakaha ki Tokelau pe na maua foki kiei ni fualakau fakaha ka ko ia foki e he he fomai pahi.

(2) E fai e ai na fakamaoniga

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma aunoa ma he mahalohalo talafeagai.

E he manakomia te itu tautali ke fakamaonia he mea, kae kafai e fakamautu e te itu tautali e iei te mahalohalo talafeagai, ko tona uiga la ko te tino molia e he hala ma tapunia loa te matakupu.

I te Tulafono 49 o na Tulafono o Holigatulafono ko te uiga o te, "Fualakau Fakaha":

- (i) ko na fatu pe ko na lau o te mariuana, te opiuma, na lau lakau o te coca, pe ko ni mea e fai pe tapena mai i na lakau iena; ma
- (ii) ho he vailakau pe he tahi mea lava e mafai ke afaina ai te mafaufau.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga kua heai he mahalohalo i na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga a te itu tautali.

E tatau te tino molia ke fakamaonia e iei tana pepa fakataga mai he fomai pahi ke fakatau mai ai te fualakau fakaha ke fakaaoga e ia pe ko he tino o tona kaiga.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 50 o na Tulafono o Holigatulafono - Ava malohi

Fakamatalaga

- (1) Ko he tino e ia fakatauatua he ava malohi ki he tino i lalo ifo o te 18 tauhaga te matua, e holitulafono.
- (2) E heai he puipuiga ki he moliaga i lalo o te (1) kafai ko te tino molia nae he iloa ko te tino e fakatau atu kiei na ava malohi ko heki katoa tona 18 tauhaga.
- (3) Ko he tino i lalo o te 18 tauhaga te matua kae inu ava malohi kae ia iloa lava ko he ava malohi te kua ia inua, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- 1 Tulafono 50(1)
 - (i) he tino (tino molia)
 - (ii) na fakatau atu pe na ia fokia
 - (iii) he ava malohi
 - (iv) ki he tino i lalo ifo o te 18 tauhaga te matua.
- 2 Tulafono 50(3)
 - (i) he tino (tino molia)
 - (ii) e i lalo o te 18 tauhaga te matua
 - (iii) na inu ava malohi
 - (iv) na ia iloa ko tana mea e inu he ava malohi.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia fakatauatua na ava malohi ki te tino i lalo ifo o te 18 tauhaga te matua, pe i te (2) ko te tino molia e i lalo o te 18 tauhaga te matua ma na inu ava malohi ma te iloa, ko he ava malohi ta ia e inu.

(2) Ko ai te ia fakamaonia

E tatau ke famaonia e te fakatino moliaga na vaega fakapitoa uma aunoa ma he mahalohalo talafeagai.

E he manakomia ke fakamaonia he mea e te te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohalo talafeagai, ko tona uiga ko te tino molia e he hala oi tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te itu tautali kua heai he mahalohalo talafeagai i na vaega fakapitoa uma o te holigatulafono, e mafai lava he puipuiga o te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Ko he talitonuga ko te tino na foki kiei na ava malohi kua katoa te 18 tauhaga te matua, e he ko he puipuiga tena ki he moliaga i lalo o te palakalafa (1).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 51 o na Tulafono o Holigatulafono - Utufaga

Fakamatalaga

Ko he tino i lalo o te 16 tuahaga e ulaula (ho he utufaga) e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 51

- (i) he tino (tino molia)
- (ii) i lalo o te 16 tahaga te matua
- (iii) ulaula utufaga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia teia na ulaula utufaga e i lalo o te 16 tauhaga te matua. Manatua he Tulafono 114 – e he mafai ke holitulafono he tino e i lalo o te 10 tauhaga te matua. Ko na tulafono fakapitoa e apalai ki he tino i te va o te 10 ma te 14 tauhaga te matua.

(2) Ko ai te ia fakamaonia

E tatau lava ke fakamaonia e te fakatino moliaga kua heai he mahalohalo i talafeagai na vaega fakapitoa uma.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohalo talafeagai, ko tona uiga ko te tino molia e he hala ma tapunia loa lava te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga kua aunoa ma ni mahalohaloga talafeagai i na vaega fakapitoa uma lele o te holigatulafono, e mafai lava ke iei he puipuiga a te itu tautali.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 52 o na Tulafono o Holigatulafono - Ko te Konā

Fakamatalaga

He tino e konā i he nofoaga faitele, ma –

- (i) fakatupu he vevehi; pe
- (ii) kua he ia mafaia oi kikila lava ia,

e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 52(i)

- (i) he tino (tino molia)
- (ii) konā
- (iii) nofoaga faitele
- (iv) fakatupu he Vevey.

Tulafono 52(ii)

- (i) he tino (tino molia)
- (ii) konā
- (iii) nofoaga faitele
- (iv) kua he mafai ke kikila lava ia.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia nae kona i he nofoaga faitele ma fakatupu e ia he vevehi ma kua he mafai ke ia kikila ia ia.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga kua heai he mahalohalo talafeagai talafeagai i na vaega fakapitoa uma.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei he mahalohalo talafeagai, ko tona uiga ko te tino molia e he hala ma tapunia loa te matakupu.

(3) Maua e konā ma kua he mafai ke kikila lava ia e ia.

E tatau ke fakamaonia e te fakatino moliaga e aunoa ma he mahalohalo talafeagai ko te tino molia na afaina i ni alakaholi. E tatau foki ke fakamaonia e te fakatino moliaga ko te tino molia nae konā. Ko te tulaga na pa kiei te konā kua he mafai ai lava e ia he mea ma kua he ia mafaia oi kikila ia ia.

(4) Nofoga faitele

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia nae i he nofoaga faitele. E tatau ke fakamaonia ko te koga nae konā ai e i he nofoaga fakamua e ve ko "te malae", te Falefono pe ko te falemai.

(5) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa uma o te holigatulafono e aunoa ma he mahalohaloga talafeagai, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 53 o na Tulafono o Holigatulafono - Ko te Fakaaoga o na Fanaika

Fakamatalaga

Ko he tino e:

- (i) fakatamala i te fakapā e ia o he fanaika pe ni mea fakapapa i he faiga pe he koga e fakapokepoke pe ono fakapokepoke ki tagata lautele;
- (ii) fakaaoga ni fanaika pe ko ni ietahi lava mea fakapapa pe ko ni vaialakau pe ni mea kokona ke finau ai pe afaina ai na ika,

e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 53(i)

- (i) he tino (tino molia)
- (ii) na fakapa e ia he fanaika pe he mea fakapāpā
- (iii) fakatamala PE i he faiga pe he koga e afaina pe ono afaina ai
- (iv) ki tagata lautele.

Tulafono 53(ii)

- (i) he tino (tino molia)
- (ii) fakaaoga
- (iii) mea fakapapa pe ni vaialakau kokona pe ni mea e afaina ki
- (iv) na ika.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamatea e te fakatino moliaga ko te tino molia te na fakatamala i te fakapaga o te fanaika ma afaina ai ia tagata lautele pe, ko te tino molia te na ia fakaaoga na mea fakapapa pe ko ni vaialakau kokona pe ni mea e afaina ai na ika.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga ko na vaega fakapitoa uma kua aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava te mahalohalo talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai na fakamaonia e te fakatino moliaga e aunoa ma he mahalohalo talafeagai na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fukapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 54 o na Tulafono o Holigatulafono - Kaukupega Fakamatakutaku ma na vai fakamate

Fakamatalaga

(1) I te tulafono tenei:

“vai fakamate” ko tona uiga ho he vaimoe pe ko ni ietahi mea e fai ke he mafai ai he tino ke gaoioi, e fakaaoga i ni auala vena e te tino e a ia;

“kaukupega fakamatakutaku” ko tona uiga –

- (i) i te palakalafa (2)(i) he mea e fai pe toe fakagaioi ke fakaaoga ke fakatupu ai ni manuka ki he tino, pe fakaaoga i ni auala vena e te tino e ia te ia;
- (ii) i te palakalafa (2)(ii) he mea e mafai ke fakaaoga ke fakatupu ai ni manuka ma e aofia i loto ho he itukaiga naifi.

(2) He tino e:

- (i) aunoa ma he mafauaaga tatau, e ia te ia he kaukupega fakamatakutaku pe he vai fakamate i he nofoaga fakamua; pe
- (ii) e iei tana kaukupega fakamatakutaku pe he vai fakamate i ho he koga, ko te tulaga e iei i he kikilaga muamua e kitea ai, e tau fakaaoga ke fai ai he holigatulafono, e ve ko te fakamanuka pe fakamataku pe ko te mataku i ni mea tutupu, e holitulafono

(3) Ko he puipuiga ki he moliaga e fai i lalo o te palakalafa (2)(ii) kafai e fakamaonia e te tino molia ko ia nae he mafaufau ke fakaaoga te kaukupega pe ko te vai fakamate ke fai ai he holigatulafono.

Vaega Fakapitoa o te Holigatulafono

1 Tulafono 54(2)(i)

- (i) he tino (tino molia)
- (ii) aunoa ma he mafuaaga fakatetulafono
- (iii) e iei tana kaukupega pe he vai fakamate
- (iv) i he nofoaga fakamua.

2 Tulafono 54(2)(ii)

- (i) he tino (tino molia)
- (ii) e ia te ia
- (iii) he kaukupega pe he vai fakamate
- (iv) ko na kikilaga ki te tulaga e iei, e iei te fuafuaga ke fakaaoga

- (v) ke fai ai he holigatulafono ke fakamanuka pe fakamataku, pe ko te mataku i ni mea tutupu.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia nae iei tana kaukupega fakamatakutaku pe he vai fakamate i he nofoaga fakamua e aunoa ma he mafuaaga fakatetulafono PE ko te tino molia nae ia te ia he kautupega fakamatakutaku pe he vai fakamate ma nae fuafua ke fakaaoga e veia ona fakamatalaga mai i te potu palakalafa (ii).

“vai fakamate” ko tona uiga ko ho he vai fakamoe pe ko he tahi lava mea vena.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Ko he teteke ki te moliaga kafai ko te tino molia kua fakamaonia e ia ko ia e heki mafaufau ke fakaaoga te kope pe ko he meatotino kef ai ai he holigatulafono.

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 55 o na Tulafono o Holigatulafono - Vaka o te Nuku

Fakamatalaga

- (1) E tofi he kapiteni mo na vaka takitahi o te nuku.
- (2) Ko na kapiteni o na vaka o te nuku e gafa ma:
 - (i) te kavekavega, fakagaluegia ma te haogalemu i luga o te tai, ma e mafai foki ke he fakataga e ia he tino pe ni uta ki luga o te vaka vagana e kikila e haogalemu; ma te
 - (ii) utaga ma te laku kehega o na pahehe ma na uta mai te vaka.
- (3) Ko he tino, ona ko he mafuaaga tatau, e he uhitaki ki he fakatonuga a te kapiteni, o he vaka i na vaka o te nuku, e fai i luga o te fakatinoga o na tiute o te kapiteni, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 55(3)

- (i) he tino (tino molia)
- (ii) heai hana mafuaaga tatau
- (iii) e he uhitaki ki te fakatonuga
- (iv) a te kapiteni o he vaka i na vaka o te nuku
- (v) ona ko te fakatinoga o na tiute.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia e heki uhitaki ki te fakatonuga a te kapiteni o he vaka i te fakatinoga o na itute o te kapiteni e aunoa ma ni mafuaaga tatau.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga e aunoa ma he mahalohaloga talafeagai i na vaega fakapitoa uma.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohalo talafeagai, ko tona uiga ko te tino molia e he hala ma e tatau ke tapunia te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga e aunoa ma he mahalohalo talafeagai i na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga a te itu tautali.

E tatau ke fakamautu e te tino molia he puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 56 o na Tulafono o Holigatulafono - Fakaaogaga o na Tavale ma na Vaka

Fakamatalaga

- (1) He tino e kavekave pe tiketike i he tavale pe fakaaoga e ia he vaka kae fakatamala pe fakahefiatokaga ki ietahi tino i luga o te auala pe i he koga, e holitulafono.
- (2) I te palakalafa (1) ko te "tavale" e aofia ai na pahika ma na uila afi.

Vaega Fakapitoa o te Holigatulafono

Tulafono 56(1)

- (i) he tino (tino molia)
- (ii) kavekave pe tiketike
- (iii) he tavale (aofia ai na pahika ma na uila afi) pe he vaka
- (iv) he fakaeteete pe tokaga PE fakahefiatokaga ki ietahi tino i luga o te auala pe ko he koga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te nae kavekave te tavale i te auala, pe na fakatamala i te kavekavega o te vaka pe nae fakahefiatokaga ki ietahi tino.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga e aunoa ma ni mahalohaloga talafeagai i na vaega fakapitoa uma.

E he manakomia ke fakamaonia he mea e te itu tautali kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga ko te tino molia e he hala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga a te itu tautali.

E tatau ke fakamautu e te tino molia he puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepipui.

Tulafono 57 o na Tulafono o Holigatulafono - Lamatia he Vaka

Fakamatalaga

He tino e fai pe he faia e ia he gaoioiga ona e fofou ke fakakino pe lamatia he vaka pe ko tana uta, pe e fofou ke lavea pe lamatia te ola o he tino i luga o he vaka, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) na fai pe heki ia faia he gaoioiga
- (iii) i he mafaufauga
- (iv) ke fakakino pe lamatia he vaka pe ko tana uta PE lavea pe lamatia te ola o he tino i luga o he vaka.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia faia te gaoioiga pe e heki faia he gaoioiga i he mafaufauga ke fakakino pe lamatia te vaka pe ko tana uta pe lavea pe lamatia te ola o he tino i luga o te vaka.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga e aunoa ma he mahalohalo talafeagai i na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 58 o na Tulafono o Holigatulafono - Vaka Ahiahi mai

Fakamatalaga

(1) Ko he tino e ahiahi pe fano ki luga o he vaka e afe ki Tokelau vagana ai –

- (i) na fakataga e te Faipule ma te Ofiha e ia kikila te vaka; pe
- (ii) he tino o te kaufaigaluega pe he pahehe e iei ni tiketij; pe
- (iii) e manakomia pe fakatagagia pe e he tahi tulafono; pe
- (iv) he kauvaka e o te vaka,

e holitulafono.

(2) Kafai he tino i lalo ifo o te 14 tauhaga te matua e ahiahi pe fano ki luga o he vaka ma holi ai na fakatatiaga i te palakalafa (1), ko na matua o te tamaiti tena e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 58(1)

- (i) he tino (tino molia)
- (ii) e he i loto o te lihi i te palakalafa (1) e ahiahi pe fano ki luga o he vaka.

Tulafono 58(2)

- (i) he tino (tino molia)
- (ii) he tino o na matua o he tamaiti i lalo ifo o te 14 tauhaga te matua
- (iii) na ahiahi pe na fano ki luga o te vaka
- (iv) kae heai hona aia i lalo o te (1).

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau te fakatino moliaga ke fakamaonia ko te tino molia ko ia te na ahiahi ki te vaka e aunoa ma hona aia, pe he tino o na matua o he tamaiti i lalo ifo o te 14 tauhaga te matua na ahiahi ki te vaka.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga ko na vaega fakapitoa uma kua aunoa ma he mahalohaloga talafeagai.

E he manakomia te itu tautali ke fakamaonia he mea, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga ko te tino molia e he hala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te itu tautali ko na vaega fakapitoa kua aunoa ma he mahalohaloga talafeagai, e mafai lava ke iei he puipuiga a te itu tautali.

E tatau te tino molia ke fakamautu hana puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 59 o na Tulafono mo Holigatulafono - Vai Kona

Fakamatalaga

Ko he tino e tuku e ia he vai kona ki he koga e afaina ai ni tino pe ko ni meaola, e aunoa ma he mafuaaga fakatetulafono, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 59

- (i) he tino (tino molia)
- (ii) aunoa a he mafuaaga fakatetulafono
- (iii) tuku he vai kona
- (iv) ke afaina ai ni tino pe ni meaola.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia tukua te vai kona ki he koga e afaina ki meaola ma tagata e aunoa ma he mafuaaga fakatetulafono.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava te mahalohaloga talafeagai, ko tona uiga ko te tino molia e he hala ma tapunia loa te matakupu.

(3) Puipuiga

Kafai kua fakamaonia e te fakatino moliaga e aunoa he mahalohaloga talafeagai i na vaega fakapitoa uma o te holigatulafono, e mafai lava ke iei he puipuiga o te tino molia.

E tatau ke fakamautu e te tino molia he puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga pe 3 mahina i te falepuipui.

Tulafono 6o o na Tulafono o Holigatulafono - Fakakinogia ni Vai

Fakamatalaga

He tino e togi e ia ni mea kino pe kua fakakino ai he vaikeli, tane vai pe he tahi mea lava e tuku ai ni vai mo te fakaaoga e tagata, e holitulafono

Vaega Fakapitoa o te Holigatulafono

Tulafono 6o

- (i) he tino (tino molia
- (ii) togi he mea kino pe fakakino
- (iii) he vaikeli, tanevai, pe he tahi mea lava e tuku ai ni vai mo te fakaaoga e tagata.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia fakakinoa pe togi ni otaota ki loto o he tane pe he tahi koga lava e tuku ai ni vai mo te fakaaoga e tagata.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 61 o na Tulafono o Holigatulafono - Meakai kua kino

Fakamatalaga

Ho he tino e holitulafono kafai –

- (i) e fai ke kakai ai ia tagata lautele; pe
 - (ii) fakafatau atu, pe tuku atu ke fakatau; pe
 - (iii) e fai ke fakatau,
- ni meakai pe ni mea inu e iloa e te tino tena, pe ono iloa i tana kivilaga talafeagai, kua kino.

Vaega Fakapitoa o te Holigatulafono

Tulafono 61

- (i) he tino (tino molia
- (ii) fai ke kakai ai ia tagata lautele PE fakatau atu pe tuku atu ke fakatau PE e fai ke fakatau
- (iii) na iloa PE na tatau ke ia iloa
- (iv) ko na mea kai ma na mea inu
- (v) kua kino.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia kaumaia na meakai pe ni mea inu ke kakai ai ia tagata lautele kae ia iloa pe na tatau ke iloa ko na mea iena kua kino.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

“Kua kino” ko tona uiga ko na mea kai kua pala, kua vī, pe hehe te hauniga pe e ono tauale ai, pe kua teka te aho e fakagata ai tona aoga.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua luga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 62 o na Tulafono o Holigatulafono - Nofoga kino

Fakamatalaga

He tino e fakataga e ia he fale e nofo ai pe ko tona fale ki he tulaga fainaelo pe he tulaga he tumamā ma ono fakahetonu pe fakatiga loto ki tagata lautele pe ko na tuakoi, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 62

- (i) he tino (tino molia)
- (ii) fakataga he fale
- (iii) e nofo ai pe o ia lava
- (iv) ki he tulaga he olamaloloina
- (v) e fakapokepoke pe fakatiga loto
- (vi) ki tagata pe ko na tuakoi.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te nofo i te fale pe e o ia te fale kua i he tulaga fakahetonu ma fakatiga loto ki ietahi tino.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele e aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

Ko te vaega tenei e gafa ma te fakaaogaga o te fenua i he auala e haofia ai e kimoa, lago, iniheti ma tutupu ai ni famai, vena foki ma kilatou e fitata ona ko te manogi ma te he tumamā.

Matau na vaega kua lamatia pe kua he fiafia ai ia tagata pe ko na tuakoi f.t. auha o na lapihi.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 63 o na Tulafono o Holigatulafono - Auai ki te Akoga

Fakamatalaga

- (1) Ko tagata uma i te va o te 5 ki te 16 tauhaga e nonofo i Tokelau e tatau ke olo ki te akoga.
- (2) Ko na matua pe ko na tino e kilatou kikila he tamaiti e aofia i lalo o te palakalafa (1) ke fano fano ki te akoga, e muhu pe fakatamala i te ugaga o te tamaiti ke fano ki te akoga, e aunoa ma he mafuaaga talafeagai, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 63(2)

- (i) he tino (he tino molia)
- (ii) na matua pe he tino e ia kikila
- (iii) he tamaiti i te va o te 5 ma te 16 tauhaga te matua e nofo i Tokelau
- (iv) e muhu pe fakatamala i te fai ma uga o te tamaiti ki te akoga
- (v) heai he mafuaaga talafeagai.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia ma fakahino i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia he matua pe ko te tino e ia kikila te tamaiti i lalo o te 16 tauhaga, e muhu pe kua fakatamala i te fai ma te ugaga o te tamaiti ki te akoga.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

E he manakomia he vaega fakapitoa tau ki te mafaufau, e lava lava ko teia e he ugā te tamaiti e na matua ki te akoga.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

He puipuiga lelei ke iei he 'mafuaaga tatau' f.t. ko te tamaiti nae tauale.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 64 o na Tulafono o Holigatulafono - Pelē Tupe

Fakamatalaga

Ko he tino e pelē pe tafao i ni pule mo ni tupe, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) e pelē pe tafao i ni pule
- (iii) mo ni tupe.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia nae tafao tupe i he pelē pe ni pule.

Ko te tulafono tenei e he aofia ai na bingo pe ko na tomino. E he aofia ai na tafaoga e fai i na pele pe ko na pule vagana ai e fakaaoga ni tupe.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma ke aunoa ma he mahalohalo talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava te mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai na fakamaonia e te fakatino moliaga na vaega fakapitoa uma kua aunoa ma he mahalohalo talafeagai, e mafai lava ke iei he puipuiga a te tino molia.

E tatau te tino molia ke fakamautu he puipuiga i te fakapaleniga o na molimau ((e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 67 o na Tulafono o Holigatulafono - Telefoni

Fakamatalaga

- (1) E heai he tino, vagana he tino kua fakatagagia e Teletok ke tagofia pe fai e ia ni hoko pe fai ni galuega ke toe fakaleleia o ho he laina telefoni a tagata.
- (2) He tino e he uhitakia te palakalafa (1) e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- (i) he tino (tino molia)
- (ii) e heki fakatagagia e Teletok
- (iii) na tagofia PE hoko e ia he laina PE fai ni galuega ke toe fakaleleia
- (iv) ki na telefoni a tagata.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te na tagofia na laina telefoni.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 68 o na Tulafono o Holigatulafono - Eletihe

Fakamatalaga

- (1) E he faia e he tino ni hoko ki na mahini eletihe a te nuku vagana kua iei he fakatagaga mai te tino o te kautautua e gafa ma na itu tau te eletihe.
- (2) E mafai ke he fokia e te tino o te kautautua e ia kikila te eletihe he fakatagaga ke he hokoa ai he fale ki ho he mahini eletine a te nuku pe fakatonu ke tipi ho he fale mai te mahini tena kafai:
 - (i) ko te fale e he lelei te fauga pe e he malupuipua;
 - (ii) ko te hoko e ono lamatia ai te halapai o te eletihe ki, pe e he haogalemu, ki ietahi fale i te laina lava tena, pe ko te haogalemu o te laina; pe
 - (iii) e he lava te paoa e maua.
- (3) E heai he tino, vagana he tino kua fakatagagia e te tino o te kautautua e ia kikila te eletihe, e tagofia tauanoa pe fai e ia ni hoko, pe fakatino ni galuega toe fakaleleia mo te eletihe.
- (4) E heai he tino e:
 - (i) fakaaoga ho he mea e fakaaoga ai te uila e hoko ki te eletihe a te nuku ka kua uma te fakatonu kiei e te tino o te kautautua e ia kikila te eletihe ke na he toe faia; pe
 - (ii) fakaaoga he uila mai te eletihe a te nuku i he tulaga e afaina ai te uila.
- (5) Ko te tino o te kautautua e gafa ma te eletihe pe he tino kua fakataga e te tino o te kautautua e ia kikila te eletihe e mafai, i ho he taimi talafeagai, ke ulu ki he fale e hoko ki te eletihe a te nuku ke ahiahi pe hiaki ho he galuega tau uila.
- (6) Ho he tino e he uhitakia te tulafono tenei e holutulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 68(1)

- (i) he tino (tino molia)
- (ii) na ia faia he hoko ki te eletihe
- (iii) e heki fakataga e te tino o te kautautua e ia kikila o te eletihe.

Tulafono 68(3)

- (i) he tino (tino molia)
- (ii) e heki fakataga e te tino o te kautautua e ia kikila o te eletihe

(iii) na tagofia tauanoa, pe na ia faia he hoko pe na ia faia ni galuega mo te toe fakaleleia

(iv) te eletihe a te nuku.

Tulafono 68(4)

1 (i) he tino (tino molia)

(ii) fakaaoga ni mea e fano i te uila

(iii) hoko ki te eletihe a te nuku

(iv) ka na fakatonu kiei e te tino o te kautautua e ia kikila, ke na he faia.

Tulafono 68(4)

2 (i) he tino (tino molia)

(ii) fakaaoga te eletihe a te nuku

(iii) i he tulaga e afaina ai te hapalai o te uila.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia te na ia faia te hoko pe na tagofia tauanoa e ia te hihitemi e aunoa ma he fakatagaga mai te tino o te kautautua e ia kikila te eletihe.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigātulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 6g o na Tulafono o Holigatulafono - Malaga i te tai

Fakamatalaga

- (1) E heai he tino e fakaaoga he vaka ke malaga ai i te vāinuku o Tokelau pe i te va o he fenua o Tokelau ma he tahi fenua e aunoa ma he fakatagaga mai te nuku.
- (2) Ka ko heki tukuatua he fakatagaga i lalo o te palakalafa (1), e tatau ke fakamaliegia te nuku ko te vaka e malu ma e lelei oi fakaaoga i te tai mo he taimi mataloa, e lava te faoa ma fakamautinoa e katoa na kope fakaola i luga o te vaka, e tatau lava ke he i lalo ifo o –
 - (i) tofu na tino uma e malaga ma te kofu fakaola;
 - (ii) tahi te kamepaha;
 - (iii) tahi te moli uila ma he hipea mā pe he molihuaū ma he fagu huaū tumu;
 - (iv) tahi te taula; ma
 - (v) ni tugaki (ahu pe ni mea fakamumu).
- (3) Fakatahi ai la ma na kope fakaola iena, e ono manakomia foki e te nuku he vaka ke eva i te vāinuku ke kave hana leitio e kave ma maua ai ni fekau, ma ke fehokotaki ki na faleualehi i luga o na fenua i ni taimi fakatatia.
- (4) Ko he tino e malaga i te vāinuku o Tokelau pe ko Tokelau ma he tahi koga i he vaka o Tokelau vagana ai e ologatahi ma te tulafono tenei, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

- 1 Tulafono 6g(1)
 - (i) he tino (tino molia)
 - (ii) fakaaoga he vaka o Tokelau
 - (iii) ke eva ai i te vāinuku o Tokelau ma he tahi fenua
 - (iv) aunoa ma te fakatagaga a te nuku.
- 2 Tulafono 6g(2)
 - (i) he tino (tino molia)
 - (ii) malaga i te vāinuku o Tokelau i he vaka Tokelau
 - (iii) kae he uhitakia na tukutukuga i te palakalafa (2).

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia na malaga i he vaka e aunoa ma he fakatagaga a te Taupulega PE ko te tino molia na malaga ma e heki mulimuli ki na fakatatiaga i te palakalafa (2).

Ko te te tulafono tenei e he hokotaga ki ho he vaka e fakaaoga e, pe mo te malo o Tokelau.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 72 o na Tulafono o Holigatulafono - He Fakamaoni, Amio Pepelo i ho he tofi

Fakamatalaga

- (1) Ho he tino e faigaluega tautua e holitulafono kafai e:
 - (i) talia pe malie ke talia; pe
 - (ii) maua mai
 - (iii) ni tupe
 - (iv) mo ni galuega na fai pe ni galuega ka fai e te tino tena e i te tulaga i te galuega.
- (2) Ho he tino e holitulafono kafai, i ni amio he fakamaoni:
 - (i) foki; pe
 - (ii) ofo atu
 - (iii) ke kalei i he totogi he tino i he mafaufauga ke takina ai te tahi tino ke fai he galuega pe he galuega na fai e te tino tena ona ko tona tulaga i te galuega.
- (3) Ko te tino o te kautautua e fakaaoga e ia, i ni auala he fakamaoni, ni fakamatalaga na maua e ia i tona tulaga galue ke maua ai ni ana mea pe ni mea a he tahi tino, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 72(1)

- (i) he tino (tino molia)
- (ii) talia ma malie ke talia pe ko ia ke kalei i he totogi
- (iii) mo he gaoioiga ke fai i tona tulaga i te galuega.

Tulafono 72(2)

- (i) he tino (tino molia)
- (ii) na ia kaleia he tahi tino
- (iii) i he mafaufauga ke takina
- (iv) he gaoioiga kua fai pe ka fai
- (v) ona ko tona tulaga i te galuega.

Tulafono 72(3)

- (i) he tino (tino molia)
- (ii) tino o te kautautua

- (iii) na fakaaoga i ni auala he fakamaoni
- (iv) fakamatalaga na maua mai i tona tulaga i te galuega
- (v) ke maua ai hona lelei pe he lelei mo he tahi tino.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia nae he tino o te kautautua na ia talia ke kalei i he totogi pe na ia fakaaoga ni fakamatalaga ke maua ai hona leleiga pe ko te tino molia te na ia kaleia i he totogi te tino o te kautautua.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 73 o na Tulafono o Holigatulafono - Fakaaoga hehe te Tofi

Fakamatalaga

- (1) He tino tautua, e fai ana gaoioiga fakatagāfai e iei hona fakatagaga, e heki fakamaumaua e ia na tupe lafoga nae ao e ia, kua holitulafono.
- (2) He tino tautua e fakafaigaluega ke fakatino e ia he fakatonuga a te fakamahinoga kae ona ko tona fakatamala pe ko he mea na tatau ke fai kae heki faia, kua mihi ai e ia te avanaoa ke fakatino ai te fakatonuga, kua holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 37(1)

- (i) he tino (tino molia)
- (ii) he ofiha tautua
- (iii) na maua ana tupe mai he tahi tino i luga o te galuega
- (iv) e heki faia e ia te mea na tatau ke fai ki na tupe, e tuha ai ma te tulafono.

Tulafono 73(2)

- (i) he tino (tino molia)
- (ii) he ofiha tautua
- (iii) fakafaigaluega ke fakatino he fakatonuga a te fakamahinoga
- (iv) na mihi tona avanaoa ke fakatino ai te fakatonuga ona e iei tana mea e heki faia.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia ma fakahino i loto o te fononalo.

E tatau te fakatino moliaga ke fakamaonia ko te tino molia nae he tino tautua ma e heki fefaiakia fakalelei e ia na tupe PE na fakatamala i te fakatinoga o he fakatonuga a te fakamahinoga.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleni o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

3 ia iunite fakahalaga pe 3 mahina i te falepuipui (Komehina).

Tulafono 74 o na Tulafono o Holigatulafono - He Fakaaloalo

Fakamatalaga

(1) He tino e –

- (i) i loto o pe pili ki te potu pe ko he koga e fai ai he fono fakamahinoga, e amio he pulea i he agaga ita, fakamataku pe he fakaaloalo, i te fakalavelave ki te fono fakamahinoga, pe fakamataku na tino e omamai ki te fakamahinoga;
- (ii) e fai kupu faifai ki na tino o te fakamahinoga, pe he ofiha o te fakamahinoga, i te taimi e fai ai he fono fakamahinoga, kua holutulafono ma e tatau ke haihaia i he fakatonuga mai te fakamahinoga, ke uma te fono fakamahinoga.

(2) He tino e –

- (i) faimautinoa tona muhu pe fakatamala oi tulaki i te fakamahinoga kafai e poloaki ke tulaki;
- (ii) fai ni taumafaiga hehe ke aia tauanoa pe takina e ia he tino molimau i loto o te fakamahinoga, e tuha pe kua uma pe heai foki, te fai o te molimau a te tino molimau e tuha ai ko te matakupu;
- (iii) faimautinoa tona muhu pe fakatamala oi uhitaki ki he fakatonuga a te fakamahinoga;
- (iv) faimautinoa tona muhu oi fakatautō pe fai hana fakamaoniaga, pe kafai na fakatautō e muhu oi tali ki he fehili e tatau lava ia ke tali kiei e tuha ai ko te tulafono, e holutulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 74(1)(i)

- (i) he tino (tino molia)
- (ii) faimautinoa
- (iii) amio he pulea i he agaga ita
- (iv) i loto pe tafapili ki te koga e fai ai te fono fakamahinoga
- (v) fakavavale PE fakamataku he tino i loto o te fakamahinoga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamonia e te fakatino moliaga ko te tino molia na amio he pulea e ve ko na vaega kua fakatatia i loto o te Tulafono 74(1)(i) o na Tulafono o Holigatulafono.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleni o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahaloga pe 3 mahina i te falepuipui (Komehina).

Tulafono 76 o na Tulafono o Holigatulafono – Puipuiga, ke ma he taunuku te tulaga hako

Fakamatalaga

Ko he tino teia i ho he auala, pe tuhako pe he tuhako e fakalavelave, taofia, pe fakaliliu kehe, pe fakatokilalo e ia te ala o te mea tonu, kua holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 76

- (i) he tino (tino molía)
- (ii) aunoa ma he mafuaaga tatau
- (iii) fakalavelave, taofia, fakakino, pe fakatokilalo e ia te ala o te amiotonu

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fonu fakamahinoga.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(2) Ko ai te fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 78 o na Tulafono o Holigatulafono - Holigatulafono agai ki he Ofiha o te Kautautua

Fakamatalaga

- (1) He tino, e aunoa ma ni mafuaaga tatau, e he fehoahoani ki he leoleo kafai e fakatahigia e he leoleo he fehoahoani, e holitulafono.
- (2) He tino e fai mautinoa lava te teteke, fakaogohia pe fakavavale ki:
 - (i) he ofiha o te kautautua i te fakatinoga o te tiute o te ofiha; pe
 - (ii) he tino e fehoahoani ki te leoleo, e holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 78(1)

- (i) he tino (tino molia)
- (ii) aunoa ma he mafuaaga tatau
- (iii) e heki fehoahoani
- (iv) ki he leoleo
- (iv) i te taimi e fakatagihia ai.

Tulafono 78(2)

- (i) he tino (tino molia)
- (ii) fai mautinoa te teteke pe fakaogohia pe fakavavale
- (iii) ki he ofiha o te kautautua i te fakatinoga o o latou tiute PE he tino e fai he gaoioiga ke fehoahoani ai ki he leoleo.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te heki fehoahoani ki te leoleo pe na faimautinoa tona teteke, pe na fakavavale ki he leoleo pe he tino o te kautautua.

(2) Ko ai te ia fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maua

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 79 o na Tulafono o Holigatulafono – Fuafuaga fakalilolilo ke fai he holitulafono

Fakamatalaga

Ko he tino e taupule fakalilolilo ma he tahi tino ke fai he holitulafono kua fai e ia he holitulafono ma e tukuakia i he nofohala ki te fakahalaga e tahi e ve ko te fakahalaga teia e fakahalaga ai he tino teia kua holitulafono.

Vaega Fakapitoa o te Holigatulafono

Tulafono 79

- (i) He tino (tino molía)
- (ii) E taupule fakalilolilo ma he tahi tino
- (iii) Ke fai he holitulafono.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te na taupule fakalilolilo ma ho he tino ke fai he holitulafono.

(2) Ko ai te fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Mauuluga

3 ia iunite fakahalaga 3 mahina i te falepuipui.

Tulafono 8o o na Tulafono o Holigatulafono – Taumafaiga ke fai ni holitulafono

Fakamatalaga

- (1) Ko he tino teia, e ia te ia he fuafuaga ke fai he holitulafono, e fai pe he faia he gaoioiga mo te fuafuaga o te fakataunukuga o tana fuafuaga kua fai e ia he holitulafono, e tuha lava pe i na tulaga e iei, kua holitulafono pe heai.
- (2) Ko he tino teia e taumafai ke holitulafono e tukuakia ki te fakalahaga e tahi teia e tukuakia ai ia, moinei na holitulafono teia na taumafai kiei.

Vaega Fakapitoa o te Holigatulafono

Tulafono 8o

- (i) He tino (tino molía)
- (ii) E ia te ia he fuafuaga ke fai he holitulafono
- (iii) E fai he gaoioiga mo te fuafuaga o te fakataunukuga o tana fuafuaga.

Fakamainaga

(1) Fakamateaga

E tatau te fakatino moliaga ke fakamatea te tino molia i loto o te fono fakamahinoga.

E tatau ke fakamaonia e te fakatino moliaga ko te tino molia ko ia te na e ia te ia he fuafuaga ke fai he holitulafono ma na fai e ia he gaoioiga mo te fuafuaga o te fakataunukuga o tana fuafuaga.

(2) Ko ai te fakamaonia

E tatau ke fakamaonia e te fakatino moliaga na vaega fakapitoa uma lele ke aunoa ma he mahalohaloga talafeagai.

E he manakomia ke fakamaonia he mea e te itu tautali, kae kafai e fakamautu e te itu tautali e iei lava he mahalohaloga talafeagai, ko tona uiga e he hala te tino molia ma tapunia loa te matakupu.

(3) Puipuiga

Kafai e fakamaonia e te fakatino moliaga kua aunoa ma he mahalohalo talafeagai i na vaega fakapitoa o te holigatulafono, e mafai lava ke iei he puipuiga a te tino molia.

E tatau ke fakamautu e te tino molia te puipuiga i te fakapaleniga o na molimau (e ono ko tē kae he ko teia).

Fakahalaga Pito Maualuga

Ko te tino molia e tukuakia ki te fakahalaga e tahi teia e tukuakia ai ia, moinei na holitulafono teia na taumafai ke fai.

Pepa Fakaopopo

Pepa Fakaopoopo

Tulafono Toe Teuteu ki te Te Tulafono Fakapalemene mo Tokelau 1986

He Tulafono Fakapalemene ke toe teuteu ai te Tulafono Fakapalemene mo Tokelau 1948.

1 Igoa ma te kamataga

- (1) Ko te Tulafono Fakapalemene tenei e takua ko te Tulafono Toe Teuteu Tulafono Fakapalemene mo Tokelau 1986, ma e faitau fakatahi, ma kavea ai ma vaega o te Tulafono Fakapalemene mo Tokelau 1948 (teia e takua i loto i kinei ko te Tulafono Fakapalemene kautu).
- (2) Ko te Tulafono Fakapalemene tenei e aloakia i te aho 1 Aukuho 1986.

VAEGA 1 – MALOHIAGA FAIFAKAMAHINOAGA MO NA HOLIGATULAFONO HIVILI MA NA HOLIGATULAFONO I TE VA O TE TINO MA TE MALO

2 Fakauigaga

I te Vaega tenei o te Tulafono Fakapalemene, vanaga ai e iei ni ietahi tulaga e takua, ko te Komehina ko tona uiga ko te Komehina mo Atafu pe mo Fakafo, pe mo Nukunonu e veia ona tofia i lalo o te vaega 5 o te Tulafono Fakapalemene tenei.

3 Ko te Fakamahinoga Maualuga a Niu Hila ke kavea ma Fakamahino Tulafono mo Tokelau

- (1) Ko te Fakamahinoga Maualuga o Niu Hila e ia te ia uma na malohiaga fai fakamahinoga ieia e ono fakafaea te tulafono i Tokelau i te faiga lava e tahi i na tulaga uma e ve ko te mafai fai fakamahinoga kua tuku atu ki te Fakamahinoga tena, kua kavea ko he tahi Fono e Fakamahinoga i luga o Tokelau, pe e o Tokelau.
- (2) Ko te mafai fai fakamahinoga kua tuku atu ki te Fakamahinoga Maualuga i lalo o te potu palakalafa (1) o te vaega tenei, e aofia i na fakatatiaga o ho he tulafono fakatonutonu na faia i lalo te Tulafono Fakapalemene kautu ma na fakatatiaga o ho he tulafono e fai e te Fono Fakamua, e fakatino i te faiga lava e tahi i ona vaega uma, ke ve ko Tokelau he vaega e o Niu Hila i ho he itu.
- (3) I te fakatinoga o te mafai fai fakamahinoga kua tuku atu kiei i te potu vaega (1) o te vaega tenei, e mafai te Fakamahinoga Maualuga ke fai ana fakamahinoga i Tokelau pe ko Niu Hila, pe i he tahi koga talafeagai e fakatonu mai e te Fakamahino Hili.

4 Apili ki te Fakamahinoga o Apili a Niu Hila

- (1) Ho he apili e tatia ki te Fakamahinoga o Apili a Niu Hila mai ho he fakaikuga, poloakiga aloakia pe he fakatonuga mai te Fakamahinoga Maualuga a Niu Hila i te fakatinoga o te mafai fai fakamahinoga na tuku atu ki ei i te vaega 3 o te Tulafono Fakapalemene tenei, i te faiga lava e tahi e veia ko ho he fakaikuga, poloakiga aloakia pe he fakatonuga e a te Fakamahinoga Maualuga i te fakatinoga o tona mafai fai fakamahinoga i Niu Hila.
- (2) Ko te tonu a te Fakamahinoga o Apili mo ho he apili i lalo o te vaega tenei, ko te toe tonu lava ia.

5 Tofiaga o na Komehina

- (1) Ko te Kovana-Hili, i te fautuaga a te Minihita o te Va ki Fafu i luga o ni fakatalatalanoaga e te Minihita tena ma te Taupulega o te nuku, e tofia e ia ho he tino Tokelau ke -
 - (a) Komehina mo Atafu ;
 - (b) Komehina mo Fakaofu ;
 - (c) Komehina mo Nukunonu.
- (2) E tuha ai ma te potu vaega (4) ma te (5) o te vaega tenei, ko na Komehina uma e taki 3 tauhaga te nofoakiga i te tofi.
- (3) Ko na Komehina takitahi e iei lava to latou avanoa ke toe tofia ai mai teia taimi ki teia taimi.
- (4) Kafai e kitea e te Kovana Hili e tatau ai, e ia mafaia oi kavekehe he Komehina mai te tofi ona ko te he fakatinoa o ana galuega pe ko te faia o ni amio mataga.
- (5) E mafai he Komehina oi fakamavae mai te tofi Komehina e auala i he tuhituhiga e fakatuatuhi ki te Ulufakatonu o Tokelau.
- (6) Ko na Komehina takitahi e totogi mai i te Tupe Fakamua a Tokelau i ni totogi e fakatulaga mai e te Ulufakatonu o Tokelau.

6 Ko te he mafai ke fakatino pe ko te he i luga o fenua o te Komehina

- (1) Kafai, i ho he taimi, kua he mafai ke fakatino e te Komehina te galuega ona kua tauale, pe ko te he lava o te iloa, pe tokehea mai te nuku na tofia ke Komehina ai, pe kafai kua iei he avanoa i te tofi Komehina, ko te tino o te fenua tena e ia fakatinoa na galuega o te tofi Faipule e ia mafaia, e aunoa ma he toe tofiaga, oi fakatino na galuega, tiute pe ko na malohiaga o te Komehina i te taimi tena e tokehea ai pe kua he ia mafaia oi taukave te galuega, pe kua iei he avanoa i te tofi.

- (2) Ko te mafai e ho he tino e ia faia na galuega a he Faipule ma fai ho he fakatinoga, tiute pe ko na malohiaga o he Komehina, he fakamaoniga tena o te mafai e te tino tena ke fai e ia te galuega.

7 Malohiaga Faifakamahinoga o na Komehina

- (1) Ko he Komehina e iei tona malohiaga faifakamahinoga -
- (a) I na galuega mo te toe totogi o ni kaitalafu pe ni mea na fakakino e he hilia i te \$1,000 te aofaki.
 - (b) I na galuega mo te toe maua o ni meatotino e he hilia to latou tau i te \$1,000.
 - (c) I ho he fakamahinoga o he holigatulafono hivili ko tona fakahalaga he hala tupe oioti.
 - (d) I ho he fakamahinoga o he holitulafono ko tona fakahalaga e falepuipui i he vaitaimi i lalo ifo o te tauhaga.
- (2) E tuha ai ko na fakatatiaga i lalo o ho he tulafono fakatonutonu na fai i loto o te Tulafono Fakapalemene kautu, ko he Komehina, i te fakatinoga o tona malohiaga faifakamahinoga ki na holigatulafono agai ki na Tulafono o Holigatulafono, e iei tona mafai ke fai ai e ia he mea e fokotahi pe ko na mea uma o na mea ienei :
- (a) He fakahalaga ke falepuipui e he hilia i te 3 mahina
 - (b) He hala tupe e he hilia i te \$150
 - (c) Fakatonu ke fai galuega mo te nuku
 - (d) Fakatonu ke tuku he tino molia ki lalo o te kikilaga a Leoleo
 - (e) Akoaki pe tautalagia he tino i mua o tagata
 - (f) Fakatonu ke totogi he tau e he hilia i te \$1,000 te aofaki mo ni mea totino, kua gagalo pe kua fakakino, a te tino kua afaina ona ko te holigatulafono.
 - (g) Fakatonu ke toe fakafoki atu ho he meatotino ki te tino na afia ona ko he holigatulafono.
- (3) Ona ai ko te potuvaega (3A) o te vaega tenei, ki ho he tulafono fakatonutonu na faia i lalo o te Tulafono Fakapalemene kautu, ma ho he tulafono na fai e te Fono Fakamua i lalo o te vaega 3A o te Tulafono Fakapalemene kautu, ko he Komehina e iei ona malohiaga faifakamahinoga oioti i –
- (a) Te fenua na tofia ai te Komehina tena ; ma
 - (b) Te Tai o Tokelau kua hikomia ai te fenua tena.

- (3A) E kehe mai ai ma ho he mea i te potuvaega (3) o te vaega tenei, kae tuha ai ma te potuvaega (1) o te vaega tenei, ho he Komehina e mafai ke fakatino tona malohiaga faifakamahinoga ki na holigatulafono ienei :
- (a) Ho he holitulafono e lavea i te vaega 9 o te (Tai o Tokelau) Tulafono Fakapalemene o Tokelau 1977.
- (b) Ho he holitulafono agai ki na tulafono o Tokelau na fai i luga o he vaka pe he vakalele, i ho he taimi kafai, ko te taimi na tupu ai te holitulafono, ko te vaka pe ko te vakalele:
- (i) e galue tautua mo Tokelau; ma
- (ii) e malaga mai Tokelau pe malaga atu ki Tokelau pe i na vainuku o Tokelau.
- (4) I ho he fakamahinoga o he holitulafono ki na Tulafono o Holigatulafono, e mafai te Komehina i ho he taimi e fai ai na fakamahinoga iena, oi fakatalanoa te matakupu, kae iei te itu a te fakatino moliaga, itu tautali, ma te lagolago a te itu tautali (kafai e iei), ma te Taupulega o te nuku teia na tofia kiei te Komehina tena.
- (5) Kafai e fai ni talanoaga vena, e tuku atu e te Komehina –
- (a) ki te itu a te fakatino moliaga; ma
- (b) te itu tautali pe ko tana lagolago (kafai e iei)
- te avanoa ke tuku mai ni fakamaoniga o ho he matakupu na lagā i te talanoaga tena.

8 Toe Fakalahi te malohiaga faifakamahinoga o na Komehina i luga o he maliliega o na itu e aofia i te fakamahinoga.

Kafai, ona ko te aofakiga pe ko te aoga o te mea e fai kiei te tagi pe talanoa kiei, e iei te malohiaga faifakamahinoga o he Komehina i lalo o te vaega 7(1)(a) pe (b) o te Tulafono Fakapalemene, ma na itu e fakamahino i he maliliega e haini kilatou kiei pe ko a latou lagolago, ke malilie ko he Komehina e iei ona malohiaga faifakamahinoga ke fai ai e ia te fakamahinoga, ko te Komehina tena ka ia te ia te mafai fakamahino ke fai ai e ia te fakamahinoga.

9 Fakaheai he vaega o te tagi ke foki te malohiaga faifakamahinoga ki te Komehina

- (1) Kafai he itu e fakamahino e fai hana tagi mo he aofaki e hili atu i te \$1,000, kae ko te malohiaga fai fakamahinoga o te Komehina e he hilia i te \$1,000, e tatau loa te itu tagi ke tiaki te aofaki hilia kae ke matai te malohiaga faifakamahinoga o te Komehina ke fai te fakamahinoga ma fuafua te ikugo ka fai.

- (2) Kafai e pa ki he tulaga kua tiaki e te itu tagi he vaega o tana aofaki hilia na tagi kiei i lalo te vaega tenei, na fakamahino e he Komehina, e he toe maua e te itutagi te aofaki hilia fakatahi ai ma na tau, ma ko te fakaikuga a te Komehina i te matakupu kua fakateka katoatoa ai ni ietahi manakoga e tuha ai ko te gaioioiga na fai, ma ko te fakaikuga ko tena lava.

10 Apili te fakaikuga a te Komehina

- (1) E tuha ai ma na potuvaega (2) ma te (3) o te vaega tenei, ho he itukau ki he fakamahinoga, e tuha pe he fakamahinoga hivili pe he holitulafono ki na Tulafono o Holigatulafono, i mua o he Komehina e mafai ke apili te fakaikuga a te Komehina ki te Fakamahinoga Maualuga o Niu Hila i te fakatinoga o te malohiaga fafakamahinoga kua tuku atu kiei i lalo o te Vaega 3 o te Tulafono Fakapalemene:
- (a) E tuha ai ma ietahi tulafono pahia, ke ve ai ko te fakaikuga tena he tonu e a he Fakamahinoga Itumalo i Niu Hila ; ma
- (b) E tuha ai ma na fakatinoga venei ko te fakaikuga a Fakamahino o te Fakamahinoga Maualuga e talafeagai ma ieia tulaga.
- (2) Ho he tino e fia apili e tuha ai ma te potuvaega (1) o te vaega tenei ka, fakailoa i he tuhi ki te Ulufakatonu, i loto o te 28 aho talu te fai o te fakaikuga a te Komehina, ma fakailoa kiei tana fuafuaga ke apili.
- (3) E heai ni apili e fai fakatatau ki te potuvaega (1) o te vaega tenei i te tulaga o ho he fakaikuga a te Komehina i ho he fakamahinoga mo ho he holigatulafono ko tona fakahalaga e falepuipui e he hili atu i te 3 mahina pe ho he holitulafono ko tona fakahalaga he hala tupe oioti e he hili atu i te \$150, kae ho he itu ki na fakamahinoga venei e mafai ke apili te fakaikuga a te Komehina ki na vaega vena, ma e tuha ai ma na faiga vena, e veia ona fakatatia mai i na tulafono fakatonutonu i loto o te Tulafono Fakapalemene kautu.

Tulafono Fakavae - 16

16 Ko nā Āiātatau o Tagata

- (1) Ko nā āiātatau tautokatahi o tagata uma i Tokelau, ko ieia e takua i te Takutinoga a te Lalolagi mo Āiātatau a Tagata, ma, e kitea ki loto o te Feagaiga Fakavāomālō mo nā Āiā o Tagatānuku ma Fakanofonofoga Fakafaigāmālō.
- (2) Ko nā āiātatau o tagata tautokatahi i Tokelau, e fakaaogā kae amanakia foki nā āiātatau a ietahi tino ma te nuku e nofo ai te tino tena.
- (3) Kafai he tino kua mafaufau ko he tahi o ona āiātatau e ve ona takua i te Tulafono Fakavae kua fakahēaogā pe ka fakahēaogā, e ono mafai te tino tena ke tuhi talohaga ki te Fono a te Mālō Fakaauau mo he puipuiga o te āiātatau tena
- (4) Kafai te Fono mo te Mālō Fakaauau e malie e tuha ai ma te talohaga, e ono mafai ke fai hō hana fakatonuga i tana kikila e talafeagai mo te puipuiga o tena āiātatau.
- (5) Ko he fakatonuga e fai i lalo o te palakalafa (4) e ono mafai ke fakamalohia veia lava ko he fakaikuga e a te Fakamahinoga Maualuga.
- (6) Ko te Fono a te Mālō Fakaauau, ko kinā tē fai ai te fakaikuga mulimuli ki te fuafuaga o nā matakupu uma e tau ki nā āiātatau o tagata.

[from the Constitution]

Takutinoga a te Lalolagi mo Aiatatau a Tagata

Fakatomuaga

Ko na Malo Auai ki te amanakiagia o te Feagaiga tenei.

I he amanakiagia, e tuha ai ma na agagataki i te Feagaiga a Malo Kaufakataki, ko te amanakiagia o, te mamalu, ma na aiatatau tumau tutuha a tagata uma o te kaiga o tagata ola ko te fakavae ia o te haolotoga, te amiotonu ma te filemu i te lalolagi, amanakiagia, ko na aiatatau ienei e mafua ona ko te mamalu o te takata ola,

Talu ai, ona ko te he amanakia ma te he fakatauagia o na aiatatau a tagata, na iku ki ni faiga haua na mafua ai te ita i loto o tagata, ma, ko te maua o he lalolagi e ola fiafia ai ia tagata i te haolotoga ke fakaali o latou manatu ma o latou talitonuga, ma haoloto mai i te matakua ma te mativa, kua kavea ma fakanaunauga pito maualuga mo tagata lautele,

Talu ai ona e talafeagai, kafai ko te tagata e he fakamalohia ke hakili fehoahoani, ko te toe gaoioiga e teteke atu ai ki te pule haua ma te ola taotaomia, ko na aiatatau e tatau ke puipua i lalo o te pule a te tulafono.

Ko teia la, e tatau ke atiake ni hokotaga fakauō i te va o atunuku.

Talu ai, ona ko tagata o Malo Kaufakatahi kua toe fakailoa mai to latou kina i loto o te Feagaiga, i na aiatatau fakavae, i te mamalu ma te aoga o te tagata; na aiatatau tutuha a tane ma fafine; ma, e filiga ke fakalauiloa te agai ki mua, na tulaga fakatenofonofoga ma he olaga e hili atu te lelei ma haoloto.

Talu ai, ona kua folafola mai e Malo Auai ka kilatou fakataunukua e ala i te felagolagomaki ma Malo Kaufakatahi, te fakalauiloaga o te fakaalologa e tagata uma na aiatatau o tagata ma te haolotoga fakavae.

Ko teia, ko te tutuha o te malamalamaga agai ki na aia tatau ma na haolotoga ienei e matua taua lele mo te fakataunukuga katoatoa o tenei folafolaga.

Nei la, kua fakalauiloa atu e te Fono Aoao ko te Takutinoga tenei a te Lalolagi mo Aiatatau a Tagata, ko he fua e tulaga tutuha ai na fakamoemoega mo tagata ma malo uma, kae ke mafai ia tagata tautokatahi uma ma fakalapotopotoga takitahi uma o he atunuku, ke manatua pea tenei Takutinoga, ma tauivi ke akoako atu ma fakalauiloa te amanakia o ienei aiatatau ma ienei haolotoga, ma na faiga mo te agai ki mua, fakaatunuku ma te fakavaomalo, ke fakamautu ta latou amanakia ma te aoga ma te tauhiga, i te va o tagata o Malo Auai ma te va o tagata o na atunuku e i lalo o a latou pulega.

Vaega 1

Ko tagata ola uma e fananau mai e haoloto ma tutuha i te mamalu ma na aia tatau. Kua foki atu ki a te kilatou te mafaufau ke fakaaoga tatau ai ma te lotofuatiaifo, ma, e tatau ke fai te va o te tahi ki te tahi i luga o te agaga fakauho.

Vaega 2

Ko tagata uma e iei o latou aiatatau ki na haolotoga uma kua takua mai i te Takutinoga tenei, e he fakailogā he itukaiga, te nuku, lanu, itukaiga (tane pe he fafine), gagana, tapuakiga, talitonuga fakapolitiki pe ni ietahi talitonuga, tona tupuaga, ana mea totino, tulaga o tona fanau mai pe ni ietahi tulaga lava. E he gata i tena, e he fakailoga ni tulaga fakatemalo, ni mafai, pe ni tulaga fakavaomalo o te fenua pe ko te atunuku e hau ai te tino, e tuha lava pe he atunuku tu tautahi, atunuku e heki faia hana filifiliga faigamalo pe e i lalo o he tahi puleaga.

Vaega 3

Ko tagata uma e ia te ia te aiatatau ki te ola, te haolotoga ma te haogalemu o te tino.

Vaega 4

E heai he tino e taofia i he tulaga fakapologa pe i he tulaga e ve he pologa; ho he itukaiga fakapologa pe fakatau pologa, e fakaha.

Vaega 5

E heai he tino e fakatigaina pe hauagia. Pe fai kiei ni faiga he talafeagai fakatetagata ola pe ni fakahalaga mataga.

Vaega 6

Ko tagata uma e ia te kilatou te aiatatau ke amanakia ai i lalo o te tulafono i ho he koga.

Vaega 7

Ko tagata uma e tutuha i lalo o te tulafono ma e ia te kilatou te aia e aunoa ma he fakailoga tagata, ki te puipuiga tutuha a te tulafono. Ko tagata uma e aia ki te puipuiga tutuha mai ni faiga fakailoga tagata ma te holi o te Takutinoga tenei vena foki pe fakahaga ki ho he fakaohoga ke fakatupu te fakailoga tagata.

Vaega 8

Ko tagata uma e i a te kilatou te aiatatau ki he fehoahoani lelei mai na fakamahinoga i tona atunuku ona ko ni gaoioiga pe ni fakatinoga kua fakaheamanakia ai na aiatatau kua ia maua mai te tulafono fakavae pe ko te tulafono.

Vaega 9

E heai he tino e haihaia pe fakahala pe fakaaunukua e aunoa ma he mafuaaga.

Vaega 10

Ko tagata uma e ia te kilatou te aiatatau tutuha ki he fakamahinoga aloakia e fai e he fakamahinoga tu tokatahi ma hē fakaitukau ke vakilikili ma fakamautu ai ona aiatatau ma ona tiute taukave fakatahi ai ma ni ona moliaga tau hoolitulafono.

Vaega 11

- (1) Ko tagata uma e molia i he hoolitulafono, e iei tona aiatatau ke taku mamā ai pea ke pa ki he taimi e fakamaonia ai ko ia kua agahala, e tuha ai ma te tulafono, i he fakamahinoga e fakaavanoa ki tagata lautele ma kua ia te ia na itu uma e manakomia mo tona puipuiga.
- (2) E heai he tino e nofohala i ho he hooligatulafono ona ko he gaoioiga na fai pe he mea e heki faia, e heki fakatino ai he hoolitulafono i lalo o he tulafono fakaatunuku pe fakavaomalo, i te taimi na fai ai. E he tatau foki he fakahalaga e hili atu te mamafa ke fakaeke atu i lo te fakahalaga na fuafua, i te taimi na fai ai te hooligatulafono.

Vaega 12

E heai he tino e afaina e aunoa ma he mafuaaga, ki tona tulaga totino na ko ia, tona kaiga, pe ko tona fale, pe ko ni fetuhiakiga, e he ohofakia foki tona mamalu ma tona tulaga takuleleia. Ko tagata uma e ia te kilatou te aiatatau ki te puipuiga a te tulafono fakahaga ki te aia tauanoa pe ni ohofakiga vena.

Vaega 13

- (1) Ko tagata uma e ia te kilatou te aiatatau e haoloto ai oi malaga ki he koga e fia malaga kiei ma te koga e fia nofo ai i loto o na tuakoi o na fenua takitahi.
- (2) Ko tagata uma e ia te kilatou te aiatatau e tukua ai ho he atunuku, e aofia ai tona atunuku ma toe foki atu ki tona atunuku.

Vaega 14

- (1) Ko tagata uma e ia te kilatou te aiatatau ke hakili ai ma maua hona hulufaga mo tona puipuiga i he tahi atunuku
- (2) Ko te aiatatau tenei e ono he mafai ke fakaaoga i ni hooligatulafono moni e he tau ki kupufaiomalo, pe ni gaoioiga e fetekenaki ma na kautu ma na manatu taki a Malo Kaufakatahi.

Vaega 15

- (1) Ko tagata uma e iei te aiatatau ki hona tagatānuku.

- (2) E he kave kehea te tagatanuku o ho he tino e aunoa ma he mafuaaga, e he taofia foki tona aiatatau ke hui ai tona tulaga tagatānuku.

Vaega 16

- (1) Ko tane ma fafine kua matutua, e iei to latou aiatatau ke faipoipo ai ma fai kaiga e tuha lava pe hea te tagatanuku, lanu ma te talitonuga. E tutuha o latou aia tatau ke fakaipoipo, te taimi e nofo kaiga ai ma te taimi e teteka ai.
- (2) Ko he fakaipoipoga e tatau ke fakamau oioti i he maliega haoloto katoatoa o na tino ka fakaipoipo.
- (3) Ko te kaiga, ko te fakavae kautu ia o he atunuku ma e tatau ke iei hona puipuiga mai te atunuku ma te Malo.

Vaega 17

- (1) Ko tagata uma e iei o latou aiatatau e haoloto ai i ke pulea tautahi ai he mea totino pe pulea fakatahi e kilatou ma he vaega.
- (2) E heai he tino e tatau ke kave kehea mai hana mea totino e aunoa ma he mafuaaga tatau.

Vaega 18

Ko tagata uma e ia te kilatou te aiatatau ki o latou manatu, lotofuatiaifo ma tana tapuakiga; ko te aiatatau tenei e aofia ai te haolotoga ke liulotu ai pe hui tona talitonuga, pe tautahi, pe i loto o te nuku ma ni ietahi tino, ma i ni koga fakamua pe i he koga totino fakapitoa, ke fakailoa ai tana lotu pe ko tona talitonuga e auala i ni akoakoga, fakatinoga, te tapuakiga ma te fakatinoga o te lotu tena.

Vaega 19

Ko tagata uma e ia te kilatou te aiatatau e haoloto ai ki ona manatu ma te fakaaliga o ona lagona; ko te aia tenei e aofia ai te haolotoga ki he manatu e aunoa ma he fakavavale ma, ke hakili, ma talia ma tuku atu ni akamatalaga ma ni mafaufauga e kui atu i ho he auala o fakahalalauga e aunoa ma he popole ki ni fakatapulaga pe ni tuakoi.

Vaega 20

- (1) Ko tagata uma e ia te kilatou te aiatatau e haoloto ai ke fai filemu ai ni maopoopoga ma ni fakalapotopotoga.
- (2) E he fakamalohia he tino ke kau i loto o he fakalapotopotoga.

Vaega 21

- (1) Ko tagata uma e ia te kilatou na aiatatau ke auai ma fai hao i loto o te malo o tona atunuku, i he auala tuhako pe kui atu i ni hui filifilia haoloto.

- (2) Ko tagata uma e tutuha o latou aiatatau ki na galuega tautua i tona atunuku.
- (3) Ko na fakanaunauga o tagata e tatau ke fakavae kiei te pulepulega o te malo; ko na fakanaunauga ienei e tatau ke fakaaalia i ni faigapalota fakalauaitele fakavaaitaimi ma, ke tutuha te aiatatau e palota ai ma e tatau ke faia i he palota fakalilolilo pe i ni auala fai palota haoloto.

Vaega 22

Ko tagata uma i te tulaga tagatanuku o he atunuku, e ia te ia te aia ki te fehoahoani mai te malo ma e tatau ke auhia, i ni taumafaiga fakaatunuku ma te felagolagomaki fakavaomalo, e tuha ai ma te fakanofonofoga ma na alagamanuia o na Malo takitahi, na aiatatau ki te tamaokaiga, nofonofoga ma te fakaaganuku mo tona mamalu ma te atiakega haoloto o tona tulaga fakatetagata.

Vaega 23

- (1) Ko tagata uma e i a te kilatou te aiatatau ki he galuega, ki he filifiliga haoloto ki te galuega e galue ai, ki ni fakatatiaga hako ma lelei o te galuega ma he puipuiga fakahaga ki te he maua o he galuega.
- (2) Ko tagata uma i he tulaga he fakailogatagata, e i a te kilatou te aiatatau ki ni totogi tutuha mo ni galuega tutuha.
- (3) Ko tagata uma e faigaluega e iei te aiatatau ki he totogi talafeagai ke fakamautinoa ai ki a te ia ma tona kaiga he olaga fetau mo te tagata ola ma tumau ma, fakalava, i ietahi auala e fehoahoani ki te puipuiga i loto o te nofonofoga.
- (4) Ko tagata uma e i a te kilatou te aiatatau ke fakavae ai ma kau ai ki na iuni a tagata faigaluega mo te puipuiga o na mea fiafia ai ki latou.

Vaega 24

Ko tagata uma e i a te kilatou te aiatatau ke malolo ai ma maua he taimi tafao mai na galuega, e aofia ai he fakatapulaga talafeagai o na itula faigaluega ma na aho malolo fakavaaitaimi kae totogi.

Vaega 25

- (1) Ko tagata uma e ia te kilatou te aiatatau ki he olaga olamalolo ma nofolelei mo ia ma tona kaiga, e aofia ai na meakai, lavalava, he fale, tautuaga tau olamalolo ma na tautuaga fakatenofonofoga, ma te aiatatau ki he olaga haogalemu kafai kua heai he galuega, pe tauale, he katoatoa te malohi o te tino, pe kua oti te avaga, pe kua tino matua, pe kua heai lava he tahi auala e mafai ke maua ai he tupe ke ola ai.
- (2) Ko matua ma tamaiti e tatau ke kilatou maua ni tauhiga ma ni fehoahoaniga fakapitoa. Ko tamaiti uma, tuha lava pe na fanau mai ki he ulugamatua

fakaipoipo pe heai, e tatau ke tutuha te puipuiga e ki latou maua i te fakatenofonofoga.

Vaega 26

- (1) Ko tagata uma e i a te kilatou te aiatatau ki na akoakoga. Ko te akoakoga e tatau ke haoloto, kafai e mafai, i na vahega kamata. Ko te akoakoga kamata e fakamalohia. Ko te akoakoga mo na iloa ma na poto fakapitoa e tatau ke fakaavanoa ki tagata uma ma ko he akoakoga maualuga e tatau ke avanoa tutuha kiei ia tagata uma, fatu ki te maualuga o na tulaga o te akoakogia.
- (2) Ko te akoakoga e tatau ke fakahino ki te atiakega katoatoa o te tagata, ma te fakamakekega o te amanakia o na aiatatau a te tagata ma te haolotoga fakavae. E tatau ke fakaleleia ai te malamalamaga, ko te onohai ma te tulaga fakauo i te va o atunuku uma ma na fakalapotopotoga, itukaiga tagata, itukaiga lotu, ma e tatau ke fakaolaola ai na gaoioiga a Malo Kaufakatahi mo te tauhiga o te filemu.
- (3) Ko matua e i a te kilatou te aiatatau muamua ke filifili ai te itukaiga akoakoga e tatau ke tuku atu ki a latou fanau.

Vaega 27

- (1) Ko tagata uma e i a te kilatou te aiatatau ke auai haoloto ai ki te olaga fakaaganuku o te nuku, ke fiafia i na matakupu tau tuhituhiga, tuhi ata, pehega, hiva, galuega taulima, talatuku, ma, ke auai i te fakaleleia atili o na tulaga tau haienihi ma ona aogā.
- (2) Ko tagata uma e i a te kilatou te aiatatau ke puipuia ai na mafaufauga ma na mea totino mai ho he faiga fakahaienihi, tuhituhiga, pe ko ni tuhiga ata, e a ia na tuhi pe na fai.

Vaega 28

Ko tagata uma e iei te aia tatau ki ni nofonofoga taoga fakatenuku pe fakavaomalo ke mafai ai ke auhia katoa ai na aia tatau ma na haolotoga e fakaalia i te Takutinoga tenei.

Vaega 29

- (1) Ko tagata uma e iei o latou tiute ki te nofonofoga fakatenuku, ma, ko kina te mafai ai ke katoatoa ai tona atiakega haoloto ke auhia.
- (2) I te fakatinoga o o latou aiatatau ma na haolotoga, ko tagata uma e tatau ke fakalagolago oioti ki na fakatapulaga e ve ona fakamautu mai e te tulafono, aua te puipuiga o tona fakaamanakiagia ma te fakaaloalo ki na aia ma na haolotoga o ietahi tino, ma, ke fakafetaui ma na mea e manakomia mo te amio mamā, te filemu lautele ma te tulaga lelei lautele i he atunuku fakatemokalahi.

- (3) Ko na aiatatau ienei ma na haolotoga e he tatau ke fakatino i ni tulaga e fetā ai ma na kautu ma na agaga taki a Malo Kaufakatahi.

Vaega 30

E heai he vaega i loto o te Takutinoga tenei, e tatau ke fakauiga veia, e fakahino ki he Malo, vaega pe ni tino ni aia tatau ke auai ai i ni gaoioiga pe fai ai ni fakatinoga e fakaagaaga ke fakakino ai ho he aiatatau, pe ni haolotoga kua folahia i loto i kinei.

Feagaiga fakavaomalo i na aia tatau hivili ma na aia tatau tau politiki

Fakatomuaga

I ni matauga, e tuha ai ma na agaga taki e fakailoa mai i te Feagaiga Fakavae a Malo Kaufakatahi, ko te amanakiagia o te mamalu ma na aia tatau tutuha he makavekehea o tagata uma i te kaiga o tagataola ko te fakavae ia o te haolotoga, te amiotonu ma te filemu i te lalolagi,

I te amanakiagia ko ienei aia tatau e mafua mai i te mamalu o te tagata ola,

I te amanakiagia, e tuha ai ma te Takutinoga a te Lalolagi mo na Aia tatau o te Tagataola, ko te fakanaunauga mo ni tagata ola haoloto e fialia ki olatou aia tatau hivili ma olatou aia tatau tau politiki, ma haoloto mai ite matakū ma te mativa, e mafai oiote ke auhia kafai ni tulaga e fakatino ke mafai ia tagata uma ke fakamaliegia o latou aia tatau hivili ma te fakapolitiki vena foki ma olatou aia tatau fakatetamaokaiga, fakatenofonofoga ma te fakateaganuku,

I ni matauga ki na tiute o na Malo i loto o te Feagaiga Fakavae a malo Kaufakatahi, ke fakalauiloa ai te fakaaloalo i te lalolagi aoao ma te fakamamalugia o na aia tatau ma na haolotoga,

I he mautinoaga ko te tagata, e iei ona tiute e fai mo ietahi tino ma tona nuku, e iei tana galuega patino e taumafai malohi ai mo te fakalauiloagia ma te fakamamalugia o na aia tatau e fakaamanakia i te feagaiga tenei,

Kua malilie ki na patiga takitahi ienei:

VAEGA 1

Patiga 1

- 1 Ko na nofonofoga uma, ei ei ta latou aia tatau ki ha latou filifiliga faigamalo. Ona ko tena aia tatau, e filifili haoloto e ki latou ho latou tulaga fakafaigamalo, ma, e haoloto i te hakiliga o to latou tamaokaiga, te atiakega o te nofonofoga a tagata ma te aganuku.
- 2 E mafai e nofonofoga uma, mo a latou fuafuaga, ke haoloto i te fakaaogaga o a latou koa fakanatula, ma a latou lihohi e aunoa ma ni lagona he lelei ki hona tiute taukave e mafua mai i ni felagolagomakiga fakamvaomalo tau tamaokaiga, fakavae ki te agaga o te maua o ni fakamanuiaga tutuha, ma na tulafono fakavaomalo. E matua heai he tulaga e taofia ai he nofonofoga mai te fakaaogaga o ona alagamanuia e ola ai i na aho takitahi.
- 3 Ko na Malo Auai ki te Feagaiga tenei, e aofia ai ma na malo e ki latou pulepulea na Atunuku ko heki Pulea Fakalotoifale ma na Atunuku e Pulea Fakaatunuku Tauhi, ka ki latou fakalauiloagia te aia tatau mo he filifiliga faigamalo

fakalotoifale, ma, ka fakatauagia tenei aia tatau ke ogatahi ma na tukutukuga o te Feagaiga Fakavae a te Malo Kaufakatahi.

VAEGA II

Patiga 2

- 1 Ko na Malo Auai takitahi ki te Feagaiga tenei kua folafola e kilatou ke amanakia ma fakamautinoa ki tagata uma i loto o te atunuku ma aofia i tana malohiaga faifakamahinoga na aiatatau i te Feagaiga tenei, e aunoa ma ni itukaiga fakakehekehega e ve ko te folifoliga, lanu, tane pe fafine, gagana, tapuakiga, talinonuga fakapolitiki ma ietahi talinonuga, te atunuku ma te olaga na ola ake ai, na meatotino, te fanau mai ma ietahi tulaga
- 2 Ko na itu e heki faia ki ei ni fakanofonofoga i na fakatulafonoga e iei nei pe ko ni ietahi auala, kua folafola e na Malo Auai takitahi ki te Feagaiga tenei e kilatou fakatinoa ni auala talafeagai, e tuha ai ma na faiga fakafakavae ma na fakatatiaga i te Feagaiga tenei, ke fakaaoga na fakatulafonoga ienei pe ko ni auala e mafai ai ke fakaaloakia na aia tatau e fakataua i te Feagaiga tenei.
- 3 Ko na Malo Auai ki te Feagaiga tenei kua malilie:
 - (a) Ke fakamautinoa ko ho he tino kua holi ona aia tatau ma ona haolotoga ka fai kiei he fofo talafeagai, e tuha lava pe ko te holi aiatatau na fai e ni tino ei ni tulaga tofi aloakia;
 - (b) Ke fakamautinoa ko ho he tino e tagi mai mo he fofo ka fulifuli tona aia tatau i ni fakamahinoga, pulepulega e ni tofi aloakia e iei te iloa ma te mafai talafeagai, e maua mai i te hihitemi tau tulafono a te malo, ma fatu ni auala fakatetulafono ke fofo ai;
 - (c) Ke fakamautinoa ko na tofi e i ei te iloa ma te mafai talafeagai e fakamalohia e ki latou na fofo venei ke fakatino.

Patiga 3

Ko na Malo Auai ki te Feagaiga tenei kua malilie ke fakamautinoa e ki latou, ko na aia tatau a tane ma fafine e tutuha, ke ola fiafia ai ia tagata uma i na aia tatau fakahivili ma na aia tatau fakapolitiki ie e fakailoa atu i te Feagaiga tenei.

Patiga 4

- 1 I ni taimi o ni fakalavelave fakafuaheki ki tagata lautele e mafai ke lamatia ai te ola o te atunuku ma te tulaga fakaatunuku e iei ai, e mafai e na Malo Auai ki te Feagaiga tenei ke fai ni auala ke kave kehe mai ai ni ona tiute taukave na fai i lalo o te Feagaiga tenei ona ko ni manakoga fakanatinati o tena taimi, kafai e fakatino i ni auala e he afaina ai ietahi o ona tiute i lalo o na tulafono

fakavaomalo, ma, e he afia ai ni fakakehekehega e mafaua ona ko te folifoliga, lanu, tane pe he fafine, gagana, te tapuakiga pe ko te nofonofoga na ola ake ai.

- 2 E heai ni fakaheaiga mai te patiga 6, 7, 8 (palakalafa 1 & 2), 11, 15, 16 ma te 18 e mafai ke i lalo o na tukutukuga.
- 3 Ho he Malo Auai ki te Feagaiga tenei e ia fakaaogia te aia tatau ke fakaheai ni ona tiute e tatau ke ia fakailoa fakavave e ia ki ietahi Malo Auai i te feagaiga tenei, kui atu i te Failautuhi Aoa o Malo Kaufakatahi, i na tukutukuga o te fakaheaigia o ona tiute ma na mafuaaga na fakatino ai e tulaga venei. E toe fai ni fehokotakiga venei e kui atu lava i te auala e tahi, e taku atu ai te aho na fai ai ienei fakaheaiga.

Patiga 5

- 1 E heai he mea i te feagaiga tenei e fakauiga ke ve e fai fakatatau ki ho he Malo, he vaega pe ko te tagata tautokatahi ke fai ai ho he gaoioiga e fakakautu ki te fakakinoga o ho he aia tatau ma na haolotoga e fakaamanakia i kinei, pe fakalahi ai te fakatapulaga nai lo na fakanofonofoga i te Feagaiga tenei
- 2 E iei na fakatapulaga ki na fakaheaiga mai ho he aia tatau fakavae o te tagata ola e amanakia pe fakatino i ho he Malo Auai ki te Feagaiga tenei fuafua ki na feagaiga fakatetulafono, tulafono fakatonutonu pe ko na tu mahani ke fakahehe ai veia, e he fakaamanakiagia i te Feagaiga ni aia tatau venei, pe, e he mamafa te fakaamanakiaga e fai ki ei.

VAEGA III

Patiga 6

- 1 Ho he tagata ola e iei tona aia tatau tumau ke ola ai. Ko te aia tatau tenei e tatau ona puipua i te tulafono. E heai he tino, e aunoa ma he mafuaaga tatau, ke he ia maua te ola.
- 2 I na atunuku ko heki fakaheaia ai te halaoti, ko te hala i te oti e tatau ona fakatino oioti ki na holigatulafono pito hili te matuia fua ki te tulafono e fakamamalu i te taimi na fai ai te holigatulafono, ma, e he feta ma na tukutukuga i te Feagaiga tenei ma te Feagaiga mo te Puipuiga ma te Fakahalaga o te Holigaulafono o te Fahiotiga o Tagatanuku o he Atunuku. Ko te halaoti e fakatino oioti fuafua ki he fakaikuga e fai e he fakamahinoga e iei te iloa ma te mafai.
- 3 Kafai ko te fakaheaiga o te ola e aofia ai te fahiotiga o ni tagatanuku o he atunuku, e malamalama te tulaga tenei, e heai he mea i te patiga tenei e fakataga ai he Malo Auai ki te Feagaiga tenei ke kavekehea ai i ho he auala hona

tiute e mafua ona ko na tukutukuga i lalo o te Feagaiga mo te Puipuiga mate Fakahalaga o te Holigatulafono ko te Fahioti o Tagatanuku o he Atunuku.

- 4 Ho he tino e halaoti e iei tona aia tatau e hakili ai hona fakamagaloga pe fakamama tona fakahalaga. Ko te fakamagalo pe ko te fakamama o te halaoti e mafai ke fakatino i ho he moliaga venei.
- 5 Ko te halaoti e he fakahalagia ai he tino ei lalo ifo i te 18 tauhaga te matua, ma, e he fakahala venei ai ni fafine faitama.
- 6 E heai he mea i loto o te Feagaiga tenei e fakaaoga ke fakatuai ai, pe puipuia ai te fakaheaiga o te halaoti e ho he Malo Auai ki te Feagaiga tenei.

Patiga 7

E heai he tino e fai kiei ni haunoaga, pe ko ni hauaga, fai ki ei ni fakahalaga e he talafeagai ki he tagata ola, kae maihe, e heai he tino e fai ki ei ni hukehukega fakafomai pe fakahaienitihia e aunoa ma hona maliega na fai haoloto.

Patiga 8

- 1 E heai he tino e fakamalohia ke fai ma pologa, ko te nofopologa ma te fefakatauakiga o ni pologa e fakaha.
- 2 E heai he tino e nofopologa.
- 3 (a) E heai he tino e fohi ke fai ni galuega pe fakagalue e aunoa ma tona malie;
 - (b) Ko te palakalafa 3(a) e he faia ma auala e he mafai ai, i na atunuku e fai e ki latou na fakahalaga e falepuipui ma fohi fakamalohia ai ni tino ki ni galuega mamafa mo ni holigatulafono, te fakatinoga o te fohi ke fai ni galuega mamafa i te faiga o he fakahalaga venei i he fakamahinoga e iei te iloa ma te mafai.
 - (c) Mo he fakamainaga o te palakalafa tenei, ko te fakakupuga "fohi ke fai ni galuega pe fakagalue e aunoa ma tona malie" e he aofia ai:
 - (i) Ho he galuega pe he tautuaga, e he tau ki te potu palakalafa (b), e mahani lava oi manakomia mo he tino kua fakahala ona ko he fakatonuga aloakia mai he fakamahinoga, pe, mo he tino i te taimi e fakahaoloto ai i ni tukutukuga mai i ni itukaiga fakahalaga venei;
 - (ii) Ho he tautuaga tau ki te vaegakau, ma, i na atunuku e amanakia ai ni lagona teteke kae talafeagai, ho he tautuaga fakateatunuku e fakatulafonogia ai na tino e iei ni lagona teteke kae talafeagai;
 - (iii) Ho tautuaga e matua talafeagai i te taimi o ni fakalavelave fakafuaheki pe ko ni mala e lamatia ai te ola o tagata o te nuku/atunuku;

- (iv) Ho he galuega pe he tautuaga e fakatino ai na tiute fakahivili e mahani ai.

Patiga 9

- 1 Ho he agata e iei tona aia tatau ke haoloto ma puipuia tona tagata. E heai he tino e haihaia pe fakahalagia tauanoa e aunoa ma he mafuaaga. E heai he tino e afaina ona haolotoga vagana ai ni tulaga e talafeagai ma na tulafono kua uma te fakavae
- 2 Ho he tino e haihaia e logo muamua, i te taimi e haihai ai, te mafuaaga o te haihaiga ma, e vave fakailoa ki ei te itukaiga moliaga kua molia ai ia.
- 3 Ho he tino kua haihaia pe kua taofia fakamalohi ona ko he holigatulafono e tatau ona tulaki fakavave i mua o he fakamahino pe ko he tahi ofiha e fakataga e te tulafono ke i ei ni ona malohiaga faifakamahinoga, ma, e tatau ke iei ni tukutukuga i ni taimi talafeagai mo ni ona fakamahinoga, ma te toe tatala ki tua. E he he tulafono tumau te taofia fakamalohi o ni tino e fakatalitali mo ni olatou fakamahinoga, kae ko te tatala ki tua e tatau ona iei ni fakamaoniaga e toe tulaki ai i te fakamahinoga, i ho he taimi o olatou fakamahinoga, ma, kafai pe vefea, e e tatau ke tulaki mo te fakatinoga o te fakaikuga a te fakamahinoga.
- 4 Ho he tino kua kavekehea tona haolotoga ona kua haihaia pe kua fakahalagia e iei ona aia e mafai ai ke fai hana tagi ki te fakamahinoga, kae ke mafai ai ke fai fakavave he fakaikuga ma te fakamahinoga pe ogatahi tona haihaiga ma te tulafono, ma fakatonu e te fakamahino ke toe fakahaoloto ki tua kafai e he talafeagai ma te tulafono.
- 5 Ho he tino na afaina ona ko ni haihaiga e he talafeagai ma te tulafono, e iei tona aia tatau e fakamalohia ai te toe maua o hona tau (fakamanuiaga).

Patiga 10

- 1 Ko tagata uma e afaina o latou haolotoga e tatau ke fai ki ei ni kikilaga e talafeagai ki te tagata ola fakatahi ai ma te fakaaloalo ki te mamalu na ola ake ma te tagata ola.
- 2 (a) Ko na tinomolia e, vagana ai ni tulaga fakapitoa, e tatau ke fakanonofu kehe mai mai na tino kua fakahala, ma e tatau ke kehe to latou kikilaga i ni faiga talafeagai ma olatou tulaga, ko ni tino ko heki fakahalagia;
(b) Ko na tamaiti molia e fakanonofu kehekehe ma na tino matutua molia ma, e fai fakavave o latou fakamahinoga.
- 3 Ko te hihitemi fakafalepuipui e iei te fefaiakiga o na pagota, ko te fakakautuga ko te toe fakaleleiga o te olaga. Ko tamaiti holitulafono e fakanonofu kehekehe

ma tagata mautua ma kikila i ni itu e talafeagai ma te matutua ma na tukutukuga fakatetulafono.

Patiga 11

E heai he tino falepuipui ona ko te he ia mafaia oi fakataunuku he tiute fakakonekalate.

Patiga 12

- 1 Ho he tino e fakataga e te tulafono ke nofo i he koga pe ko he atunuku, ei ei tona aia tatau e haoloto ai oi fealuaki ma filifili he koga e nofo ai i loto o te koga pe ko te atunuku tena.
- 2 Ho he tino e haoloto ke fano kehe mai i ho he atunuku, e aofia ai ma tona atunuku moni.
- 3 Ko na aiatatau e fakaali atu i luga e heai ni fakatapulaga e fai ki ei vaga na e fakatapulagia i ni tulafono, e tatau ke puipuia ai te haogalemu o te atunuku, te nofolelei, te olamalolo o tagata, na tulelei, na aiatatau ma na haolotoga o ietahi tino, ma, e ogatahi ma ietahi aiatatau e amanakia i te Feagaiga tenei.
- 4 E heai he tino e taofia mai i tona aia tatau ke ulufale ai ki tona atunuku moni.

Patiga 13

Ko he tagata kehe e fakataga e te tulafono ke i he atunuku o na Malo Auai ki te Feagaiga tenei, e mafai oioti ke fakateka kehe kafai e talafeagai ma ni fakanofotulafonoga, ma, vagana e iei ni mafuaaga ke puipuia ai te haogalemu o te atunuku, e fakataga te tino ka fakateka ke fakaali ni ona lagona pe aihea e he tatau ai tona fakateka kehe, ma, ke mafai tana matakupu ke lloilo, ma, ke mafai ke hui e he tino e iei te mafai, na tofia e te pule o te atunuku.

Patiga 14

- 1 Ko tagata uma e tutuha i luga o te fakamahinoga. I te fulifuliga o ho he moliaga o he holigatulafono fakatatau ki e tino, pe ko ona aia tatau ma ona tiute i he hu tau tulafono, ko tagata uma e iei te aia ke tulaki i he fakamahinoga e talafeagai e fai e he fakamahinoga e iei te mafai, e tu tautahi ma te he faaitukau, na tofia i lalo o te tulafono. Ko na tino faifakahalalauga ma tagata lautele e ono fakaha ke fakalogologo ki na vaega uma, pe ko he vaega oioti ona ko ni mafuaaga e afaina ai na uiga nofo lelei, te fakanofotonuga pe ko te puipuiga o te atunuku i he hohaiete temokalahi, pe ko te puipuiga o na ola o na itu e fakamahinogia, pe kafai te fakamahinoga e manatu, ko na fakahalalauga e afaina ai te amiotonu, kae, ho he fakaikuga e fai ki he holigatulafono e fakailoa fakalauaitetele vagana ai e puipuia ai ni tamaiti, kae iei ai na fefaiakiga e fakatatau ki na fekehekehega

- fakaulugaliki pe ko te fakatulafonogia o ni tino e kikilagia ni tamaiti afia i ni fekehekeheakiga.
- 2 Ho he tino e molia i he holigatulafono e iei tona aia tatau e mafai ai ke mama vagana e fakamaonia e agahala, fua ki te tulafono.
 - 3 I te fulifuliga o ho he moliaga o he holigatulafono mo he tino, Ko tagata uma e aia tutuha ki na tukutukuga ienei:
 - (a) E logo vave ma vakilikili i he gagana e malamalama ai te natula ma mafuaaga o te moliaga;
 - (b) Ke lava te taimi ma na tautuaga e tapena ai tona puipuiga, ma te fakafehokotakiga o te loia e ia filifilia;
 - (c) Ke fai tona fakamahinoga aunoa ma he fakatuai;
 - (d) Kei loto i te taimi o te fakamahinoga, ma ke tautali mo tona puipuiga, pe tali e ala i he loia na ia filifilia, ke fakailoa ki ei, kafai e heai hana loia, ona aiatatau, ma, ke tofia he loia mo ia, i ho he tulaga e talafeagai ma te amiotonu, ma, ke fai e aunoa ma he totogi, kafai te tino molia e heai ni ana alagamanuia ke totogi ai;
 - (e) Ke lloilo, pe na lloilo e ia na molimau e teteke kia te ia, ma ke maua e ia ni molimau ma te iloiloga o ni molimau mo ia, ke tutuha ma te tulaga o na moliau e teteke kia te ia;
 - (f) Ke iei hona fehoahoani e he totogia ma hana fakamatalakupu kafai e he malamalama i te gagana e fakaoga i te fakamahinoga;
 - (g) Ke he fakamalohia ke teteke kia te ia lava, pe takutino e ia ko ia e agahala.
 - 4 I na moliaga o tamaiti, ko na fulifuliga e fakatino i ni auala e amanakia ai te matutua ma ni o latou naunauga ke toe fakaleleia o latou olaga.
 - 5 Ho he tino e fakahala i he holigatulafono e iei tona aia tatau ke toe lloilo ai tona fakahalaga e he fakamahinoga e maualuga ake, e tuha ai ma te tulafono.
 - 6 Kafai he tino na nofohala ona ko he holigatulafono ma, kafai e toe fakau pe na fakamagalo ona e iei ni fakamatalaga fou na fatoa maua e kitea ai e heki amiotonu te faiga o e fakamahinoga, ko te tino na mafatia i te fakahalaga e tuku atu kiei he tau e talafeagai ma te tulafono, vagana ai ko na fakamatalaga nae he ki iloa i te taimi na tatau ai ke fakailoa, e mafua ona ko ia.
 - 7 E heai he tino e toe mafai ke toe fakamahino pe toe fakahala i he holigatulafono na fakahala pe na fakahaoloto ai ke ogatahi ma te tulafono ma te hihitemi fai fakahalaga a na atunuku takitahi.

Patiga 15

- 1 E heai he tino e tatau ona hala i ho he holigatulafono ona ko he gaoioiga na fai pe heki faia e he ko he holigatulafono, i lalo o na tulafono fakateatunuku ma na tulafono fakatevaomalo, i te taimi na tupu ai. Pe hili atu foki te mamafa o he fakahalaga na fai nai lo te hala talafeagai i te taimi o te holigatulafono. Kafai, i te taimi kua uma te holigatulafono kae fai ni fakanofonofoga i lalo o te tulafono ke fakamama ai te hala, ko te tino na holitulafono e fakamanuiagia i ni tulaga venei.
- 2 E heai he mea i te patiga tenei fakaafaina ai te fakamahinoga ma te fakahalaga o ho he tino i ho he gaoioiga ma ni gaoioiga e heki faia, i te taimi na tupu ai te holigatulafono e agahala, fua ki na agaga taki o te tulafono aloakia a te nofonofoga a atunuku.

Patiga 16

Ko tagata uma e iei te aia tatau e amanakia ai fakatagata ola i ho he koga, i luga o te tulafono.

Patiga 17

- 1 E heai he tino e fakaafaina e aunoa ma he mafuaaga pe aia tauanoa fakaholitulafono ki tona olaga patino, tona kaiga, fale ma ni fetuhiakiga, pe ohofakia fakaholitulafono tona mamalu ma tona tagata.
- 2 Ho he tagata e iei tona aia tatau ki puipuiga a te tulafono e ve ko te aia tauanoa ma ni ohofakiga.

Patiga 18

- 1 Ho he tagata e iei tona aiatatau ke haoloto i ona lagona, na mafaufauga ma te tapuakiga. Ko te aiatatau tenei e aofia ai te haoloto ke tapuaki pe hui tana tapuakiga, ma haoloto, i tona tautahi pe i te nuku ma ni ietahi tino, i mua o tagata pe na ko ia lava, ke fakatino tana tapuakiga pe ko tona talitonuga i te fakatinoga ma ni akoakoga.
- 2 E heai he tino e fakamalohia ke afaina tona haolotoga ke tapuaki pe filifili hana tapuakiga fou ma ona talitonuga.
- 3 Ko te haolotoga ke fakatino te tapuakiga ma na talitonuga mo he tino e mafai ke fakatapula oioti i ni fakatulafonoga ma e talafeagai mo te puipuiga o tagata lautele, nofo lelei, olamalolo ma na manatu taua pe ko na aiatatau fakavae o ietahi tino.
- 4 Ko na Malo Auai ki te Feagaiga tenei e malilie ke fakaaloalo ki na haolotoga o matua, ma, kafai e talafeagai, na matua tauhi fakatetulafono ke fakamautinoa ko na akoakoga fakatelotu ma na olaga o a latou fanau e ogatahi ma o latou fakamoemoega.

Patiga 19

- 1 Ho he tino ei ei tona aia tatau ke fai ai hona manatu e aunoa ma te aiatauanoa.
- 2 Ho he tino ei ei tona aia tatau ke fakaali ona lagona; ko te aiatau tenei e aofia ai te aiatau ke hakili, maua, ma tuku atu ni fakamatalaga ma ni mafauauga i ho he itu, e tuha pe fai vefea, pe takugutu, tuhituhiga pe ni lolomiga, i ni ata fakatino pe ko he tahi auala fakahalalau e ia filifilia.
- 3 Ko te fakatinoga o na aiatau i te palakalafa 2 o te patiga tenei e aofia i loto ni tiute ma ni galuega fakapitoa. Ko te mea ia, e tatau ke fakatapulaga, kae fai fuafua ki na fakatapulaga i loto o te tulafono, ma e aoga:
 - (a) Ke fakaaloologia ai na aiatau ma na talaaga o ietahi tino;
 - (b) Mo te puipuiga o te haogalemu o te atunuku pe ko te nofo puipuia o tagata, pe ko te olamalolo pe ko na manatu taua kautu o tagata.

Patiga 20

- 1 Ho he fakahalalauga fakatohina ke tau he taua e fakaha i te tulafono.
- 2 Ho he tino e ia kamata te feitagai i te va o tagatanuku kehekehe pe ko te va o na lotu, ko he fakaoho ke tutupu ni fekehekeheakiga, te loto ita pe ko te fakatupu fakalavelave, e fakaha i te tulafono.

Patiga 21

Ko te aiatau ke maopoopo ma te filemu e amanakia. E heai he fakatapula e fai ki te fakatinoga o te aiatau tenei nai lo na fakatapulaga e ogatahi ma te tulafono ma e tatau i na atunuku temokalahi aua te haogalemu o tagata pe ko te nofo lelei, te puipuiga o te olamalolo pe ko na manatu taua, pe ko te puipuiga o na aiatau ma na haolotoga o ietahi tino.

Patiga 22

- 1 Ho he tino ka iei tona aiatau ke haoloto ke fai ni fakalapotopotoga ma ni ietahi tino, e iei ai foki te aiatau ke fakavae pe kau ai ki ni iuni faigaluega mo te puipuiga o olatou manakoga.
- 2 E heai ni fakatapulaga e fai ki te fakatinoga o na aiatau vagana na aiatau e i loto o na tulafono, e aoga mo na nofonofoga fakatemokalahi mo te puipuiga o te atunuku, te nofo lelei ma te puipuiga o te olamalolo ma na manatu taua, ma te puipuiga o na aiatau ma na haolotoga o ietahi tino. E he taofia e te patiga tenei te fakatinoga o ni fakatapulaga fakatetulafono ki na hui o te vaegakau ma leoleo i te fakatinoga o olatou aiatau.
- 3 E heai he mea i te feagaiga tenei e fakataga ai na Malo Auai ki te Takutinoga a te Fakalapotopotoga Fakavaomalo mo Galuega o te 1948 e uiga ki te Haolotoga ke

fai ni Fakalapopotoga ma te Puipuiga o na Aiatatau ke Fuafua ke fai ai ni fakatulafonoga ke afaina ai, pe fakaaoga te tulafono i he tulaga e afaina ai na tukutukuga i te Takutinoga tenei.

Patiga 23

- 1 Ko te kaiga ko te vaega fakavae ma te iunite kautu ia o te nofonofoga a tagata ma, e tatau ke puipua mai te nofonofoga ma te Malo.
- 2 Ko te aiatatau o tane ma fafine kua agafenua ke faipoipo ma fakakau ni o latou kaiga e tatau ke amanakia.
- 3 E heai he fakaipoipoga e fai vagana e malilie uma kiei na tino e fakaipoipo.
- 4 Ko na Malo Auai ki te Feagaiga tenei e fai e kilatou ni lakahaga ke fakamautinoa ai te tutuha o na aiatatau o na tino kua fakaipoipo ma o latou tiute taukave, i te taimi e nonofo fakaulugaliki ai ma te taimi e toe teteka ai. Kafai e teteka, e tatau ona iei ni puipuiga mo ho he tamaiti o te fanau.

Patiga 24

- 1 Ho he tamaiti, e maua e ia e aunoa ma he fakakehekega ona ko tona nuku, lanu, tane pe he teine, tapuakiga, tupuaga, meatotino pe ko te fanau mai, e ia te ia te aiatatau ki na puipuiga e tuha ai ma tona tulaga tamaiti i te kaiga, te nofonofoga ma te malo.
- 2 Ho he tamaiti e tatau ke lehitala i te taimi lava e fanau ai ma e tatau ke iei hona igoa.
- 3 Ho he tamaiti e iei te aiatatau ki hona tagatanuku.

Patiga 25

Ho he tagatanuku e iei te aiatatau ma te avanoa, e aunoa ma na fakakehekehega e takua i te patiga 2 ma e heai ni fakatapulaga he talafeagai:

- (a) Ke kaufakatahi ki ni gaoioiga fakamua e tukuhako pe kui atu i ni faigapalota;
- (b) ke palota pe filifilia i ni palota e fai fakamua, pe fakalilolilo, e fakamautu ai te haoloto ke fakaali manatu i na fakanaunauga o na tinopalota;
- (c) Ke mafai ai ke ulufale i ni tulaga tutuha, ki na tautuaga fakamua i tona atunuku.

Patiga 26

Ko tagata uma e tutuha i te tulafono, ma, e iei te aia e aunoa ma ni fakakehekehega ki te puipuiga tutuha a te tulafono. Ona ko te tulaga tenei, e fakaha e te tulafono ni fakakehekehega, ma ka fakamautinoa te tutuha o te puipuiga ona ko te fakailoga tino i ho he itu e ve ko te nuku, lanu, tane, fafine, gagana, tapuakiga, talitonuga fakapolitiki ma ietahi talitonuga, tupuaga, meatotino, fanau mai ma ietahi tulaga.

Patiga 27

I na atunuku e iei ai ni vaega tokaitiiti e ve ko na tagata kehekehe, tapuakiga pe ko te gagana, ko na tino venei e he tatau ke kavekehea o latou aiatatau i te nofonofoga ma ietahi tino o alatou vaega, ke ola fiafia i alatou aganuku, ke fakalauiloa ma fakatino a latou tapuakiga, ma fakaaoga a latou gagana moni.

Failautuhi o te Fakamahinoga

Ko na Komehina takitahi e iei a latou failautuhi fakamahinoga. Ko te failautuhi e tofia e o latou Taupulega.

E tatau ke malamalama lelei te failautuhi i te tulaga o te Komehina ma ko ia e tatau ko he fehoahoani fakamoemoegia ma fakatuatuagia e o te Komehina ma ke galue ma te katoatoa i taimi uma.

Mo he failautuhi, ko te uiga o te galue katoatoa ko:

- fakatino na galuega i he taimi vave kafai e fakafehiligia;
- teutue fakalelei i na teuga talafeagai
- mataala i te taimi o na galuega; ma
- amio fakaaloalo i ho he koga faitele.

Tiute

Ko na tiute o te failautuhi o te fakamahinoga kua fakatatia atu i te tulafono ma i loto o na fakamatalaga o galuega . E aofia ai:

Galuega o Aho takitahi

- fakailoa ki te Komehina kafai kua kavatu e na Leoleo pe ko ni ietahi tino he matakupu i te fono fakamahino a te Komehina.
- tauhi he tuhi o fakamaumauga e lehitala uma lele ai na matakupu e kavatu ki te fono fakamahino a te Komehina.
- Ko te tuhi e tatau ke fakaholo i te fakahologa o te alafapeta (Tulafono 85(1) o na Tulafono o Holigatulafono).
- fakafoefoea ma fakamautugia na taimi ma na fono a te Komehina.
- fakamautinoa e hako ma lelei te hauniga o te potu fakamahino mo na fakamahinoga, e holotonu na pepa o te fakamahinoga ma totoka te Komehina mo ana fono fakamahinoga i taimi uma.

I te fale fakamahino

- E tatau ke hiaki e te failautuhi ko te itu tautali ko te tino ia e kalaga mai tona igoa.
- I na matakupu i te va o te tagata ma te malo, e tatau ke faitau katoa mai e te failautuhi te moliaga, fakamautinoa e malamalama te tino molia i te moliaga, ma fakamau te tali a te tino molia (agahala pe hē agahala).

- Kafai e iei ni molimau i te matakupu, ko te faitautuhi te tatau ke ia faia te fakatautoga pe ko tana fakaaliga.
- E tatau lava te failautuhi ke fakamaumau e ia na finauga, fakamaoniaga, molimau e fai i loto o te fale fakamahino ma kikilaga lelei te hihitemi faila a te fale fakamahino.
- Ko te failautuhi e tatau ke taofi uma e ia ho he mea faitino e fakaaoga i na fakamahinoga ma fakamautinoa e fakailoga fakalelei.

Kafai kua uma te fakamahinoga

- E tatau ke fakamautinoa e te failautuhi na hako te fakamaumauga a Leoleo na fai o na fakahalaga na fai.
- I he matakupu i te va o te tagata ma te malo, kafai ko te tino molia na fakamaonia tana hala, e tatau ke fakailoa e te failautuhi ki te tino tena tona aia ke apili.

Fakamaumauga o te Fakamahinoga

Ko na molimau uma lele a na tino molimau e tatau ke fakamaumau uma i ni tuhituhiga ma e tatau ke fakaTokelau.

Ko he tahi o tiute pito taua o te failautuhi ko te faia o ni fakamaumauga hako o te faiga o te fakamahinoga.

Fono Fakamahino o te Komehina Tulafono Matakupu No. 01/2008

Malohiaga Faifakamahinoga

i te va o te tagata ma te malo

Lehitala: Fakafofo

I te va : Leoleo - Fakatino Moliaga

-v-

Ma : Mele Ioane - Tino Molia

Holigatulafono : 1. Fai miha i he nofoaga faitele (Tul 44)

2.

Aho faila : 03 Apelila 2024

<i>Aho</i>	<i>Vaega</i>	<i>Fakamatalaga</i>
3 Apelila 24	1	Maua te moliaga (Fakaaliga ke tulaki – F.2) mai leoleo (haini e te failautuhi)
“ “ “	2	Tuku ki te Komehina Tulafono ke kikila ma haini (haini e te failautuhi)
4 Apelila 24	3	Matakupu kua fakatatia ke talanoa i te 18 Apelila i te 9 (Haini e te Komehina Tulafono)
4 Apelila 24	4	Fakatino ma kave ki te KT ke haini (Haini e te failautuhi)
5 Apelila 24	5	Fakaaliga ke tulaki kave e te leoleo – Ofiha Tautua (Haini e te Ofiha Tautua)
5 Apelila 24	6	Fakamatalaga fakamaonia o te Tautuaga kua faila (Haini e te failautuhi)
16 Apelila 24	7	Lipoti a Leoleo, fakamatalaga o na mea moni mtm faila (Haini e te failautuhi)
18 Apelila 24	8	Fai te fakamahinoga. Tino molia kua ioe ki te moliaga ma kua fakahala. Ko te hala e \$20 ke totogi i loto o te 14 aho (Haini e te KT)
22 Apelila 24	9	Totogi te \$20.00 numela o te lihiti 237 (Haini e te failautuhi)

Lehitala o fakamahinoga a Tokelau

<i>No. o te Matakupu</i>	<i>Aho na faila ai</i>	<i>Fakatino moliaga</i>	<i>Tino Molia</i>	<i>Holigatulafono & Vaega</i>	<i>Tonu</i>	<i>Lihiti & Aho</i>
01/24	01/04/24	Leoleo	Mele loane	Fai miha i he nofoaga faitele (Tulafono 44)	Hala \$20.00 ke totogi i loto o te 14 aho	\$20.00 – Lihiti # 237 22/04/24
02/24	14/04/24	Leoleo	Malia Uga	Kona (Tulafono 52)		
03/24	04/05/24	Leoleo	Mete Sione	Fakaokolima (Tulafono 15)	Hala \$50 ke totogi i loto o te 2 mahina	
04/24	18/05/24	Leoleo	Viliamu lona	Tauai fatu (Tulafono 47)		

Fakaaogaga o na tu ma na aganuku ma fakavae o he tulafono 2004

1 Igoa

Ko na Fakaaogaga o na tu ma na aganuku ma fakavae o he tulafono 2004.

2 Fakaaogaga o na tu ma na aga ke fai ma fakavae o he tulafono

- (1) Kafai kua iei he matakupu i te Fakamahinoga Maualuluga, kae fakahula mai e ho he itu i te fakamahinoga pe ko te fakamahino foki lava he matakupu e tau ki te aganuku a Tokelau, e tatau te Fakamahinoga ke hakili he fautuaga mai te Fono Fakamua agai ki te matakupu ma fakaheke te fakamahinoga mo ni aho e 30 pe he vaitaimi i lalo ifo kafai e vave maua mai he fautuaga mai te Fono Fakamua.
- (2) Kafai e tuku atu he matakupu e te Fakamahinoga ki te Fono Fakamua e tatau ke:
 - (i) fakamatala pukupuku ai na vaega e talafeagai ki te matakupu;
 - (ii) fehiligia pe iei he aganuku faka Tokelau ki te matakupu; ma
 - (iii) kafai e iei he aganuku faka Tokelau ki te matakupu, talohaga mo he fakamalamalama mai te Fono Fakamua o te aganuku.
- (3) Ka maua he matakupu i lalo o te tulafono tenei, ko te Fono Fakamua e tuku atu te matakupu ki na Taupulega takitahi ma, fatu mai i na tali a na Taupulega, tuku atu hana tali aloakia ki te Fakamahinoga Maualuluga.
- (4) Kafai i loto o ni aho e 30 mai te aho na tuku atu ai te talohaga ki te Fono Fakamua e maua mai ai ni fakamatalaga tau ki te aganuku a Tokelau, e fai e te Fakamahinoga he tonu ki na vaega o te matakupu e tau ki ei te aganuku i hana kikilaga ki na fakamatalaga kua tuku atu kia teia.
- (5) Kafai i loto o ni aho e 30 mai te aho na tuku atu ai te talohaga ki te Fono Fakamua e he maua mai he tali pe ko te tali e maua mai e heai he aganuku Tokelau e talafeagai, ke fai he tonu ma te Fakamahinoga ki te matakupu fatu ki te talitonuga e heai he aganuku e kaiga ki te matakupu.

Loia i na Fakamahinoga a Tokelau

Ko te avanoa e mafai ai ke galue i na fale fakamahino o Tokelau e takua mai i te Tulafono 95 o na Tulafono o Holigatulafono.

Kupu ma Fakauiga

Kupu	Fakauiga
Balance of probabilities <i>Fuafuagia pe ono io ilō te heai</i>	Ko te maualuga e fuafua kiei te tulaga e fakamaonia ai e te tino e a ia te tagi ki te fakamahinoga i he finauga i te vā o tagata, e fuafuagia pe ono io ilō te heai te fakamaoniga o te tagi.
Beyond reasonable doubt <i>E heai he mahalohaloga talafeagai</i>	Ko te maualuga e fuafua kiei pe hoolitulafono te tino (kua molia e Leoleo), e tatau ke fakamaonia uma lele na elemeni o te holigatulafono, e aunoa ma he mahalohaloga talafeagai. Ko to na uiga, ka heai he mahalohaloga talafeagai ki na elemeni o te moliaga, ko te tino molia e hoolitulafono.
Burden of proof <i>Ko te tiute e fakamāonia ai te moliaga pe ko he tagi</i>	Ko to na uiga, e o ai te tiute ke fakamaonia ai te moliaga holigatulafono, pe ko he tagi i te va o tagata? I na moliaga tau holigatulafono, e o te fakatino moliaga (Leoleo) te tiute ke fakamaonia ai na elemeni uma o te holigatulafono e aunoa ma he mahalohaloga talafeagai. I na tagi tau te va o tagata, e o te fakatino tagi te tiute ke fakamaonia ai te tagi e fuafua pe ono io ilō te heai.
Cause of action <i>Māfuaga fakatetulafono e mafai ai ke fai he tagi</i>	I na matakupu tau fakamahinoga i he finauga i te vā o tagata, e tatau te fakatino tagi ke fakailoa na māfuaga fakatetulafono e mafai ai ke fai ta na tagi mo te totogi tupe pe ko hea lava he poloakiga e mafai e te Fakamahinoga ke fai i lalo o te tulafono.
Charge <i>Mōliaga</i>	Na moliaga (e fai e Leoleo) fakahaga ki te tino molia i na matakupu tau holigatulafono.
Civil wrong <i>Ko he mea hehe faka holigatulafono e fai e he tino ki he tahi tino</i>	Ko he gāoioiga pe ko he mea kua he fai e fakatutupu ai he finauga fakatetulafono i te vā o tagata kehekehe pe ko kamupani. E kehe mai he holigatulafono (i moliaga a Leoleo).

Kupu	Fakauiga
Contested or defended hearing <i>Fakamahinoga ki matakupu tau holigatulafono ma tagi e teteke e te tino kua molia</i>	<p>Ko he moliaga faka holigatulafono e kaumai e Leoleo ki te Komehina, mo te fakamaoniga o te holigatulafono, e kamata te fakamahinoga teteke mai i te taimi e teteke ai te tino molia ki te moliaga.</p> <p>Ko he tagi a he tino e fai fakahaga ki he tahi tino, mo te fakamaoniga o ta na tagi, e kamata te fakamahinoga teteke kafai e teteke te tino e fakahaga kiei te tagi.</p>
Contract <i>Feagaiga/Konekalate</i>	<p>Ko he maliliega i te vā o ni tagata e tokalua pe hilia atu e taku gutu pe tuhituhia.</p>
Convict <i>Fakamaoniaga o te holigatulafono</i>	<p>Ko te auala aloakia e fakamaumau ai te fakamaoniga o te holigatulafono ki te tulaga o te talia e te tino molia o te moliaga, pe i te fakaikuga o te fakamahinoga teteke.</p>
Crime <i>Holigatulafono</i>	<p>Ko gaoioiga e fakaha e na tulafono a Tokelau.</p>
Crimes Rules <i>Tulafono mo na Holigatulafono</i>	<p>Tulafono ienei mo na "Holigatulafono, Na Gaoioiga E Tatau Ke Fai, Ma Na Fakamaoniga 2003"</p>
Decision <i>Fakaikuga</i>	<p>Ko na fakaikuga a te fakamahinoga, ma na mafuaaga e fakavae ai te fakaikuga.</p>
Defended or contested hearing <i>Fakamahinoga ki matakupu tau holigatulafono ma tagi e teteke e te tino kua molia</i>	<p>Ko he moliaga faka holigatulafono e kaumai e Leoleo ki te Komehina, mo te fakamaoniga o te holigatulafono, e kamata te fakamahinoga teteke mai i te taimi e teteke ai te tino molia ki te moliaga.</p> <p>Ko he tagi a he tino e fai fakahaga ki he tahi tino, mo te fakamaoniga o ta na tagi, e kamata te fakamahinoga teteke kafai e teteke te tino e fakahaga kiei te tagi.</p>
Discharge <i>Tatala ki tua kae heai he fakahalaga</i>	<p>Ko he fakaikuga a te fakamahinoga ke tatala ki tua te tino kua fakamaonia ta na holigatulafono, kae e heai he fakahalaga.</p>
Identification <i>Fakaaliga ki te hako o te tino</i>	<p>Ko he auala aloakia e fakaali ai e hako te tino i mua o te fakamahinoga.</p>

Kupu	Fakauiga
Impartial/Impartiality <i>He fakaitukau</i>	E haoloto mai i ho he leleiga e maua pe ko te fakaitukau ki te moliaga/matakupu.
Jurisdiction <i>Malohiaga ma te Pule</i>	Ko he malohiaga ma te pule ke fai ai he fakamahinoga ma fakatino.
Penalty unit <i>Iunite o Fakahalaga</i>	Mai te aho 1 Hetema 2014, ko te iunite fakahalaga fokotahi e \$50.
Plea <i>Tali</i>	Ko te tali a te tino molia i ta na moliaga, pe talia pe teteke ia kiei.
Plea in mitigation <i>Talohaga ke fakamāmā te fakahalaga</i>	Ko te talohaga a te tino nofohala pe ko ta na loia, e aofia ai na mafauaaga e talafeagai kiei ke fakamāmā ai te fakahalaga.
Right of appeal <i>Aia ke apili ai</i>	I ho he moliaga e fai, ma kafai kua uma te fai o tau fakaikuga, e iei te aia o te tino molia ke tulaki i mua o te fakamahinoga hili ke toe iloilo te fakaikuga na fai.
Sentencing <i>Fakahalaga</i>	Ko te fakahalaga e fakatino e te tino nofohala, i te taimi e fakamaonia ai to na holigatulafono i te talia o te moliaga pe i te fakaikuga o te fakamahinoga teteke, e aofia ai te totogiga o he tupe pe falepuipui (pe ko ietahi fakahalaga).
Standard of proof <i>Te tulaga mo te fakamaoniaga</i>	E tuha ai ma na fakamahinoga o holigatulafono (moliaga a Leoleo), e fakamaonia te holigatulafono ki te maualuga e aunoa ma he mahalohaloga talafeagai. E tuha ai ma na fakamahinoga ki tagi tau te va o tagata, e fakamaonia te tagi ki te maualuga e fuafuagia pe ono io ilō te heai.
Summons <i>Poloakiga ke tulaki ki mua o te fakamahinoga</i>	Ko he pepa e poloaki aloakia ai he tino ke tulaki ki mua o te fakamahinoga.

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HANDBOOK
for the
LAW COMMISSIONERS
of
TOKELAU
TUHITAKI
mo na
KOMEHINA TULAFONO
o
TOKELAU

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Foreword

Fakamālo atu kia te koutou uma.

I am delighted to be providing the foreword to this updated edition of the Handbook for the Law Commissioners of Tokelau | Tuhi Taki mo na Komehina Tulafono o Tokelau.

When the first edition of this Handbook was published in 2008, its goal was to improve the administration of the law and quality of justice in Tokelau and to “answer the needs of those who have the duty to apply the law”. The Handbook was intended to be a source of useful guidance to the Law Commissioners, and it was written with the needs of those Law Commissioners, and the circumstances of the villages of Tokelau, in mind.

Sixteen years later, it remains true that the Law Commissioners — like all judicial officers — require support. Judging is challenging work. That is why the revision of this Handbook was a priority for Te Kura Kaiwhakawā | Institute of Judicial Studies when it took over the management of the Pacific Justice Sector Programme in January 2022. I wish to express my gratitude to all those involved in the preparation of the Handbook for their contribution to the administration of law in Tokelau. I am especially grateful to the Handbook Editorial Committee (Enoka Puni, Professor Tony Angelo, Law Commissioner Mafiti Gaulofa, Aukusitino Vitale, Apolima Tamoā, and Janine Ford) for its work in updating and translating the Handbook in 2023/2024.

The work which the Law Commissioners do is essential. The most recent Judicial Annual Report shows that 74 cases were dealt with by Tokelau’s three Law Commissioners in the 2018/2019 period. The report also shows that the Law Commissioners’ work remains focused on the maintenance of social order in Tokelau through the prosecution of minor criminal offences. The 74 cases heard by the Law Commissioners in 2018/2019 were all criminal matters.

When a court operates in its criminal jurisdiction, certain fundamental human rights are squarely in play — the right to life, liberty and security of person; the right not to be subjected to arbitrary arrest or detention; the right to a fair and public hearing by an independent and impartial tribunal in the determination of criminal charges; and the right to be presumed innocent until proved guilty according to law, with all the guarantees necessary for an effective defence. These rights I have listed are expressed in the Universal Declaration of Human Rights. They are therefore rights guaranteed by Article 16 of the Constitution of Tokelau.

The Handbook provides a practical pathway to the protection of those rights, and I commend those who have prepared it and encourage the Law Commissioners to read and make use of its pages.

As Chief Justice, I wish to express my thanks to, and admiration for, the Law Commissioners of Tokelau, and all who support them in their work. I mention especially the court clerks and the police, who play a vital role in the administration of justice in Tokelau. Lastly, I acknowledge the support of the General Fono, the Ulu of Tokelau, the Council for the Ongoing Government and the Taupulega of the villages of Tokelau.

Ke kavea pea ia Tokelau ma atunuku e tauhitonu ki te amiotonu o te Fakamahinoga.

Ke tumau pea te pupuiga a te Atua ki Tokelau.

Fakafetai lahi lele.

Rt Hon Dame Helen Winkelmann

Chief Justice of Tokelau

August 2024

Constitutional Framework of Tokelau

1 The Constitutional framework of Tokelau

1.1 The Government of New Zealand and the relationship with Tokelau

Tokelau is a non-self-governing territory administered by the government of New Zealand (Section 3 of the Tokelau Act 1948).

Tokelau is part of the realm of New Zealand, which also includes the self-governing states of the Cook Islands and Niue (Clause 1(d) of Letters Patent 1989).

Tokelau is listed with the United Nations as a territory which has the right to self-determination.

The basic structure of the government of Tokelau is outlined in the Tokelau Act 1948. The Head of State is the Sovereign of New Zealand. The Governor-General of New Zealand is the Sovereign's representative. Tokelau is administered for New Zealand by the Ministry of Foreign Affairs and Trade, and an Administrator.

The Parliament of New Zealand can make law for Tokelau by Acts (Section 3B of the Tokelau Act 1948). The Governor-General can make law for Tokelau as regulations (Section 4(1) of the Tokelau Act 1948).

The people of Tokelau do not vote for the New Zealand Parliament and have no representatives in the New Zealand Parliament. The people of Tokelau are citizens of New Zealand.

The rights and freedoms of people in Tokelau are contained in Rule 16 of the Constitution of Tokelau.

The main crimes in Tokelau, and the rules of criminal procedure, are set out in the Tokelau Crimes, Procedure and Evidence Rules. They are explained in this book.

1.2 The Government of Tokelau

1.2.1 Village government

Villages elect a Faipule and a Pulemuku every 3 years in accordance with the Village Incorporation Rules 1986.

Decisions that relate primarily to village matters are made at village level by the Taupulega.

Village rules are made in accordance with rules 18 and 19 of the Village Incorporation Rules 1986.

The rules must be made by resolution of the Taupulega, signed by the Faipule and be impressed with the seal of the village.

Rules made by a village must not contradict Acts, regulations, international obligations or rules of the General Fono in force in Tokelau (Rule 18 of the Village Incorporation Rules 1989).

Law disputes at the village level are settled by the Commissioner and the Village Appeal Committee (Section 10 of the Tokelau Amendment Act 1986; Rule 103 of the Crimes Rules). Land and custom matters are settled by the Taupulega.

1.2.2 National government

Government decisions which affect the whole of Tokelau are made by the General Fono.

The General Fono consists of:

- The Faipule and one General Fono member of each village; and
- One delegate from each village for every 100 inhabitants (rounded to the nearest 100 inhabitants) (Section 3 of the Constitution).

The term of office of delegates to the General Fono coincides with that of Faipule.

The General Fono should meet at least twice every year. Two thirds of the members must be present for a decision to be valid.

Decisions are valid if more than half of the members present vote in favour of the decision.

“The General Fono may... make such rules as it thinks necessary for the peace, order, and good government of Tokelau” (Section 3A of the Tokelau Act 1948).

The General Fono may not make law that contradicts an Act, regulation, or treaty that is in force in Tokelau.

The General Fono may not make law that can apply or have effect outside Tokelau (Section 3A(4) of the Tokelau Act 1948).

1.2.2.1 Executive

Section 5 of the Constitution.

It is the duty of the General Fono to manage the following matters in the interests of the nation:

- National budget appropriation
- National resources
- National public service
- International relations
- Telecommunications

- The relationship of Tokelau with New Zealand
- National integrity
- National transport
- Postal services
- Policy and structures for national health and education
- Tokelau currency for coin collectors
- Any matter referred by the Taupelga of each village to the General Fono.

Decisions of the General Fono are implemented by the Tokelau Public Service. When the General Fono is not in session, the Council for the Ongoing Government makes the decisions necessary for the administration of Tokelau. The Council includes the three Faipule and one General Fono representative of each village. At the date of writing (2024), the Council comprises the three Faipule and three Pulenuku and is chaired by the Ulu o Tokelau.

1.2.2.2 The court system

Sections 3-10 of the Tokelau Amendment Act 1986; Rule 140 of the Crimes Rules; See also section 8 of the Constitution.

Tokelau has the following courts:

- The Commissioner's Court and Appeal Committee of each village;
- The High Court;
- The Court of Appeal

1.2.2.3 Human rights

All people in Tokelau have the rights and freedoms set out in the Universal Declaration on Human Rights (Rule 16 of the Constitution).

The rights of individuals in Tokelau shall be exercised having proper regard to the rights of other individuals and to the community to which the individual belongs.

The Tokelau constitutional rule (Rule 16) and relevant international treaties are set out in the Appendices to this book. Complaints concerning any breach or alleged breach of a Tokelau human right, are dealt with by the Council for the Ongoing Government.

Judicial Conduct

2 Judicial conduct

2.1 Important matters

- The main duty of a judge is to present before the public an image of justice.
- A judge must be a person of integrity.
- A judge administers justice to all without bias or favour.
- A judge performs official tasks competently and with dignity, courtesy and self-control.
- A judge obeys the laws of the land.
- A judge does not accept any gift, favour or benefit of whatsoever nature which may possibly influence him or her in the execution of official duties or create the possible impression that this is the case.
- A judge must not decide any matter in which he or she has a direct or indirect interest.
- A judge must maintain good order in court.

2.2 The principles in practice

2.2.1 Diligence

The duty of judges to serve diligently requires judges to deliver decisions to the best of their ability, and without any unnecessary delay. To ensure this, judges should:

- be familiar with common offences,
- prepare as much as possible before sitting in court.

2.2.2 Integrity

Judges must conduct themselves with the utmost integrity to sustain and enhance public confidence in the judiciary. Judges should make every effort to ensure that their personal and public conduct is lawful and that they are respected by the people of Tokelau.

2.2.3 Equality

Judges must conduct themselves and proceedings so as to ensure equality according to the law. This means judges should:

- carry out their duties with appropriate consideration for all persons (for example, parties, witnesses, court clerks) without discrimination;

- disapprove of improper conduct in the court. Improper conduct includes sexist, racist, or discriminatory language or actions which are prohibited by law.

2.2.4 Judicial independence

An independent judiciary is indispensable to justice under the law. Judges must make their decisions independently and free from influence of other people.

2.2.5 Impartiality

Justice requires judges not only to be impartial, but also to appear to be impartial in their decision making.

Impartiality requires judges to not hear cases in which they have a personal involvement, either through the parties involved or through the subject of the case. Judges should never hear a case where close family members are parties, such as spouse, children, parents, and siblings.

If the Commissioner is the subject of a case, the matter must be heard by the High Court (Rule 112(3)(ii) of the Crimes Rules).

2.2.6 Judicial demeanour

At all times judges should maintain firm control of court processes and ensure all people in the court are treated with courtesy and respect.

2.2.6.1 Courtroom conduct

Judges should:

- Be courteous and patient.
- Be dignified.
- Be humble: if a mistake is made you should apologise.
- Never make fun of a party or witness.
- Show appropriate concern for distressed parties and witnesses.

Judges should ensure that all people appearing before the court treat it with respect by:

- keeping order in court;
- being polite and respectful and expecting the same from all people in court.

2.2.6.2 Communication in court

Judges should:

- Use simple language without jargon.

- Make sure they know what to say before they say it.
- Avoid a patronising and/or unduly harsh tone.
- Generally, not interrupt witnesses.
- Always express themselves simply, clearly and audibly.

It is important that:

- the party examined and every other party understands what is happening in the court and why it is happening;
- the court clerk is able to hear what is being said for accurate note-taking; and
- the public in the court are able to hear what is being said.

Jurisdiction

3 Jurisdiction

Jurisdiction means the power to hear and determine a particular matter. Jurisdiction is given by a law. Courts may act only within the jurisdiction given by the law. If a court acts outside its jurisdiction, those acts are invalid.

There are three main areas of jurisdiction for the Commissioners:

- 1 Territorial
- 2 Criminal
- 3 Civil

3.1 Territorial

Territorial jurisdiction refers to the geographic area within which a court has the power to hear a case. Tokelau law applies on the islands of Tokelau and to the territorial sea of Tokelau that surrounds those islands (Section 7(3)(b) of the Tokelau Amendment Act 1986). The Commissioner can hear a case arising from conduct within the village, and in the sea within 12 miles of the village.

The Commissioner can also hear any breach of the Crimes Rules committed on board any vessel or aircraft that is:

- in the service of Tokelau; and
- travelling to or from Tokelau, or between any of the islands of Tokelau (Section 7(3) of the Tokelau Amendment Act 1986).

3.2 Criminal jurisdiction

This involves the types of offences that the Commissioner can deal with and also with the penalties that can be imposed.

No person can be prosecuted for an act or omission that is not an offence under the Crimes Rules or other laws.

A Commissioner has jurisdiction:

- for any offence punishable by fine alone;
- for any offence punishable by imprisonment for not more than one year (Section 7 of the Tokelau Amendment Act 1986).

Offences for which the maximum penalty does not exceed 3 penalty units or 3 months imprisonment must be tried before a Commissioner (Section 7 of the Tokelau Amendment Act 1986; Rule 112(1) of the Crimes Rules). The maximum penalties for offences are set out in Schedule 2 of the Crimes Rules.

If the maximum penalty is more than 3 penalty units or more than 3 months imprisonment, the High Court also has jurisdiction.

The maximum penalty a Commissioner can impose in any case is a fine of 3 penalty units (\$150) or 3 months imprisonment. Where the Crimes Rules permit a higher penalty, only the High Court may impose that higher penalty.

The High Court alone has jurisdiction to hear murder, manslaughter and treason charges, and any case in which a Commissioner is a party.

The criminal jurisdiction of the courts in Tokelau is shown in this table.

Criminal jurisdiction		
<i>Commissioner (only)</i>	<i>Commissioner of High Court</i>	<i>High Court (only)</i>
Maximum penalty of 3 months imprisonment or a fine of 3 penalty units (\$150).	Maximum penalty is one year imprisonment or a fine.	Murder, manslaughter and treason, maximum penalty more than one years imprisonment, offences by the Commissioner.

3.3 Civil jurisdiction

Section 10 of the Tokelau Amendment Act; Rule 142 of the Crimes Rules.

This jurisdiction concerns disputes between individuals, and between individuals and the government which do not involve penalties. These disputes are usually demands for money.

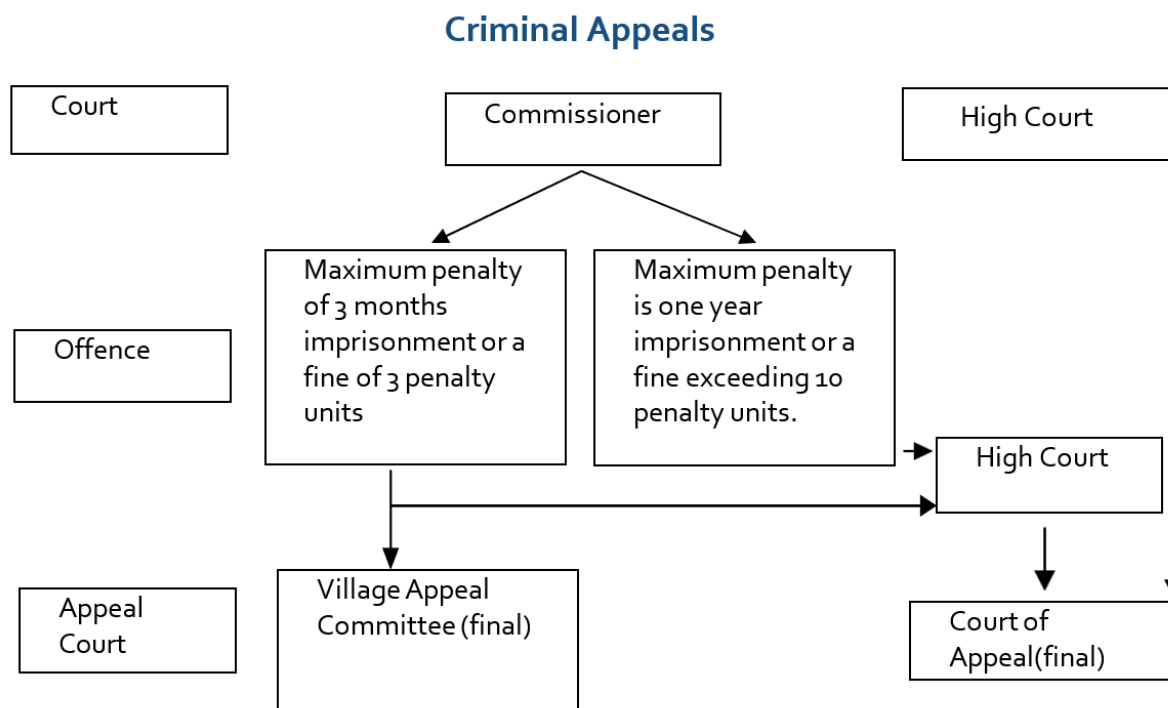
Commissioners have power to hear claims for the recovery of any debt, property or damage not exceeding \$1,000.

Claims in excess of \$1,000 must be heard in the High Court. Where a claim would otherwise exceed \$1,000, parties may agree to reduce the amount of money sought to \$1,000 so that the case can be heard by a Commissioner.

Civil Jurisdiction		
<i>Court</i>	Commissioner	High Court
<i>Jurisdiction</i>	Debt, property, damage not exceeding \$1,000 (or agreed claim not in excess of that amount).	Debt, property, damage exceeding \$1,000
<i>Appeals</i>	High Court, Court of Appeal	Court of Appeal

3.4 Appeals

3.4.1 Criminal appeals



3.4.1.1 Appeal Committee

The Appeal Committee of each village may hear appeals from some judgments of Commissioners (Rule 140(1) of the Crimes Rules). Offences punishable by imprisonment for not more than 3 months or only by a fine may be appealed to the Village Appeal Committee. There is no appeal from the judgments of the Appeal Committee.

3.4.1.2 High Court

A person may appeal to the High Court instead of the Village Appeal Committee. For offences for which the maximum penalty is more than 3 months imprisonment the appeal from a Commissioner's judgment is to the High Court.

3.4.1.3 Court of Appeal

Judgments of the High Court may be appealed to the Court of Appeal.

3.4.2 Civil appeals

Civil judgments of the Commissioner can be appealed to the High Court. There is no appeal to the Village Appeal Committee. Judgments of the High Court can be appealed to the Court of Appeal.

Criminal Responsibility

4 Criminal responsibility

4.1 Introduction

The Crimes Rules are the main law that sets out the offences and the rules related to them in Tokelau.

This chapter discusses:

- important principles of criminal law;
- defences that can be used to excuse an accused from criminal responsibility;
- the range of persons who may be criminally responsible for offences;
- attempts to commit an offence; and
- offences under laws other than the Crimes Rules.

4.2 Important principles of criminal law

4.2.1 Innocent until proved guilty

One of the most important principles in criminal law is that the accused is innocent until proved guilty. Unless and until the prosecution proves all elements of the offence, the accused is innocent. The court must always remember this.

4.2.2 Burden and standard of proof

The prosecution must prove all the elements of the offence beyond reasonable doubt.

If, at the end of the prosecution's case, the prosecution has not provided evidence of all the elements of the offence, then there is no case for the accused to answer and the case must be dismissed.

If the prosecution has proved all the elements of the offence, then the defence can present its case. After the court has heard the prosecution's case and anything the accused wants to say, the court must decide whether the prosecution has proved its case beyond reasonable doubt.

Remember that the defence does not have to prove anything. It is for the prosecution to prove all elements beyond reasonable doubt. If, after hearing any defence evidence, the court has a reasonable doubt on any of the elements, then the case must be dismissed.

4.2.3 Beyond reasonable doubt

This means that the court must be sure that the accused is guilty of the charge. On the basis of the evidence presented to the court, the court must have no reasonable doubt that the accused is guilty. If the court has any reasonable doubt, the accused is not guilty and the case must be dismissed.

4.2.4 What must be proved

Most offences involve two elements: the physical element and the mental element. It is necessary to prove both elements.

4.2.5 The physical element

This is the physical conduct or action (eg: hitting a person) or an omission (eg: failure to feed a child) which is forbidden by law.

These acts or omissions are the physical elements of the offence.

They must all be proved by the prosecution.

An offence may consist of one act or omission or a series of acts or omissions.

If the prosecution cannot prove that the act or omission occurred, the person cannot be convicted.

4.2.6 The mental element (guilty mind)

Most offences require the prosecution to prove that the accused had a particular state of mind. This is in addition to the physical element.

This mental element could be:

- *intention*: The accused intends to do something, or desires a certain result (eg: throwing a stone at a window with the desire to cause damage);
- *knowledge*: knowing the circumstances which constitute the offence;
- *belief*: mistaken idea of the circumstances of the offence;
- *negligence*: the failure of the accused to foresee a consequence of the action, where a reasonable person would have foreseen that consequence and avoided taking that action.

The two main ideas regarding the mental element are:

- it is an element of every criminal offence, unless specifically excluded; and
- individuals are presumed to intend the natural consequences of their actions.

4.3 General exemptions to criminal responsibility

Generally speaking, ignorance of the law is not a valid defence.

Generally, an accused will argue that he or she should not be found guilty because:

- the prosecution has not proved all elements of the offence beyond a reasonable doubt; or
- he or she has a defence specified in the law relating to the offence (eg: lawful excuse);
- one of the general defences is available, eg: provocation or self-defence.

Where the accused presents a defence the accused must provide evidence to support that defence. Then the prosecution must prove that evidence should be excluded.

4.3.1 Intention

4.3.1.1 Accident

With the exception of absolute liability offences, an accused is not responsible for an act which occurs by accident.

For example, if Meto is pushed into Alo, Meto does not have the intention to assault Alo and is therefore not guilty of the offence of assault.

4.3.1.2 Intending result

Intention also relates to intending a particular result of an act. Unless expressly declared to be an element of an offence, the result intended by an accused is immaterial.

For example, Alo tickles Meto, intending to make her laugh and to respond playfully. If as a result Meto suffers a broken rib, Alo is guilty of an assault even if he intended otherwise.

4.3.1.3 Motive

The reason or motive for the behaviour is irrelevant. Even where the accused had a good motive, that motive does not affect responsibility. It may be relevant to the sentence imposed.

For example, if Meto steals from a store in order to feed her children, Meto is still guilty of theft.

4.3.1.4 Mistake of fact

The law tries to punish only blameworthy acts, not those where the accused acted honestly, even if the accused was mistaken.

For example, if Meto takes a mat from Alo, believing honestly and reasonably, but incorrectly, that Alo gave her the mat, Meto is not guilty of theft.

4.3.2 Insanity

An accused is not criminally responsible (and cannot be convicted) if, by reason of a disease of the mind at the time of the act in question, he or she was incapable of understanding the nature of the act or knowing that the act was wrong (ie: insanity: Rule 116 of the Crimes Rules).

The accused must prove, on the balance of probabilities (this means it is more probable than not) that the accused was insane at the time of the offence and, therefore, did not have the required mental state.

The Crimes Rules presume every person is sane until proven otherwise (Rule 116(1)(ii) of the Crimes Rules).

If the accused had a disease of the mind but the disease did not render the accused incapable of understanding the nature or wrongfulness of the act, then the accused may still be found criminally responsible.

If a person is not guilty by reason of insanity, then they are dealt with under Rule 11 of the Health Rules.

4.3.3 Drunkenness not an excuse for offending

Drunkenness is not a defence to a charge. This means that if a drunk person has committed a crime, they cannot be excused because of drunkenness (Rule 82 of the Crimes Rules).

4.3.4 Children

A child under 10 years is not criminally responsible for any act or omission (Rule 114 of the Crimes Rules). This is because the law treats children under 10 years as being incapable of knowing right from wrong.

A child aged between 10 and 14 years is not criminally responsible for an act or omission unless it is proved that, at the time of the act in question, the child had capacity to know the act was wrong (Rule 114(2) of the Crimes Rules).

4.3.5 Judicial officers

Judicial officers are not criminally responsible for any act or omission done in good faith in the exercise of judicial functions (Rule 84(1) of the Crimes Rules).

4.3.6 Duress

Generally, a person who was forced to do an act by another person is not held criminally responsible for that act because they did not act of their own free will.

Metu steals goods in a shop. She forces Alo, by threat of violence to his children, to hide the goods and remove them from the shop. Alo is not guilty of theft.

4.3.7 Defence of person or property

A person has a right to defend themselves and their property. Therefore, self-defence could be a defence to a charge (Rule 116 of the Crimes Rules).

For instance, if Meto punches Alo, and Alo then punches Meto to defend himself, Alo is not guilty of assault.

4.3.7.1 General principles

- A person may use force that is reasonable in the circumstances if they honestly believe that use of force is necessary as a matter of defence.
- What force is necessary is a matter of fact to be decided on consideration of all the surrounding factors.
- The state of mind of the accused should be taken into account.
- Where an accused has used force to defend property, the harm threatened to the property must be serious in order to excuse the accused from committing an offence.
- Where the accused raises the defence, the accused must provide evidence of the need and circumstances. Then the prosecution must prove that the accused did not act in self-defence or in defence of property.

4.3.8 Provocation

A defence of provocation could reduce a charge of murder to manslaughter. This may apply where the person killed or another person provoked the accused.

Provocation may be relevant to the penalty imposed where something was said or done which was enough in the particular circumstances to cause the person to lose the power of self-control (see Rule 7 of the Crimes Rules).

4.4 Parties

The law recognises that there can be more than one person connected with an offence. This includes:

- those who actually commit the offence (principal offenders);
- those who before the offence contribute in some way to the commission of the offence through encouragement, advice or assistance (accessories);
- those who plan together to commit an offence;
- those who aid an offender after the commission of an offence (accessories after the fact).

4.4.1 Principal offenders

A principal offender is the person whose conduct satisfies the elements of the offence in question.

In order to be a principal offender, it must be proved in respect of the accused that both the mental and physical elements of the offence exist. For example, if Anita punches Feleti, Anita would be considered the principal offender for the offence of assault.

4.4.2 Accessories

Anyone who commits any of the following acts may be guilty of committing the offence (Rule 113 of the Crimes Rules):

- anyone who does any act for the purpose of enabling or assisting another person to commit the offence;
- anyone who encourages another person in committing the offence;
- any person who counsels any other person to commit the offence; or
- arranges for the principal offender to commit an offence.

The physical element of an offence by an accessory involves three factors:

- assisting, encouraging or arranging;
- the offence committed by the principal offender;
- the behaviour of the accessory caused, directly or indirectly, the offence.

The mental element for an accessory is more specific than that required for a principal offender. Recklessness or negligence is not enough. The mental element must be:

- knowledge: the accessory must know the essential matters of the offence; and
- intention: the accessory must have the intention to assist, encourage or arrange.

A person who is an accessory after the fact to an offence, is guilty of the offence (Rule 113 of the Crimes Rules).

The elements for accessories after the offence are:

- the person assisted has committed an offence; and
- the defendant (accessory) knew that person had committed an offence; and
- the defendant (accessory) received, comforted or assisted the offender; and

- the defendant (accessory) interfered with or actively suppressed any evidence relating to the offence in order to enable the principal offender to escape punishment.

4.5 Attempts

A person is criminally responsible for attempting to commit an offence, and is liable for the same penalty as if they had committed that offence (Rule 80 of the Crimes Rules).

An attempt to commit an offence is anything done in order to commit that offence (Rule 80 of the Crimes Rules).

An attempt requires some act or omission that is connected to the commission of the offence, and intention to commit that offence; but failure to complete the offence either voluntarily or otherwise.

For example, Feleti intends to steal a piglet from Puga's pigsty. He is walking along the path near Puga's pig. He is carrying a bag, string and a knife. Unexpectedly, Puga arrives at the pigsty. Feleti quickly goes home. Puga reports the matter to the Police. Feleti has committed the offence of an attempt to steal.

In some cases, it would be impossible for the offender to commit the offence intended. Impossibility alone is not enough to excuse the offender.

For example, if Anita puts her hand into Feleti's pocket intending to steal. Anita is guilty of the offence of an attempt to steal although there is nothing in Feleti's pocket.

4.6 Offences under other laws

This book uses examples from the Crimes, Procedure and Evidence Rules 2003. There are many other laws with offences. They are all within the jurisdiction of the Commissioner. It is, for instance, an offence to disobey a rule made by the village council; it is an offence to do banking or insurance business without the approval of the Council for the Ongoing Government; it is an offence to fail to register a birth or a death.

Evidence

5 Evidence

Evidence means all statements, documents and exhibits which a court permits or requires in relation to matters of fact under inquiry in the case (Rule 163 of the Crimes Rules).

5.1 Any court may receive documentary, real or oral evidence

5.1.1 Documentary evidence

This consists of information in written or visual form. These documents may include:

- Public documents (village or General Fono records, judicial documents, public registers)
- Private documents (business records, agreements)
- Plans and reports
- Certificates
- Statements in documents produced by computers
- Tape recordings and photographs.

If an original document is available, it should be produced. This is known as the best evidence rule.

If the original document cannot be produced in proceedings, a copy may be produced because it is the best evidence that is available.

Some matters need not be proved by evidence. Commissioners shall take judicial notice of all enactments in force in Tokelau, and of the government seal (Rules 169 of the Crimes Rules).

5.1.2 Real evidence

Real evidence usually refers to objects that are produced at trial. For example, the prosecution may produce as evidence the weapon that was allegedly used to injure a complainant.

Often little weight is attached to real evidence unless it is accompanied by other evidence identifying the object and connecting it to the facts in issue.

When documentary evidence is admitted in court, it becomes an exhibit. The court must ensure that proper care is taken to keep the evidence free from damage, and that the evidence is available for inspection by both the prosecution and the defence.

5.1.3 Oral evidence

Oral evidence consists of statements of fact.

5.2 Competence and compellability

Rule 164 of the Crimes Rules.

All persons are competent to testify unless the court considers that the witness is not able to understand the questions or give rational answers to those questions by reason of age, disease or similar cause.

Compellability means a court can require a witness to give evidence. All witnesses are compellable, unless the Rules expressly state that they need not testify.

5.3 Privilege

There are strict rules concerning information that is communicated to people during some relationships that attract legal privilege. Persons generally cannot be compelled if information was communicated to them in privileged circumstances.

A minister of religion must not disclose any confession made to the minister of religion in a professional context unless the person who made the confession has expressly consented to its being divulged (Rule 170(1) of the Crimes Rules).

A doctor must not, without the express consent of the person who made the confession, divulge in proceedings (unless the sanity of the patient is in dispute) any communication made to the doctor that was necessary to prescribe or act for the patient (Rule 170(2) of the Crimes Rules).

A lawyer must not, without the express consent of the client, disclose any communication made to the lawyer in the course and for the purpose of employment as a lawyer (Rule 170(3) of the Crimes Rules).

5.3.1 Oaths

All evidence must be given on oath or affirmation (Rule 167 of the Crimes Rules).

Children under 14, however, do not swear the oath set out in Rule 167. Before giving evidence children must make the following declaration. See Rule 168 of the Crimes Rules:

"I promise to speak the truth, the whole truth and nothing but the truth."

5.4 The accused

Rule 132 of the Crimes Rules.

The accused is a competent and compellable witness.

The Commissioner may, at any stage in proceedings, ask any questions of the accused that the court thinks necessary or proper for arriving at the truth in respect of the case. The answers of the accused shall be evidence in the case (Rule 132(1) of the Crimes Rules).

A confession made in relation to a crime shall not be rejected on the ground that a promise or threat or inducement has been held out to the person confessing, if the judge is satisfied that the means by which the confession was obtained were not likely to cause an untrue admission of guilt to be made (Rule 165 of the Crimes Rules).

The court may expressly summon a compellable witness to appear in court. If a witness fails to attend in answer to the summons or leaves the village without the permission of the court, the court may issue a warrant for the arrest of that person using form 6 of schedule 1 (Rule 102(2) of the Crimes Rules).

All evidence should be taken in the presence of the accused unless the accused has been given notice to appear before the Commissioner and fails to appear (Rule 100 of the Crimes Rules). If the accused has been given notice to appear and fails to do so the court may adjourn the case or may try and sentence the accused in the absence of the accused.

5.5 Use of evidence

The purpose for examining a witness called by a party is to gain evidence from the witness that supports that party's case.

A witness may give evidence as to the visual identification of the accused. Such evidence needs to be treated with caution because honest witnesses may have made mistakes regarding the identity of the accused.

The purpose of examining witnesses is twofold. First, to gain evidence that supports the examining parties' version of the facts in issue. Second, examination may weaken the evidence given by the witness when first questioned.

Only the Commissioner may ask questions of the accused (Rule 132 of the Crimes Rules). If a party wishes to ask questions of the accused, those questions must be put to the Commissioner. It is for the Commissioner to ask those questions of the accused, if doing so is appropriate.

An important part of examining a witness is to establish, or try to diminish, the credibility of the witness. An examining party will seek to attack a witness's credibility by proving that a witness has made other statements inconsistent with their present testimony. If it is established that the accused or other witness has lied, this is relevant to his or her credibility. It does not mean the accused is guilty. People

lie for many reasons. The witness may, however, be found guilty of perjury under Rule 76 of the Crimes Rules.

As a general rule, it is not open to the prosecution to produce evidence of the bad character of the accused. An accused may, however, put their own character in issue by bringing evidence of good character. In such circumstances, the prosecution may examine witnesses (other than the accused) about the accused's character.

Preparing for Court Proceedings

6 Preparing for court proceedings

Before going to court the Commissioner should:

- ensure that the clerk has prepared the case list for the day,
- try to have a police officer present.

6.1 Bail

6.1.1 General

Bail is extremely important as it deals with the right of an individual to liberty. This right is contained in the Universal Declaration of Human Rights, and incorporated into Tokelau law by Rule 16 of the Constitution.

No person shall be arrested without a warrant, except where the Rules expressly permit that to occur. An accused may be granted bail at any stage of the proceedings (Rule 122(1) of the Crimes Rules).

Upon arrest of a person under warrant, the person must be brought before the court. Upon being brought into court, the court must:

- commit the accused to the custody of the apprehending police officer,
- commit to other safe custody as the court thinks fit,
- admit to bail on such conditions as the court orders.

An accused must not be committed to custody for more than seven days unless the circumstances make it necessary or proper that the accused should be held in custody before trial but no order shall be for more. The court may order custody for a longer period but no order shall be for more than 30 days (Rule 121(4) of the Crimes Rules). There is no limit on the number of orders that may be made.

6.1.2 Bail on appeal

Occasionally, an individual convicted of an offence will appeal the conviction and the court will have to deal with bail. The court may:

- order that the accused should be released on bail, with or without sureties till the appeal is heard, or
- deny bail (Rule 121(1) of the Crimes Rules).

6.1.3 Relevant factors for bail

There are a number of factors relevant to whether bail should be granted.

These include:

- the protection of the rights of all persons to their personal liberty contained in the Universal Declaration of Human Rights,
- whether the person will try to leave Tokelau while on bail,
- the nature, circumstances and seriousness of the offence charged,
- the weight of the evidence against the accused, bearing in mind the presumption of innocence,
- the history and circumstances of the accused, including age, physical and mental condition, past conduct, community ties,
- whether at the time of the alleged offence, the accused was subject to a sentence or awaiting trial,
- whether the accused will interfere with witnesses or the police investigation,
- the possibility of further offences,
- the danger posed by the accused to the alleged victim,
- the needs of the accused's family.

6.2 Victims

The victim of a crime is usually the main witness in criminal proceedings relating to the crime. There are no specific rules that deal with victims. Judges are expected to treat them with courtesy and compassion.

6.3 Assistance with the law

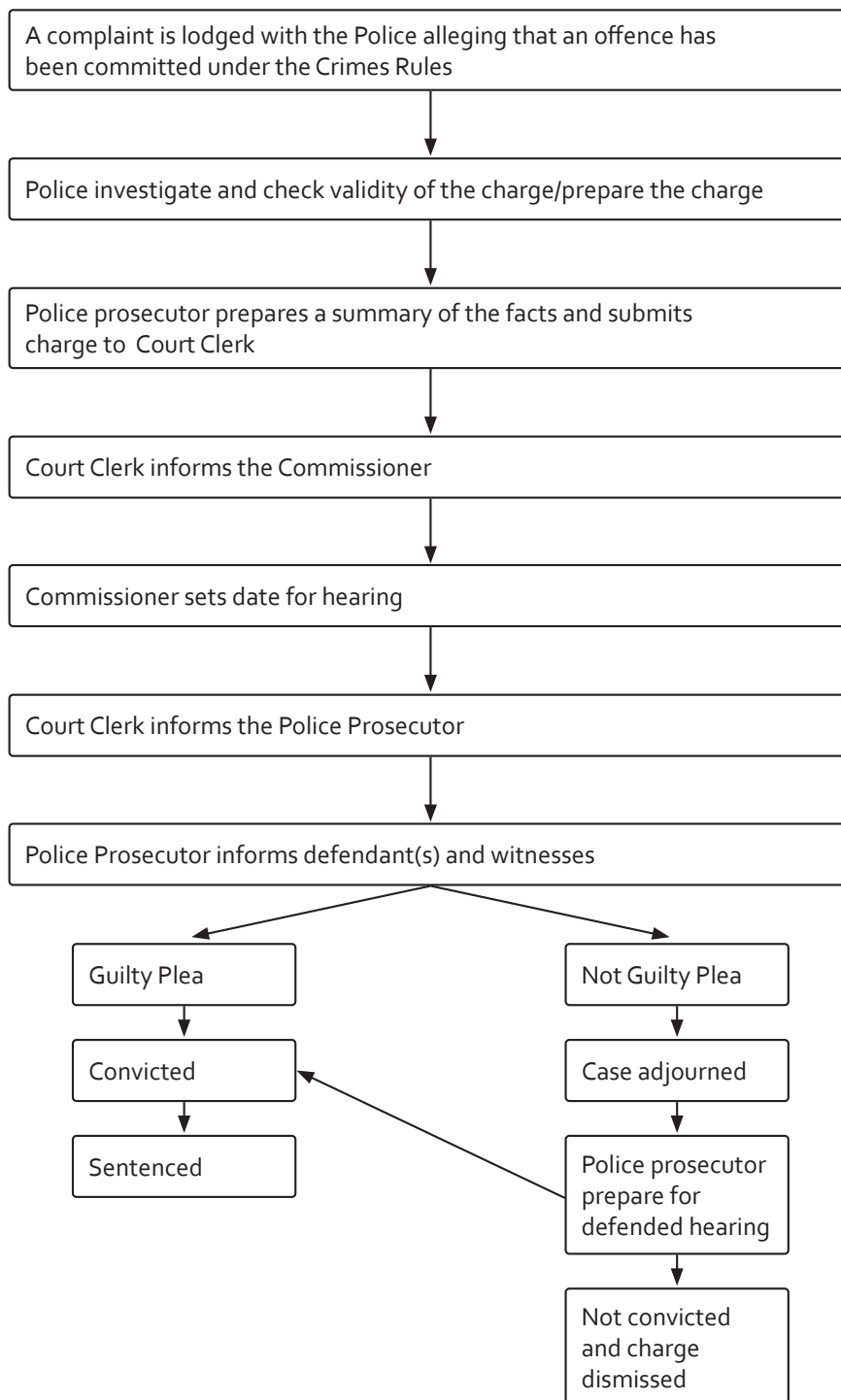
The Judge decides who may speak in court. A person who wants another person to speak for them (for instance, a young offender may wish a parent to speak for them) or who wants assistance with the law, must ask the court. The matter is dealt with in Rule 94 of the Crimes Rules.

Requests for assistance with the law are referred to the Council for the Ongoing Government which will decide in accordance with Rule 94(3) and (4).

If a Commissioner needs special assistance with the law, the Commissioner must make a request to the Council for the Ongoing Government under Rule 96 of the Crimes Rules.

6.4 How a case comes before a Law Commissioner

The following diagram shows how a case comes to the Commissioner:



First Appearance

7 First appearance

7.1 General

At the first hearing, the judge will be concerned with some or all of the following:

- whether the matter is within the court's jurisdiction,
- whether the facts alleged support the validity of the charge made,
- non-appearance, summons and warrants,
- legal representation,
- plea,
- remand in custody,
- bail,
- adjournments.

Once a charge has been laid, the court can ensure the attendance of the accused, and other witnesses through:

- a summons
- a warrant.

A summons is a formal means of ensuring the attendance of people, particularly those who will not appear voluntarily, before the court. If a court is satisfied that a person is able to give or produce evidence relevant to a case, that person may be required to attend.

If a witness does not appear, the court may issue a warrant for his or her arrest (Rule 102(2) of the Crimes Rules).

7.1.1 Points of note

- No person can be convicted of an offence that was committed by that person when he/she was under the age of 10 years old (Rule 114(1) of the Crimes Rules).
- There are special considerations when dealing with children between 10 years and under 14 years of age who are charged with committing an offence/s (refer to Rule 114(2) of the Crimes Rules and section 9 of the Handbook).
- The court must hear cases that come before it as soon as reasonably possible but at the same time allow the accused as much notice of the time of the trial as can be reasonably given. (Rule 128 of the Crimes Rules).

- No one can be prosecuted for an offence (other than murder), later than two years after the date the offence was committed (Rule 104(1) of the Crimes Rules).
- In all cases, the Commissioner presides with members of the Taupulega who are chosen to be present. During the hearing of each case, the Commissioner may discuss the case with the members of the Taupulega before giving judgment (Rule 83 of the Crimes Rules).
- It would be very helpful to the Commissioner throughout the proceedings if before the court starts, he identifies the elements of the offence/s each accused is charged with and has a list of those elements for reference in the file for each accused.

7.2 Hearing on first appearance

- 1 When it is time for the court to start as scheduled, the Commissioner announces that the court is starting its work for the day and formally welcomes everyone present.
- 2 The Commissioner asks the court clerk to call the first case for the day.
- 3 If the accused appears but not the prosecutor, the court may dismiss the charge or adjourn the case to a later date (Rule 133 of the Crimes Rules).
- 4 If the prosecutor appears but not the accused and [there is proof] the accused had been given notice to appear, the court may proceed [to formal proof] in the absence of the accused [and if convicted] sentence the accused for that offence (Rule 134 of the Crimes Rules). Look at the sentencing principles and guidelines in sections 11.1 - 11.4 of the Handbook which includes how to formulate and structure the sentencing decisions.
- 5 Alternatively, the court may adjourn the case to a later date (Rule 134 of the Crimes Rules). If the case is adjourned, a fresh notice of the new hearing date should be served on the accused so that he/she knows.
- 6 If, when the court clerk calls the case, the accused approaches the court, the court clerk then informs the accused where to sit or stand if the accused does not know.
- 7 The Commissioner informs the accused that the prosecutor will be reading out the charge/s against him/her (Rule 131(1) of the Crimes Rules) and to listen very carefully because he/she will be asked at the end if he/she understands the charge.
- 8 The prosecutor reads out each charge, one at a time, if more than one. Each charge should include the alleged offence, the relevant legal provision, and any

relevant circumstances which will fully and fairly inform the accused of the charge.

- 9 The Commissioner asks the accused if he/she understands the charge against him/her. If the accused says he/she does not understand the charge or says 'yes' but seems unsure, the Commissioner should explain the charge to the accused including reference to the elements of the offence the accused is alleged to have committed. The list of elements should already be in the court file as recommended earlier.
- 10 When the accused understands the charge, the Commissioner then asks the accused if he/she accepts the charge or not.
- 11 If the accused accepts the charge, then the Commissioner records the accused's guilty plea and moves on to sentencing unless there is a legitimate reason to adjourn it to a later day. With regards to sentencing, see section 7.2.1 of the Handbook.
- 12 If the accused denies the charge, or refuses to plead, the Commissioner enters a plea of not guilty. Before setting a date for the defended hearing the Commissioner should ask the accused if he/she intends to call witnesses to give evidence and how many (Rule 164 of the Crimes Rules). The Commissioner should also ask the prosecutor how many witnesses he/she intends to call, to know how long the trial may likely to take. The case could then be adjourned to a later date for a defended hearing (Rule 91 of the Crimes Rules) to give the prosecutor and the accused sufficient time to arrange for their witness/ess for the trial and to prepare for the hearing.

7.2.1 Sentencing

- 1 After the accused pleads guilty, and if the offence is one of a private or personal nature, the Commissioner should consider if he should promote an amicable reconciliation and encourage and facilitate settlement relating to the accused's offending by way of payment of compensation or other terms approved by the court. (Rule 130(1) of the Crimes Rules.)
- 2 If settlement is approved by the court, it then makes an order for the proceedings to stop (Rule 130(2) while settlement is being attempted.
- 3 If reconciliation and settlement is not appropriate or is refused by any party to the case, then the Commissioner asks the accused if he/she is ready to be sentenced at that time.
- 4 If the accused says 'yes', then the Commissioner informs the accused to listen carefully as the prosecutor reads out the Police summary of the facts, after which he/she (the accused) will be asked if he/she accepts the facts as stated by the prosecutor.

- 5 Note, a guilty plea is a plea to the elements of the offence and not necessarily an acceptance of the Police summary of the facts. If the accused only disputes facts from the Police summary which are not relevant to the elements of the offence, the Commissioner can proceed with sentencing.
- 6 But, if the facts which the accused disputes relate to the elements of the offence, then the Commissioner asks the prosecutor for his/her response and what he/she wants to do. The prosecutor may decide to amend the summary of facts in a way which resolves the dispute and sentencing can proceed.
- 7 Alternatively, a hearing could be undertaken specifically to determine the disputed facts for sentencing purposes. If the result of the hearing is in favour of the prosecution, then sentencing can proceed.
- 8 But, if the result of the hearing supports the accused's contention/s which may provide a defence for the accused in relation to one or more of the elements of the offence, then the Commissioner must vacate the accused's guilty plea and substitute it with a not guilty plea and set a date for a defended hearing.
- 9 If the accused accepts the facts as stated by the prosecutor, then the Commissioner asks the accused if he/she wishes to say anything in his/her favour to be considered in deciding the most appropriate sentence for the court to impose.
- 10 Alternatively, the Commissioner may ask the accused about any relevant and important personal information which the Commissioner would consider helpful to assist in assessing the most appropriate sentence to impose.
- 11 The Commissioner, if he thinks it necessary, may give the representative/s of the Taupulega an opportunity to comment or give any advice before sentencing.
- 12 The Commissioner then assesses the most appropriate penalty to impose taking into account the principles and guidelines in sections 11.1 - 11.4 of the Handbook including how to formulate and structure sentencing decisions.
- 13 Note, if an accused is discharged without conviction under Rule 139(3) of the Crimes Rules, he/she CANNOT BE CONVICTED AND SENTENCED because a discharge under this rule is deemed to be an acquittal.
- 14 No person under 16 years should be given a prison sentence (Rule 136(3) of the Crimes Rules). Further, a person should never be sentenced without first being convicted.

7.2.2 Not guilty plea – next steps

If the accused pleads not guilty, a hearing must follow. The hearing may be held immediately, or adjourned until a later date (Rule 91 of the Crimes Rules). If the accused is found guilty, conviction and sentencing may follow.

Defended Hearing

8 Defended hearing

8.1 Defended hearing for an adult who pleads not guilty

- 1 Note that defended hearings in the Commissioners' courts in Tokelau follow an inquisitorial and not an adversarial process (Rule 132 of the Crimes Rules).
- 2 If on the day of the defended hearing, the prosecutor appears but not the accused, the court may carry on with the trial of the accused in his/her absence and, if convicted, go on to sentence the accused (Rule 134 of the Crimes Rules).
- 3 Alternatively, the court can adjourn the case to a later date for hearing (Rule 134 of the Crimes Rules). In this situation, a fresh notice of the new hearing date should be served on the accused so that he/she knows.
- 4 If the accused appears but not the prosecutor, the court may dismiss the charge or adjourn the trial to another day (Rule 133 of the Crimes Rules).
- 5 If both the prosecutor and the accused appear, the Commissioner then asks the prosecutor if he/she is ready to proceed. The prosecutor may not want the trial to continue. He/she may want to withdraw the charge (Rule 119 of the Crimes Rules) or asks for an adjournment because a key witness is not available due to being very ill or is away overseas, etc.
- 6 If the prosecutor is ready to proceed, then the Commissioner asks the accused if he/she maintains his /her not guilty plea. If the accused wants to change his/her plea to guilty, it is recommended that the Commissioner asks the prosecutor to read the charge again to the accused and then give the accused the opportunity to plead guilty. The case file should record that 'the accused's not guilty plea is vacated and substituted by a guilty plea.' The court can then move on to sentencing as outlined in section 7.2.1 of the Handbook.
- 7 If the accused says that he/she maintains his/her not guilty plea, then the Commissioner asks the accused if he/she is ready for the trial to continue. The accused may have a legitimate reason why he/she may not be able to continue with the trial and wants an adjournment to a later date. For example, an important witnesses may be ill and not able to attend the hearing, or is away overseas, etc.
- 8 If both the prosecutor and the accused are ready to proceed, the Commissioner then asks the prosecutor first to call his/her witnesses to give evidence.
- 9 After the prosecutor's turn to call evidence, the court then hears evidence from the accused, if he/she wishes to personally give evidence, and/or call any witness on his/her behalf.

- 10 Before any witness gives evidence, the Commissioner must first ask the witness to swear or declare to tell the truth:

The common form of the oath and declaration is, "Do you swear/declare that the evidence you are about to give is the truth?" (Rule 167 of the Crimes Rules).

In the case of a witness who is or appears to be under the age of 14 years the declaration he/she makes is, "I promise to speak the truth, the whole truth and nothing but the truth", or a declaration to the like effect (Rule 168 of the Crimes Rules).

- 11 It can greatly help the Commissioner in knowing the relevant evidence to look for during the trial if he refers to his list of the elements of the offence the accused is charged with because each of those elements must be proven with evidence by the prosecutor beyond a reasonable doubt for the accused to be found guilty. This list can also help the Commissioner with his examination of the accused to arrive at the truth in respect the case he is dealing with.
- 12 Note that no question can be asked of the accused except by the Commissioner alone, and only questions and answers bearing immediately on the case can be allowed (Rule 132 (2),(3) of the Crimes Rules).
- 13 Also, the Commissioner cannot interrogate the accused through cross-examination, but should examine him/her in a way that allows him/her to make truthful statements that he/she wishes the court to believe (Rule 132(4) of the Crimes Rules).
- 14 If the accused refuses to answer a question asked by the court, he/she will not be liable criminally for not answering the question, but the court may draw from the refusal such inference as it thinks just (Rule 132(5) of the Crimes Rules).
- 15 If the Commissioner so wishes, he may discuss any aspect of the trial with members of the Taupulega who are presiding with him before he gives his judgement (Rule 83 of the Crimes Rules).
- 16 With regards to deciding if the accused is guilty or not, see section 10 of the Handbook which also includes a template and example for writing the decision or judgment.
- 17 Only, if the court finds the accused guilty, would the Commissioner consider sentencing. Again, refer to section 11 of the Handbook for sentencing principles, approach, guidelines, format and an example of how to write a sentencing decision.

- 18 Remember that if the accused is discharged without conviction under Rule 139(3) of the Crimes Rules, he/she **CANNOT BE CONVICTED AND SENTENCED** because a discharge under this rule is deemed to be an acquittal.
- 19 Other important matters to know from the Crimes Rules with regards to the hearing of criminal cases by the Commissioners:
- Stopping of the proceedings by the Council of Faipule. (Rule 120).
 - Remanding an accused in custody (Rule 121).
 - Bail (Rule 122).
 - Transferring a convicted person to be imprisoned in New Zealand (Rule 141(4)).
 - Judicial notice (Rule 16g).

Dealing with Young Offenders

9 Dealing with young offenders

9.1 Guidelines

The following guidelines may help the court when it is dealing with young people.

When a person appears before the court, and that person looks as if they may be under 14 years, the court will need to check the age of that young person before it proceeds. The police should know the person's age, as they will have been responsible for the investigation and the decision to charge. If the police do not know the age of accused, then the court should verify the person's age with the parents or by birth records.

9.2 Dealing with a young person privately

If the court can, it should deal with the young person a little more privately.

When a case involving a young person is called, it is best to announce that the public will be excluded from the hearing. However, it should be made clear that anyone connected with the case, family of the young offender, or who is part of the court process, is able to stay.

9.3 Assistance for the young person

Usually, the plea of a young person should be taken when the young person's parent or guardian is present. This is because:

- they can give useful advice to the young person, and
- they usually have valuable information on the young person's position – whether they are attending school, getting into trouble with the Police, and whether they are living at home.

It may be a good idea, when the case has been called, to ask the young person where his or her parents are.

A young person must be able to talk to someone, and have someone to speak on their behalf, if this is what they want. This could be a parent, other relative or a public servant. It is worth finding out if someone like this is available to talk for the young person.

Remember that most criminal charges refer to offences that may be quite hard to understand. Explaining the charge is more important than just reading it out.

Taking a plea is also quite a frightening experience, and technical words are used in recording the plea. However what you need to really know is whether the young person agrees or not with the charge. Is it admitted? If it is, then that is sufficient to record a guilty plea.

Use of simple language is the best practice to help a young person understand what is going on.

9.4 Not guilty plea – defended hearing

If the young person says that he or she is not guilty, then the case will proceed as if he or she were an adult. In other words, a defended hearing will need to occur for you to determine guilt or innocence.

Ask the young person why they believe they are not guilty. Sometimes they do not understand that what they have done amounts to a crime. An example is theft where three young persons decided to steal some food, and one was given the task of being the lookout. Sometimes this person pleads not guilty, thinking that because he or she did not go inside, he or she has not actually committed the offence. But this may be quite wrong as a matter of law.

Be conscious that it may be the first time that the young person has ever been in a court.

The police should present their evidence in the usual fashion. But you may help a young person, in asking questions of the police or witnesses.

When it is time for the defence to give evidence, go out of your way to use simple language, and make sure everyone else in court uses simple language too. You may need to help the young person give their evidence, by asking some questions which gets their story out.

Keep the questions simple and straightforward saying things such as:

- Tell me what happened?
- What happened next?
- Why do you say that?

Police may ask questions, through the Commissioner in accordance with Rule 132, but you must make sure that they are reasonable questions, and that the young person understands. At times you may need to check with the young person to make sure they understand. One way to check if they understand is to ask them to repeat the question in different words.

9.5 Sentencing young offenders

You must have particular regard when sentencing young offenders because the greatest emphasis is put on rehabilitation of the offender rather than on punishment.

Before deciding how to deal with the convicted young offender, you should obtain any information related to his or her:

- general conduct,
- home surroundings,
- school record, and/or
- medical history.

This information will help the court deal with the case in the best interests of the young offender.

9.6 Conviction

A person under the age of 10 years cannot be guilty of an offence: Rule 114(1) of the Crimes Rules.

A person between the ages of 10 and 14 years cannot be guilty unless that person knew that the act or omission was wrong or illegal: Rule 114(2) of the Crimes Rules.

Judgments

10 Judgments

A court makes its judgment by applying the relevant law to the particular facts of the case. Courts should follow a structured approach to decision-making. The decision must be recorded in writing.

In making a judgment, the court must act fairly and impartially. Parties must be given a reasonable opportunity to be heard before a decision is made in the case.

In addition to the formal court record, Commissioners should make their own notes of the arguments and any evidence that is presented, and also their reaction to the arguments and evidence.

10.1 Delivering judgment

The judge must make the decision. Under no circumstances can the decision be delegated to someone else. Even when members of the Taupulega are part of the court, the Commissioner alone must make the decision.

Every court must record its judgment in writing. Each judgment must contain the reasons for the decision and be signed by the Commissioner (Rule 93 of the Crimes Rules).

Judgments of a Village Appeal Committee must be made by consensus and be signed by all the judges.

10.2 Procedure for writing a criminal judgment

10.2.1 Introduction

The first paragraph explains the issue of the case.

10.2.2 Briefly explain the facts of the case

Summarise the facts and explain what actually happened.

Give only the relevant facts of what happened. Only go into the detail where it is necessary to do so.

10.2.3 The law

- State the relevant law
- It is important to ask yourself “Who needs to prove that an offence was committed?”
- The offence needs to be proved beyond reasonable doubt
- All elements of the offence need to be proved

- In a civil case, all elements of the claim must be proven on the balance of probabilities.

10.2.4 Investigation of the facts that must be proved

Facts in dispute must be identified, and reasons given for any decision on conflicts in evidence.

10.2.5 Relevant facts of the case

Apply law to relevant facts.

10.2.6 Conclusion

In a criminal case, the conclusion must state whether the defendant in a criminal case is guilty or not guilty.

In a civil case, the conclusion will state whether the defendant is liable or not liable.

10.2.7 Decision

The order of the court must be clear, and not greater than the maximum penalty or award that can be imposed by that court.

10.2.8 Template for judgment

Introduction

This introduces the case before the court.

Statement of the facts of the case

Explains what happened.

The law

State the relevant rules and who has the duty to prove what facts.

Application of the law to the facts

Reasoning on the disputed matter

Conclusion

Verdict (guilty or not guilty)

Sentence

In the case of sentencing, it is to be dealt with separately after hearing any relevant comments from the parties.

10.2.9 Case scenario

Puga is charged for being drunk in a public place under Rule 52 (drunkenness) of the Crimes Rules.

The Police allege that on the morning of 25 August 2005, Puga and Lata had been drinking beer on the steps behind the store opposite Hieni's house. On or about midday Hieni observed from her house that Puga was drunk and was creating disturbances around the area. Hieni alleged that after consuming an enormous amount of alcohol Puga shouted obscene words at her family. Hieni then called the Police. The Police escorted both men to their houses. Both men were questioned and admitted drinking but argued that they were not drunk.

Procedure for making a judgment

1 Introduction

The first paragraph introduces the case.

This is a case about Puga who is charged with being drunk in a public place and causing a disturbance. The charge is brought under Rule 52(i) of the Crimes Rules.

2 Brief statement of the facts of the case

Explain what actually happened.

On the morning of 25 August 2005 Puga and Lata were drinking beer on the steps behind the store opposite Hieni's house.

On or about midday Hieni observed from her house that Puga, a quiet young man, was drinking beer and creating disturbance in the area.

Hieni alleged that after consuming an enormous amount of alcohol Puga shouted obscene words at her family.

Hieni then called the Police. The Police escorted both men to their houses.

In accordance with the Police Report both men were questioned and admitted drinking and shouting obscenities but argued they were not drunk.

3 The law

Who should prove that the offence was committed?

Under Rule 52, the prosecution must prove beyond reasonable doubt that Puga was drunk, that he was in a public place, and that he caused disturbance.

How will the prosecution prove its case?

The community should provide some information (through police report and witnesses) to prove beyond reasonable doubt that Puga committed the offence.

It is not the responsibility of Puga to prove that he did not commit the offence.

Elements of the offence that must be proved

Elements of the offence under Rule 52(i):

- a person (the accused)
- drunk
- public place
- caused a disturbance.

It must therefore be proved that:

- Puga was drunk
- Puga was drunk in a public place
- Puga caused the disturbance.

It is important that all elements of the offence are proved.

Under the law, if one of the elements of the offence is not proved, then Puga did not commit the offence charged.

4 Investigation of statements that must be proved

Facts that are not in dispute

The information before the court shows that the following facts are not in dispute:

- 1 Puga is a quiet person.
- 2 On August 2005 Puga was drinking on the steps behind the store and opposite Hieni's house.
- 3 Puga caused a disturbance and Puga called out obscene words to Hieni's family.
- 4 The area where Puga was drinking is a public place.

Facts that are in dispute.

- 1 Was Puga drunk?

5 Reasoning

A person is drunk when they have consumed alcohol and as a result have lost normal control of their behaviour. It is admitted that Puga had consumed alcohol, and that his behaviour was uncharacteristic. Given that Puga is normally a quiet young man, it must have been the alcohol that led him to cause the disturbance and shout the obscene words. Puga was therefore drunk.

6 Conclusion

What is your conclusion on the case?

Puga was drunk in a public place and caused a disturbance.

7 Verdict

Puga is guilty of an offence under Rule 52(i) of the Crimes Rules.

Puga is convicted.

Sentencing

11 Sentencing

After the court has heard and considered all relevant evidence and has convicted the defendant, the court must impose an appropriate penalty. The maximum penalties available to a court are set out in the Crimes Rules.

If a person has already been acquitted or convicted of an offence, that person must not be tried or punished again for that offence on the same facts (Rule 111 of the Crimes Rules).

11.1 Sentencing principles

There are four main purposes for imposing a penalty:

Deterrence: The penalty is designed to deter the offender from breaking the law again and to warn others not to do the same.

Prevention: The penalty is to prevent the offender from doing the same thing again.

Rehabilitation: The penalty is to help the offender to reform and not offend again.

Punishment: The penalty is to punish the offender for his or her criminal behaviour.

11.2 Sentencing discretion

The level of penalty to be imposed in each case is a matter for the court to decide. The jurisdiction of the court sets the maximum penalty that can be imposed. The penalty in a particular case must be just and appropriate.

Sentencing requires the court to balance:

- The gravity of the offence
- The needs of society
- The timely and just disposal of the case.

Before deciding on the penalty, the court must give the offender an opportunity to comment on penalty. The offender may inform the court of any mitigating factors; these favour a lower sentence. The Police may also inform the court of any relevant factors; these may be aggravating factors which support imposing a harsher sentence.

Mitigating factors include:

- Guilty plea
- Remorse
- Reparation
- Reconciliation
- Young age of the offender
- First offence.

Aggravating factors include:

- The use of violence
- Persistent offending
- Damage to property
- Age and vulnerability of the victim
- Value of stolen property
- Premeditated action
- Danger to the public.

11.3 A structured approach to sentencing

The Commissioner has the power to:

- Dismiss the charge despite evidence to convict.
- Discharge the accused without sentence (Rule 139 of the Crimes Rules).
- Order the offender to do community service.
- Impose a fine.
- Order the offender to repay stolen money or return property.
- Order the offender to pay compensation.
- Order the restitution of property.
- Put the offender under police supervision (Rule 138 of the Crimes Rules).
- Reprimand the offender.

11.4 Sentencing format

The court must balance all the factors. The court should do so openly and in the following form:

- 1 Introduction
- 2 Brief summary of the facts
- 3 Fix the appropriate sentence
- 4 Conclusion and order.

11.4.1 Format for a sentencing decision

11.4.1.1 Introduction

- The first paragraph says what the sentencing is for.
- Who are you addressing in the sentencing decision.

This sentencing is for Puga who committed an offence under Rule 52(i) of the Crimes Rules.

11.4.1.2 Brief of the facts

On 25 August Puga was drinking beer with Lata in a public place near Hieni's house. Puga shouted obscene words to Hieni's family and caused a disturbance. Puga was drunk.

At the end of the hearing Puga was found guilty of an offence under Rule 52(i) of the Crimes Rules.

11.4.1.3 Fixing the proper sentence

- State the penalty imposed by applicable law.

Under the Crimes Rules, the maximum penalty that may be imposed on a person convicted of an offence under Rule 52 is a fine of 3 penalty units (\$150) or 3 months imprisonment. There is no prison in Tokelau, the fine is therefore more relevant in your case.

I also have the power under Rule 136 of the Crimes Rules:

- to reprimand;
- to order community service for a term not exceeding 3 months.

Rules 138 and 139 give me the power also:

- to order work under the supervision of the police. (Rule 138(1)); or
- to convict and discharge with or without special conditions. (Rule 139(1) of the Crimes Rules).

Principles of sentencing to be emphasised in the present case:

I noted that the offender has appeared before me for the very first time. The Police have confirmed that you are a first-time offender. As a young offender who is also a student at USP, you have a promising future. In this regard, I do not want to see you in my court again. Following this sentencing I would like you to stop drinking. You have your future in front of you.

- Consider the views of the victim and the public.

I will take into account Hieni's statement that you have apologised to her family and you were sorry for what you had done. Hieni also confirmed that her family has accepted your apology.

- Identify and state aggravating factors, if any.
- Identify and state mitigating factors, if any. State what discount, if any, you have made but give clear warning of future offending without making categorical and specific threats or promises such as "I promise you will certainly go to prison".

Having considered Hieni's statement that you had apologised to her and her family, and your apology to the court, I am satisfied that you are sorry for the offence you have committed. In your apology to the court you said that you will not reoffend.

- What is the most appropriate sentence, if any, taking into account all the circumstances?

Having considered the case, and that you have apologised for the offence committed, and noting that you are a student at USP, I believe the appropriate penalty in your case is to discharge you without conviction on special conditions. These specific conditions must be followed by you for the next 12 months.

11.4.1.4 Conclusion and orders

- State the conclusion and orders clearly.
- If there is to be a sentence imposed, then it must be announced that the defendant "Is CONVICTED and SENTENCED to ...".
- State the sentence or penalty imposed, any conditions ordered and any other orders made CLEARLY.

In conclusion I therefore order that you, Puga, are discharged without conviction, under Rule 139(3)(i). However, there are special conditions given to Puga which must be followed.

The special conditions are:

- no more drinking of alcohol within the next 12 months
- no further offending in the next 6 months.

If you intentionally refuse or neglect to obey those conditions you will commit the offence of contempt under Rule 74 of the Crimes Rules. In breaching those conditions, you may also commit the offence of drunkenness under Rule 52 of the Crimes Rules.

Other Proceedings

12 Other proceedings

12.1 Alternative Dispute Resolution

The Crimes Rules recognise that it may be preferable to resolve disputes outside of court.

In criminal cases, the court may promote reconciliation and encourage and facilitate the settlement of some proceedings before or during trial.

The court may facilitate reconciliation only in relation to offences of a personal or private nature, such as assault (Rule 130(1) of the Crimes Rules). In such cases, the accused may agree to pay compensation or make amends in some other way. The court must approve the terms of the agreement (Rule 130(1) of the Crimes Rules).

Where a settlement of a criminal matter is approved by the court, the court must order that the proceedings be stayed. The accused is not discharged nor convicted. If the accused breaches the agreement he or she may be in contempt of court, and the criminal proceedings may resume.

In civil cases, the court must, so far as it is possible, promote reconciliation among the parties and encourage them to settle their dispute amicably (Rule 146 of the Crimes Rules).

12.2 Preliminary enquiries

12.2.1 General

A preliminary enquiry will be held if:

- before the commencement of a trial, the prosecution has made an application for the case to be tried in the High Court.
- before, or during the course of a trial, it appears to the Commissioner that the case should be tried before the High Court (Rule 129 of the Crimes Rules).

In a criminal case, the purpose of a preliminary enquiry is for the Commissioner to determine whether there is sufficient evidence, and legal grounds, to put the accused on trial before the High Court.

In a preliminary hearing, the Commissioner should avoid:

- determining, or commenting on, the guilt or innocence of the accused in a criminal matter,
- believing or disbelieving a witness,
- excluding evidence.

The only question for the Commissioner is whether at trial a judge could convict the accused if the evidence of the prosecution was uncontradicted. If a judge could convict the accused, the case should proceed to the High Court. If a judge could not convict the accused, the Commissioner must discharge the accused.

12.2.2 Conduct of the enquiry

The court clerk should explain the charge to the accused, and the purpose of the preliminary proceedings.

The accused must enter a plea.

Regardless of whether the accused pleads guilty, not guilty, or abstains from giving a plea, the Commissioner must:

- record, in writing and on oath, the statements of all witnesses. The accused may put questions to the prosecution witnesses through the Commissioner following the procedure set out in Rule 132. The answers to those questions become part of the evidence of the witness.
- receive all exhibits that the prosecution intends to show at trial.

If the Commissioner has considered the evidence and it discloses sufficient grounds for committing the accused to trial, the Commissioner must:

- ensure the accused understands the charge;
- ask the accused if he or she wishes to make a statement in his or her defence;
- explain to the accused that he or she is not bound to make a statement but if he or she chooses to do so, the statement will become part of evidence at trial;
- ask the accused if he or she wishes to make the statement of oath once they have chosen to make a statement.

The accused may call witnesses in his or her defence. The prosecution may put questions to those witnesses and any answers will be evidence.

The Commissioner must consider all the evidence and decide whether the case should be dismissed because there is no case to answer or whether the accused should be committed for trial.

There is no case to answer when:

- no evidence has been presented to support an essential element of the offence; or
- the evidence presented is insufficient for a judge to find the accused guilty of the offence beyond reasonable doubt.

If the accused is committed for trial, the accused will be given a copy of the testimony of the witnesses and of the record of the enquiry.

The procedure that follows committal for trial is set out in Rule 129 of the Crimes Rules.

Common Offences

13 Common offences

The purpose of this chapter is to assist in dealing with common offences.

For each offence listed in the chapter there is:

- a description of the offence by reference to the relevant rule of law,
- the elements of the offence which the prosecution is required to prove,
- a commentary, which provides information to be considered, and
- the maximum penalty that can be imposed if the defendant is found guilty.

13.1 General requirements

1. The person named in the charge must be the same person as the defendant in the court.
2. The date and period of time when the offence charged is alleged to have taken place must be stated.
3. The place where the offence is alleged to have been committed must be stated.

13.2 Elements

The elements section lists all the elements that must be proved for the offence.

The elements section is very helpful as it provides a guide for checking that the prosecution has proved all that is required before the defendant can be proved guilty.

13.3 Commentary

The commentary contains information about the identification of the accused, what the prosecution and the defence need to prove and to what standard. Generally, the defendant does not need to prove anything.

13.4 Sentencing

The sentencing section describes the maximum penalty for each offence.

Rule 8 of the Crimes Rules – Concealment of birth

Description

Any person who disposes of the dead body of a child with intent to conceal the fact of its birth, whether the child died before, during, or after birth, commits an offence.

Elements of offence

- (i) any person (accused)
- (ii) disposed of
- (iii) dead body of a child
- (iv) with intent to conceal the fact of its birth.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who disposed of the dead body of a child with the intention of concealing its birth.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish a defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 9 of the Crimes Rules – Counselling suicide

Description

Any person who counsels or procures a person to commit suicide, or aids or abets a person in the commission of suicide commits an offence.

Elements of offence

- 1 (i) any person (accused)
(ii) counselled (advised) or procured (persuaded)
(iii) a person to commit suicide
- 2 (i) a person (the accused)
(ii) aided (assist) or abetted (encouraged)
(iii) a person in the commission of suicide.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who counselled to commit suicide. The offence is the giving of the advice. It is not necessary for there to be a death.

Or

The accused procured the person to commit suicide. The offence is the persuading of suicide. It is not necessary for there to be a death.

Or

The accused must have done something to assist or encourage the person who was committing suicide. Suicide must have been attempted but it is not necessary for death to follow.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 12 of the Crimes Rules – Cruelty to a child

Description

A person who has the care or control of a child under the age of 16 years, and who intentionally ill-treats or intentionally neglects the child, or intentionally permits the child to be ill-treated or neglected, in a manner likely to cause the child unnecessary suffering, actual bodily harm, injury to health, or mental disorder, or to result in any other unnecessary physical or mental disability to the child, commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) had the care or control
- (iii) of a child under the age of 16
- (iv) intentionally ill-treated or neglected the child
- (v) in a way that is likely to cause the child
- (vi) unnecessary suffering or bodily harm or injury to health or mental disability.

This offence is also committed by a person who allows the ill-treating or any physical or mental disability of the child.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

The accused is not guilty unless they intentionally mistreated or neglected or intentionally allowed the child to be mistreated or neglected. Carelessness is not enough.

(3) Defences

The accused must prove any defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 14 of the Crimes Rules – Bodily harm

Description

- (1) A person who intentionally and without lawful excuse causes bodily harm to another, commits an offence.
- (2) A person who causes bodily harm to another under such circumstances that, if death had been caused, the offence of manslaughter would have been committed, commits an offence.

Elements of offence

Rule 14(1)

- (i) a person (accused)
- (ii) intentionally
- (iii) without lawful excuse
- (iv) caused bodily harm
- (v) to another.

Rule 14(2)

- (i) a person (accused)
- (ii) caused bodily harm to another
- (iii) where, if death had resulted, the elements of the offence to manslaughter would be satisfied.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who caused bodily harm to the other, either intentionally and without lawful excuse, or in the circumstances specified in paragraph (2).

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

(4) Lawful excuse

The prosecution must prove that there was no lawful excuse for the bodily harm.

Examples of lawful excuse may be as follows. The key is whether the force causing the bodily harm was "reasonable":

- Reasonable force for the discipline of a child or person voluntarily under the care of the accused is permitted (Rule 15(3) of the Crimes Rules).
- Reasonable force to prevent suicide, to prevent the commission of an offence likely to cause immediate and serious injury to person or property, or to prevent an act which would be likely to cause immediate and serious injury to person or property (Rule 15(4) of the Crimes Rules).
- Reasonable force to prevent the continuance or renewal of a breach of the peace where the force is reasonable proportionate to the danger apprehended from the breach of the peace (Rule 16 of the Crimes Rules).

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units (\$1,000) or 1 year imprisonment (High Court).

Rule 15 of the Crimes Rules – Assault

Description

A person who without lawful excuse assaults another commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) assaulted another
- (iii) without lawful excuse.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who committed the assault.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Definition of assault

The Rules define “assault” as follows:

- (i) the act of intentionally applying force to the person of another directly or indirectly; or
- (ii) threatening, by anything said or done, to apply force to the person of another if the person making the threat has or causes the other to believe on reasonable grounds that he or she has present ability to carry out the threat.

The context in which the alleged assault occurred is very important.

Give careful consideration to:

- what the situation was; and
- where the alleged assault occurred.

(4) Lawful excuse

The prosecution must prove that there was no lawful reason for the assault.

Examples of lawful reasons are:

- Reasonable force for the discipline of a child or person voluntarily under the care of the accused is permitted (Rule 15(3) of the Crimes Rules).
- Reasonable force to prevent suicide, to prevent the commission of an offence likely to cause immediate and serious injury to person or property, or to prevent an act which would be likely to cause immediate and serious injury to person or property (Rule 15(4) of the Crimes Rules).
- Reasonable force to prevent the continuance or renewal of a breach of the peace where the force is reasonable proportionate to the danger apprehended from the breach of the peace (Rule 16 of the Crimes Rules).
- The use of force in sport played in accordance with the rules of that sport.

(5) Defences

If the prosecution has proved the elements of the offence, beyond reasonable doubt, the accused may still have a defence.

If the defence provides a reason for the assault (eg: self defence), the court must consider if it has any merit.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 18 of the Crimes Rules – Incest

Description

- (1) Incest means sexual intercourse between:
- (i) parent and child,
 - (ii) grandparent and grandchild,
 - (iii) brother and sister,
 - (iv) uncle and niece,
 - (v) aunt and nephew,
 - (vi) persons within the prohibited degrees of consanguinity as prescribed in the Marriage Rules 1986,
- where the person charged knows of the relationship between the parties.
- (2) A person who commits incest commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) had sexual intercourse
- (iii) with a person listed in paragraph (1)
- (iv) knew of the relationship between the parties.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had sexual intercourse with the designated relative and knew of their relationship.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

The accused must know of the relationship.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units (\$1,000) or 1 year imprisonment (High Court).

Rule 19 of the Crimes Rules – Unlawful carnal knowledge

Description

- (1) A person who has carnal knowledge of another:
 - (i) (I) if the victim is at least 16 years of age, without the consent of the victim;
 - (ii) if the victim is under the age of 16 years, whether the victim consented or not;
 - (ii) with consent extorted by threats or of bodily harm;
 - (iii) with consent obtained by personating the spouse of that other;
 - (iv) with consent obtained by false representations as to the nature of the act, commits an offence.
- (2) The belief of the offender as to the age of victim is irrelevant to a conviction for unlawful carnal knowledge.

Elements of offence

Rule 19(1)(i)

- 1 (i) a person (accused)
 - (ii) had sexual intercourse
 - (iii) with a person of at least 16 years of age without the consent of the victim
OR with a person under 16 years of age regardless of consent.

Rule 19(1)(ii)(iii)(iv)

- 2 (i) a person (accused)
 - (ii) had sexual intercourse with another
 - (iii) with consent obtained by threats or fear of bodily harm or obtained or personating the spouse OR by false representation of the nature of the act.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had sexual intercourse with the victim in the listed circumstances. This offence includes rape and non-consensual intercourse during marriage.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

“Without consent” includes consent due to threats of bodily harm, pretending to be the victim’s spouse, and lying to the victim about the nature of the act.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units (\$1,000) or 1 year imprisonment (High Court).

Rule 20 of the Crimes Rules – Sexual intercourse with mental defective

Description

A person who has sexual intercourse with a person of unsound mind knowing or having good reason for knowing that person is of unsound mind, commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) had sexual intercourse
- (iii) with a person of unsound mind
- (iv) knowing or having good reason to know that the other person was of unsound mind.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had sexual intercourse with the person of unsound mind.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 21 of the Crimes Rules – Indecent assault

Description

- (1) A person who indecently assaults another commits an offence.
- (2) Where the victim is a mental defective or under the age of 16 years it is no defence to a charge under this rule that the person consented to the offence, or that the person charged believed that the person assaulted was sane or not under the age of 16 years as the case may be.

Elements of offence

- (i) a person (accused)
- (ii) assaulted a person
- (iii) indecently.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had assaulted another indecently.

“Indecent” means the assault or the circumstances accompanying had a sexual overtone. The incident is one which would be considered sexually inappropriate by a right-thinking member of a community.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

In a case involving a mental defective or a person under the age of 16 years of age, belief as to the victim’s age or consent is not a defence.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 22 of the Crimes Rules – Adultery and fornication

Description

Any one who has sexual intercourse with another to whom he or she is not married commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) had sexual intercourse
- (iii) with a person not their spouse.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had sexual intercourse with a person not his or her spouse.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 23 of the Crimes Rules – Unmarried persons

Description

Where a man and a woman live together as man and wife but are not married to each other they each commit an offence.

Elements of offence

- (i) a man or woman (the accused)
- (ii) live together as a husband and wife
- (iii) not married to each other.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who lived with a person of the opposite sex as if married but without being married to each other.

It is necessary to establish that the accused persons were living together as if married.

It is necessary to prove that the accused persons had not gone through a valid form of marriage.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence, beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not). An important defence would be to prove that the two persons are married by production of a certificate of their marriage.

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 24 of the Crimes Rules – Miscarriage

Description

- (1) A person who without lawful excuse does anything with intent to procure the miscarriage of a woman or girl, whether pregnant or not, commits an offence.
- (2) A woman who, whether pregnant or not, unlawfully administers to herself or permits to be administered to her a poison or a drug or other noxious thing, or unlawfully uses on herself or permits to be used on her any instrument or other means, with intent to procure miscarriage commits an offence.
- (3) A person who supplies or procures anything, knowing that it is intended to be unlawfully used with intent to procure the miscarriage of a woman or girl commits an offence.

Elements of offence

Rule 24(1)

- (i) person (accused)
- (ii) intended to procure the miscarriage
- (iii) of a woman or girl
- (iv) no lawful excuse.

Rule 24(2)

- 1 (i) a woman (accused)
- (ii) administered to herself or permitted someone to administer to her
- (iii) a poison or drug or other noxious thing to cause her miscarriage
- (iv) no lawful excuse.

Rule 24(2)

- 2 (i) a woman (the accused)
- (ii) used instruments or other means or permitted another to use an instrument or other means on her
- (iii) unlawfully
- (iv) intending to cause miscarriage
- (v) no lawful excuse.

Rule 24(3)

- (i) person (accused)
- (ii) supplied or obtained something
- (iii) knowing
- (iv) that it is intended to be used to procure a miscarriage
- (v) no lawful excuse.

Commentary**(1) Identification**

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who without lawful excuse procured the miscarriage, or administered the poison or other thing with intent to cause her miscarriage.

“Without lawful excuse” or “unlawfully” in this rule usually means without medical reason. The woman concerned does not have to be pregnant. The important element is the intention to cause a miscarriage.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 26 of the Crimes Rules – Bigamy

Description

- (1) A person who commits bigamy commits an offence.
- (2) Bigamy is —
 - (i) the act of a person who, knowing he or she is married goes, through a valid form of marriage with another person; or
 - (ii) the act of a person who goes through a valid form of marriage with a person whom he or she knows to be married,
if the parties go through the form of marriage, or if the person charged is habitually resident, in Tokelau.
- (3) The fact that the parties would, if unmarried, have been incompetent to contract marriage is not a defence to a prosecution for bigamy.
- (4) Every form of marriage shall for the purposes of this rule be deemed valid, notwithstanding any act or default of the person charged with bigamy, if it is otherwise a valid form.

Elements of offence

Rule 26(2)(i)

- (i) a person (accused)
- (ii) knowing he or she is married
- (iii) went through a form of marriage
- (iv) with another person
- (v) the home of the accused is Tokelau or the marriage was registered in Tokelau.

Rule 26(2)(ii)

- (i) a person (accused)
- (ii) went through a valid form of marriage
- (iii) with a person
- (iv) whom he or she knows to be married
- (v) the home of the accused is Tokelau or the marriage was registered in Tokelau.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had committed bigamy knowing that he or she was already married or that the other person was already married.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence proves that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence, beyond reasonable doubt, the accused may still have a defence.

The accused must prove the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 27(1) of the Crimes Rules – Theft

Description

Rules 27(1) Theft is the act of dishonestly taking, or converting to the use of any person, or misappropriating or disposing of, or dealing in any other manner, with anything capable of being stolen, with intent:

- (i) to deprive the owner, or a person having a special property or interest in it, permanently of the thing; or
- (ii) to part with it under a condition as to its return which the person parting with it may be unable to perform; or
- (iii) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time of the taking or conversion.

Elements of offence

- 1 (i) a person (accused)
 - (ii) dishonestly takes or
 - (iii) converts to the use of any person or disposes of or deals with
 - (iv) anything capable of being stolen
 - (v) with intent
 - (vi) to deprive the owner, or other person with an interest in the thing
 - (vii) permanently of the thing
- 2 (i) a person (accused)
 - (ii) dishonestly takes, or
 - (iii) converts the use of any person or disposes of or deals with
 - (iv) anything capable of being stolen
 - (v) with intent
 - (vi) to pass the thing to someone on condition as to return
 - (vii) that the accused may be unable to perform
- 3 (i) a person (accused)
 - (ii) dishonestly takes, or
 - (iii) converts to the use of any person or disposes of or deals with
 - (iv) anything capable of being stolen
 - (v) with intent

- (vi) to use the thing in a way that it cannot be restored to the condition it was in at the time of the taking.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who dishonestly took or disposed of the property with intent to permanently deprive the owner or other person of the thing.

“Takes” includes obtaining possession:

- by any tricks,
- by intimidation,
- under a mistake on the part of the owner with knowledge on the part of the taker that possession has been so obtained, or
- by finding, where at the time of the finding the finder believes that the owner can be discovered.

“Owner” includes any part owner, or a person who has possession or control of, or a special interest in the thing capable of being stolen.

Whether the owner is named or not, ownership must be proved by the prosecution as an essential element of the offence. The prosecution must also prove that all the owners did not consent to the thing being taken.

Consider why the accused took it and whether there was an honest intention. An accused may have a valid defence where he or she has an honest belief that he or she has a legal right to take the goods in question (ie: that the accused honestly believed that the goods belonged to him or her).

(2) Intention to permanently deprive the owner

The prosecution must prove that the accused had the intention of keeping the thing and using it as his or her own. This includes the situation where the accused has sold the thing or given it away.

(3) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(4) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- Where the value of property does not exceed \$1000, the maximum penalty is 3 penalty units or 3 months imprisonment.
- Where the value of property exceeds \$1000, the maximum penalty (by a Commissioner) is 3 penalty units or 3 months imprisonment, or (by the High Court) is 12 penalty units or 1 year imprisonment.

Rule 27(4) of the Crimes Rules – Theft of electricity

Description

Any person who fraudulently abstracts or uses electricity commits theft.

Elements of offence

- (i) a person (accused)
- (ii) took or used
- (iii) electricity
- (iv) with intention not to pay.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who used the electricity fraudulently.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- Where the value of property does not exceed \$1000, the maximum penalty is 3 penalty units or 3 months imprisonment.
- Where the value of property exceeds \$1000 the maximum penalty (by a Commissioner) is 3 penalty units or 3 months imprisonment, or (by the High Court) is 12 penalty units or 1 year imprisonment.

Rule 27(6) of the Crimes Rules – Theft through fraud or dishonestly dealings

Description

Rule 27(6): A person commits theft who holds, receives, or obtains anything capable of being stolen subject to an obligation to deal with it in a certain manner, and who fraudulently or dishonestly deals with it in any other manner or fails to deal with it in accordance with that obligation.

Elements of offence

- (i) a person (accused)
- (ii) held or received or obtained
- (iii) anything capable of being stolen
- (iv) subject to conditions
- (v) fraudulently or dishonestly with the condition did not deal with the thing in accordance.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had held the property and broke the conditions.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt. The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- Where the value of property does not exceed \$1000, the maximum penalty is 3 penalty units or 3 months imprisonment.

- Where the value of property exceeds \$1000 the maximum penalty (by a Commissioner) is 3 penalty units or 3 months imprisonment, or (by the High Court) is 12 penalty units or 1 year imprisonment.

Rule 27(7) and (8) of the Crimes Rules – Theft through fraud or false pretence

Description

Rule 27(7): A person who by means of fraud or false pretence dishonestly obtains for himself or herself or for any other person, whether directly or through the medium of any contract procured by the fraud or false pretence, anything capable of being stolen commits theft of that thing.

Rule 27(8): A person who destroys, cancels, conceals, or obliterates in whole or in part a document for any fraudulent or dishonest purpose commits theft of the document.

Elements of offence

Rule 27(7)

- (i) a person (accused)
- (ii) obtained
- (iii) anything capable of being stolen
- (iv) fraudulently or by false pretence.

Rule 27(8)

- (i) a person (accused)
- (ii) destroyed, cancelled, made unreadable
- (iii) whole or part of a document
- (iv) with fraudulent or dishonest purpose.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who dishonestly obtained or destroyed the document.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- Where the value of property does not exceed \$1000, the maximum penalty is 3 penalty units or 3 months imprisonment.
- Where the value of property exceeds \$1000 the maximum penalty (by a Commissioner) is 3 penalty units or 3 months imprisonment, or (by the High Court) is 12 penalty units or 1 year imprisonment.

Rule 28 of the Crimes Rules – Receiving

Description

A person who receives stolen property knowing it to have been stolen or dishonestly obtained commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) received stolen property
- (iii) knowing the property to be stolen or dishonestly obtained.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who received stolen goods knowing that the goods were stolen or were dishonestly obtained.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 29 of the Crimes Rules – Conversion

Description

A person who, without lawful excuse but not so as to be guilty of theft, takes or converts to his or her use or to the use of any other person any movable property, commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) took or converted
- (iii) movable property
- (iv) without lawful excuse
- (v) for use.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who unlawfully converted another person's property.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 30 of the Crimes Rules – Breach of trust

Description

- (1) A trustee who with intent to defraud, and in violation of the trust, converts anything of the trust to a use not authorised by the trust, commits an offence.
- (2) For the purposes of this rule an executor or administrator shall be deemed to be a trustee of the property subject to the administration.

Elements of offence

- (i) a person (accused)
- (ii) a trustee
- (iii) intent to defraud the trust
- (iv) took or used the property of the trust
- (v) in a way not permitted by the trust.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove the accused was the trustee who took or used the property of the trust without permission and had intention to defraud the trust.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units or 1 year imprisonment (High Court).

Rule 31 of the Crimes Rules – Fraud

Description

- (1) A person who by deceit or falsehood or other fraudulent means –
 - (i) defrauds the public or any person ascertained or unascertained;
 - (ii) causes or induces a person to execute, make, accept, endorse, or destroy the whole or any part of a valuable security,commits an offence.
- (2) A person who in incurring a debt or liability obtains credit by fraud, commits an offence.

Elements of offence

- 1 Rule 31(i)
 - (i) a person (accused)
 - (ii) deceived OR lied to another person
 - (iii) that deception or lie caused the accused or another to receive a benefit.
- 2 Rule 31(ii)
 - (i) a person (accused)
 - (ii) deceived OR lied
 - (iii) that deception or lie persuaded OR caused another person to make OR accept OR cancel a bank deposit or loan.
- 3 Rule 31(2)
 - (i) a person (accused)
 - (ii) obtains a loan or obtains property on credit
 - (iii) by fraud.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who lied to another person and caused that person to confer a benefit on the accused.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units or 1 year imprisonment (High Court).

Rule 32 of the Crimes Rules – Forgery

Description

- (1) A person who makes a false document with intent to defraud or deceive any person, whether ascertained or unascertained, commits an offence.
- (2) In this rule, “false document” means a document:
 - (i) of which the whole or any material part purports to be made by a person who did not make it or authorise its making; or
 - (ii) of which the whole or any material part purports to be made on behalf of a person who did not authorise its making; or
 - (iii) in which, though it purports to be made by the person who did in fact make it or authorise its making, or purports to be made on behalf of the person who did in fact authorise its making, the time, date or place of its making, where material, or any number or distinguishing mark identifying the document, where either is material, is falsely stated; or
 - (iv) of which the whole or some material part purports to be made by a fictitious or deceased person, or purports to be made on behalf of any such person; or
 - (v) which is made in the name of an existing person either personally or by the authority of that person, with the intention that it should pass as being made by some person, real or fictitious, other than the person who makes or authorises it.
- (3) In this rule, “make a false document” includes making a material alteration in a genuine document, whether by addition, insertion, obliteration, erasure, removal, or otherwise.
- (4) The offence under this rule is complete:
 - (i) as soon as the document is made with the requisite intent, although the offender may not have intended that any particular person should use or act on it as genuine, or should be induced by the belief that it is genuine to do or refrain from doing anything;
 - (ii) although the false document may be incomplete, or may not purport to be such a document as would be valid in law, if it is so made and is such as to indicate that it was intended to be acted on as genuine.
- (5) A person who procures the execution of a document by falsely pretending that its contents are different from what they really are commits an offence.

Elements of offence

Rule 32(1)

- (i) a person (accused)
- (ii) made a false document
- (iii) with intent to defraud OR deceive any person.

Rule 32(5)

- (i) a person (accused)
- (ii) inaccurately described the contents of a document to another person
- (iii) that description persuaded another person to create and implement a document.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who intentionally made a false document OR inaccurately told another person about the content of a document and persuaded that other person to agree to that document.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

“False document” refers to a document made for a purpose that is set out in subparagraph (2) of Rule 32 of the Crimes Rules.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units or 1 year imprisonment (High Court).

Rule 34 of the Crimes Rules – Intentional fire

Description

A person who intentionally and without lawful excuse –

- (i) sets fire to any property; or
- (ii) damages or destroys property by means of explosive; or
- (iii) endangers human life by fire and by means of explosive.

This covers three distinct offences.

Elements of offences

Rule 34(1)(i)

- (i) a person (accused)
- (ii) set fire to any property
- (iii) intentionally and
- (iv) without lawful excuse.

Rule 34(1)(ii)

- (i) a person (accused)
- (ii) damaged or destroyed property
- (iii) by means of explosive
- (iv) intentionally and
- (v) without lawful excuse.

Rule 34(1)(iii)

- (i) a person (accused)
- (ii) endangered human life by fire or by means of explosive
- (iii) intentionally and
- (iv) without lawful excuse.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who committed the offence, for example it was the accused who set the fire, or damaged property by use of explosives.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes to your satisfaction that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Intentionally and unlawfully

“Intentionally and unlawfully” are important elements of this offence.

The prosecution must prove that the accused intended to set fire to the property. The prosecution must also show that there was no lawful reason for setting the fire (for example, following the orders of the Puleuku to burn rubbish).

(4) Defences

If the prosecution has proved the elements of the offence, the accused may still have a defence.

An accused may bring evidence to show that he or she was forced to commit the offence. The accused must establish their defence, on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 35 of the Crimes Rules – Careless fire

Description

A person who negligently causes a fire commits an offence.

Elements of offence

- (i) a person (the accused)
- (ii) caused a fire
- (iii) negligently.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who committed the offence, ie: it was the accused who caused the fire.

A fire can be caused directly or by an act or omission that enabled the fire to start.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

“Negligently” is an important element of this offence. The prosecution must prove that what the accused did or failed to do was careless and not what a reasonable person would have done in the circumstances.

(3) Defences

If the prosecution has proved the elements of the offence, the accused may still have a defence.

The accused must establish their defence, on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 36 of the Crimes Rules – Damage to property

Description

A person who intentionally and without reasonable excuse destroys or damages the property of another commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) the property of another
- (iii) destroyed or damaged
- (iv) intentionally and
- (v) without reasonable excuse.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who damaged and destroyed the property.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Intentionally and without reasonable excuse

“Intentionally and without reasonable excuse” are important elements of this offence.

The prosecution must prove that the accused intended to damage or destroy the property and without reasonable excuse damaged or destroyed the property. The prosecution must prove that the accused had no reasonable excuse for damaging or destroying the property.

“Property of another”: The prosecution must prove that the property which was damaged or destroyed did not belong to the accused.

(4) Defences

If the prosecution has proved the elements of the offence, beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not)

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units or 1 year imprisonment (High Court).

Rule 37 of the Crimes Rules – Animal trespass

Description

A person who owns, uses or has the care of an animal which wanders or is at large in a public place, or is on private property without permission, commits an offence.

Elements of offence

- 1 Rule 37
 - (i) a person (accused)
 - (ii) owned OR used OR had the care of an animal
 - (iii) that animal
 - (iv) wandered in a public place OR
 - (v) was taken into a public place and not tied up or put in a cage OR
 - (vi) was in private property without permission.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who owned the animal that wandered in a public place or wandered on to another person's private property without their permission.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 38 of the Crimes Rules – Trespass

Description

(1) A person who, without lawful excuse, is:

- (i) in or on a building; or
- (ii) in an enclosed yard or similar area; or
- (iii) in or on a vessel or vehicle,

belonging to another commits an offence.

(2) A person who:

- (i) enters a plantation, garden, land or house of another with intent to commit an offence;
- (ii) without lawful excuse enters or remains in a plantation, garden, land or house of another after being warned not to enter, or to leave as the case may be,

commits an offence.

Elements of offence

Rule 38(1)

- (i) a person (accused)
- (ii) without lawful excuse
- (iii) was in or on a building or in an enclosed yard or similar area or in or on a vessel or vehicle.

Rule 38(2)(i)

- (i) a person (accused)
- (ii) entered a plantation, garden, land or house
- (iii) of another
- (iv) with intent to commit an offence there.

Or

Rule 38(2)(ii)

- (i) a person (accused)
- (ii) without lawful excuse
- (iii) entered or remained in, a plantation, garden, land or house
- (iv) of another

(v) was warned not to enter or was told to leave

(vi) did not obey.

Commentary

(1) Identification

In court, the prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must provide evidence to prove that it was the accused who entered the building or vessel or entered the land of another with intent to commit an offence or stayed on the land of another after being warned not to enter or to leave.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence proves that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Examples of "lawful excuse" are: – official visits, entry permitted by law, or accepted by the owner, electricity repairs, telephone repairs.

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 39 of the Crimes Rules – Indecent documents and things

Description

- (1) A person who, knowingly and without lawful excuse —
 - (i) sells, or exposes for sale or to public view, an obscene or indecent book, picture, film, tape, photograph, document, or object or thing; or
 - (ii) publicly exhibits an obscene or indecent show, commits an offence.
- (2) Any person who has in his or her possession an obscene or indecent book, picture, film, tape, photograph, document, or object, or thing, commits an offence.

Elements of offence

- 1 Rule 39(1)(i)
 - (i) a person (accused)
 - (ii) knowingly
 - (iii) sold OR exposed for sale OR exposed to public view
 - (iv) an obscene OR indecent
 - (v) document OR object OR thing
 - (vi) without lawful excuse.
- 2 Rule 39(1)(ii)
 - (i) a person (accused)
 - (ii) knowingly
 - (iii) publicly exhibited
 - (iv) obscene OR indecent show
 - (v) without lawful excuse.
- 3 Rule 39(2)
 - (i) any person (accused)
 - (ii) has in possession
 - (iii) an obscene OR indecent
 - (iv) document OR object OR thing

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who knowingly exposed the public to an indecent OR obscene document OR object, OR thing OR show.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

- 3 penalty units or 3 months imprisonment (Commissioner).
- 20 penalty units or 1 year imprisonment (High Court).

Rule 40 of the Crimes Rules – False report to the Police

Description

A person who:

- (i) contrary to the fact and without a belief in the truth of the statement, makes or causes to be made to a constable a written or oral statement alleging that an offence has been committed; or
- (ii) does an act or makes a statement with the intention of causing wasteful deployment, or of diverting deployment, of police personnel or resources, or being negligent as to that result,

commits an offence.

Elements of offence

Rule 40(i)

- (i) a person (accused)
- (ii) contrary to the fact and without a belief in the truth
- (iii) made or caused a written or oral statement to be made
- (iv) to a constable
- (v) the statement is incorrect and the accused did not believe it was true

Or

Rule 40(ii)

- (i) a person (accused)
- (ii) did an act or made a statement
- (iii) intentionally or negligently
- (iv) to cause wasteful deployment of police resources or
- (v) to divert deployment of police resources.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who wrote or caused the statement to the police or that it was the accused who did the act or made the statement intended to waste the resources and time of police.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 41 of the Crimes Rules – Accusation of offence

Description

A person who:

- (i) with intent to extort or gain anything from any person, accuses or threatens to accuse either that person or any other person of an offence, whether the person accused or threatened with the accusation is guilty of that offence or not; or
- (ii) with the intent as specified in subparagraph (i), threatens that any person shall be so accused by any person; or
- (iii) causes any person to receive a document containing an accusation or threat of the kind specified in this rule, knowing its contents,

commits an offence.

Elements of offence

Rule 41(i)

- (i) a person (accused)
- (ii) intended to gain something unlawfully from another
- (iii) accused or threatened to accuse any person of an offence

Or

Rule 41(ii)

- (i) a person (accused)
- (ii) intended to gain something unlawfully from another
- (iii) threatens a person that they will be accused by another of having committed an offence

Or

Rule 41(iii)

- (i) a person (accused)
- (ii) caused another person to receive
- (iii) a document which contain an accusation or having committed an offence or threatens that the accused will be made
- (iv) knowing what is in the document.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who who made the threat, knew what was in the document and intended to gain something unlawfully.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Whether the accusation of offending is correct or not, is irrelevant.

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 42 of the Crimes Rules – Spreading rumours

Description

A person who knowingly spreads an untrue report which is likely to cause any other person to suffer in reputation commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) spread a report
- (iii) knowing it was not true
- (iv) likely to cause damage to the reputation
- (v) of another.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who spread the report knowing that it was not true and likely to damage the reputation of another.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

It would be a good defence that the report was true.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 43 of the Crimes Rules – Obstruction in a public place

Description

A person who intentionally obstructs a public place, or without lawful excuse, knowingly creates a source of danger in a public place, commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) intentionally obstructed a public place OR without lawful excuse and knowingly created a danger in a public place.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who caused the obstruction and that the accused intended to cause the obstruction OR that it was the accused who created the danger in the public place and the accused knew of that.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 44 of the Crimes Rules – Fighting in a public place

Description

A person who, without lawful excuse, fights in a public place commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) without lawful excuse
- (iii) fought
- (iv) in a public place.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who fought in a public place and that there was no lawful excuse for the fighting.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 45 of the Crimes Rules – Offensive behaviour

Description

A person who:

- (i) in or within view of a public place, behaves in an indecent, offensive or disorderly manner; or
- (ii) in a public place, addresses any words to any person intending to threaten, alarm, or offend that person; or
- (iii) in or within hearing of a public place uses threatening or insulting words and is negligent as to whether any person is alarmed or insulted by those words; or
- (iv) uses profane, indecent, or obscene language in a public place or within the hearing of a person in a public place,

commits an offence.

Elements of offence

- 1 Rule 45(i)
 - (i) a person (accused)
 - (ii) behaved in an indecent OR offensive or disorderly manner
 - (iii) within view of public place.
- 2 Rule 45(ii)
 - (i) a person (accused)
 - (ii) in a public place
 - (iii) addressed words to a person
 - (iv) intending to threaten, OR alarm, OR offend that person
- 3 Rule 45(iii)
 - (i) a person (accused)
 - (ii) within hearing of a public place
 - (iii) used threatening or insulting words
 - (iv) negligent as to whether any person was alarmed or insulted by those words.
- 4 Rule 45(iv)
 - (i) a person (accused)
 - (ii) used profane OR indecent, or obscene language

(iii) in a public place or within the hearing of a person in a public place.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who behaved offensively in one of the four ways specified.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 46 of the Crimes Rules – Noise

Description

A person who makes or causes the making of an unnecessary and unreasonable noise in a village commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) made or caused
- (iii) unnecessary and unreasonable noise
- (iv) in the village.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who made or caused the making of unnecessary and unreasonable noise in the village.

“Unnecessary and unreasonable noise” means the noise that is not acceptable according to the custom of the village.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 47 of the Crimes Rules – Throwing stones

Description

A person who throws or discharges a stone or other object in a manner that is likely to cause injury, damage or disturbance to any person, commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) threw or discharged
- (iii) a stone or other object
- (iv) likely to cause injury, damage or disturbance.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who threw the stone which was likely to have caused damage or disturbed another person.

“Discharge” involves the use of a tool such as a slingshot to project an object.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence, beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 48 of the Crimes Rules – Invasion of privacy

Description

A person who, without reasonable excuse, peeps or peers into a house commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) without reasonable excuse
- (iii) peeped or peered
- (iv) into a house.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who peeped or peered into the house without reasonable excuse for doing so.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 49 of the Crimes Rules – Drugs

Description

Rule 49(2)

Subject to paragraph (3) a person, other than a qualified medical practitioner, who knowingly:

- (i) imports a drug into Tokelau; or
- (ii) has a drug in their possession,

commits an offence.

Elements of offence

Rule 49(2)(i) and (ii)

- (i) a person (accused)
- (ii) not a qualified medical practitioner
- (iii) knowingly
- (iv) imported a drug into Tokelau OR had a drug in their possession.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who imported the drug into Tokelau or had a drug in her or his possession and was not a qualified medical practitioner.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

In Rule 49(1) of the Crimes Rules, “drug” means:

- (i) cannabis plant or seed, opium poppy, coca leaves, or any derivative, preparation or product of any of them; and
- (ii) any psychotropic liquid or substance.

(3) Defences

If the prosecution has proved the elements of the offence, beyond reasonable doubt, the accused may still have a defence.

The accused may prove that he or she had a written prescription from a medical practitioner to import the drug for his or her use or for that of the family.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 50 of the Crimes Rules – Intoxicating liquor

Description

- (1) A person who sells or supplies intoxicating liquor to a person under the age of 18 years commits an offence.
- (2) It is no defence to a charge under paragraph (1) that the person charged believed that the person to whom the liquor was sold or supplied was not under the age of 18 years.
- (3) A person under the age of 18 years who drinks any intoxicating liquor knowing the liquor to be intoxicating commits an offence.

Elements of offence

- 1 Rule 50(1)
 - (i) a person (accused)
 - (ii) sold or supplied
 - (iii) intoxicating liquor
 - (iv) to a person under 18 years of age.
- 2 Rule 50(3)
 - (i) a person (accused)
 - (ii) under 18 years of age
 - (iii) drank intoxicating liquor
 - (iv) knowing the liquor to be intoxicating.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who sold intoxicating liquor to a person under 18 years, or for (2) that the accused was under 18 years and drank intoxicating liquor knowing it was intoxicating.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

A belief that the person supplied was at least 18 years of age is not a defence to a charge under paragraph (1).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 51 of the Crimes Rules – Tobacco

Description

A person under the age of 16 years who smokes tobacco in any form commits an offence.

Elements of offence

Rule 51

- (i) a person (accused)
- (ii) under 16 years of age.
- (iii) smoked tobacco

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who smoked the tobacco and was under 16 years of age. Remember Rule 114 – a person under 10 years of age cannot commit an offence; special rules apply to a person between the age of 10 and 14 years.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 52 of the Crimes Rules – Drunkenness

Description

A person who is drunk in a public place, and:

- (i) causes a disturbance; or
- (ii) is unable to look after him or herself,

commits an offence.

Elements of offence

Rule 52(i)

- (i) a person (accused)
- (ii) drunk
- (iii) public place
- (iv) caused a disturbance.

Rule 52(ii)

- (i) a person (accused)
- (ii) drunk
- (iii) public place
- (iv) unable to look after himself or herself.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who was drunk in a public place and caused disturbance or was unable to look after himself or herself.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Found drunk as to be incapable of taking care of himself or herself

The prosecution must prove beyond reasonable doubt that the accused was affected by alcohol. The prosecution must also prove that the accused was drunk.

The effect of drunkenness must be such that the person was not in control and could not manage themselves.

(4) Public place

The prosecution must prove that the accused was in a public place. It needs to be proved that the place was in a public place in the nature of, for example the “malae”, the Meeting house, or hospital.

(5) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 53 of the Crimes Rules – Use of explosives

Description

A person who:

- (i) discharges a firearm or explosive carelessly or in such a manner or place as to cause or be likely to cause danger to the public;
- (ii) uses dynamite, gelignite or any other explosive or any deleterious liquid or substance for the purpose of killing or taking fish,

commits an offence.

Elements of offence

Rule 53(i)

- (i) a person (accused)
- (ii) discharged a gun or explosive
- (iii) carelessly OR in a manner or place to cause or to be likely to cause danger
- (iv) to the public.

Rule 53(ii)

- (i) a person (accused)
- (ii) used
- (iii) explosive or harmful liquid or harmful substance
- (iv) for fishing.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who discharged the firearm carelessly to cause danger to the public or that it was the accused who used the explosive or harmful liquid or substance for fishing.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 54 of the Crimes Rules – Offensive weapons and disabling substances

Description

(1) In this rule:

“disabling substance” means any anaesthetising or other substance produced for use for disabling persons, or intended for such use by the person who has it;

“offensive weapon” means:

- (i) in paragraph (2)(i) an object made or altered for use for causing bodily injury, or intended for such use by the person who has it;
- (ii) in paragraph (2)(ii) an object capable of being used for causing bodily injury including any form of knife.

(2) A person who:

- (i) without reasonable excuse, has an offensive weapon or disabling substance in a public place; or
 - (ii) has possession, in any place, of an offensive weapon or disabling substance in circumstances that prima facie show an intention to use it to commit an offence, involving bodily injury or the threat or fear of violence,
- commits an offence.

(3) It is a defence to a charge under paragraph (2)(ii) if the person accused proves that it was not his or her intention to use the weapon or substance to commit an offence.

Elements of offence

1 Rule 54(2)(i)

- (i) a person (accused)
- (ii) without lawful excuse
- (iii) had an offensive weapon or disabling substance
- (iv) in a public place.

2 Rule 54(2)(ii)

- (i) a person (accused)
- (ii) had possession
- (iii) an offensive weapon or disabling substance
- (iv) circumstances show intention to use it

- (v) to commit an offence that involves bodily injury or the threat or fear of violence.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who had an offensive weapon or disabling substance in a public place without lawful excuse OR that the accused had an offensive weapon or disabling substance with intention to use it as described in subparagraph (ii).

“Disabling substance” means any anaesthetising or other similar substance.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

It is a defence to a charge under this Rule if the accused proves that it was not his or her intention to use the weapon or substance to commit an offence.

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 55 of the Crimes Rules – Public boats

Description

- (1) A captain shall be designated for each public boat.
- (2) The captain of a public boat shall be responsible:
 - (i) for its navigation, working and safety when on the water, and may refuse to take any person or cargo into the boat unless he considers it safe to do so; and
 - (ii) for the loading and discharge of passengers and cargo into and from the boat.
- (3) A person who without reasonable excuse fails to obey the command of the captain of a public boat given in the exercise of the duty of the captain commits an offence.

Elements of offence

Rule 55(3)

- (i) a person (accused)
- (ii) without reasonable excuse
- (iii) failed to obey the command
- (iv) of the captain of a public boat
- (v) given in the exercise of the duty.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who failed to obey the command of the captain of a boat in the exercise of the captain's duty without reasonable excuse.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 56 of the Crimes Rules – Use of vehicle and vessel

Description

- (1) A person who drives or rides a vehicle or uses a vessel without due care and attention or without reasonable consideration for other persons using the road or place, commits an offence.
- (2) In paragraph (1) “vehicle” includes bicycle and motor-bike.

Elements of offence

Rule 56(1)

- (i) a person (accused)
- (ii) drove or rode
- (iii) a vehicle (includes bicycle or motorbike) or a boat
- (iv) without due care and attention OR reasonable consideration for other persons who were using the road or place.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who drove the vehicle on the road, or used the boat carelessly or without reasonable consideration for other people.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 57 of the Crimes Rules – Endangering vessel

Description

A person who does an act or omits to do an act with intent to damage or endanger a vessel or its cargo, or with intent to injure or endanger a person on a vessel commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) did an act or omitted to act
- (iii) with intent
- (iv) to damage or endanger a vessel or its cargo OR injure or endanger a person on a vessel.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who did an act or omitted to do an act with the intention to damage or endanger the boat or its cargo or injure or endanger another person on the boat.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 58 of the Crimes Rules – Visiting vessel

Description

- (1) A person who visits or boards a vessel while it is calling at Tokelau except:
- (i) with the prior permission of the Faipule and of the officer in charge of the vessel; or
 - (ii) as an official or ticket-holding passenger; or
 - (iii) as required or permitted by any other enactment; or
 - (iv) as a member of the crew of the vessel,
- commits an offence.
- (2) If a person under the age of 14 years visits or boards a vessel in contravention of paragraph (1), each parent of that child commits an offence.

Elements of offence

Rule 58(1)

- (i) a person (accused)
- (ii) not listed in paragraph (1)
- (iii) visited or boarded a vessel.

Rule 58(2)

- (i) a person (accused)
- (ii) is the parent of a child under 14 years
- (iii) who visited or boarded the boat
- (iv) without right under paragraph (1).

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who visited the boat without right or is the parent of a child under 14 years of age who visited or boarded.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 59 of the Crimes Rules – Poison

Description

A person who without lawful excuse places poison where it is a source of danger to human beings or to animals commits an offence.

Elements of offence

Rule 59

- (i) a person (accused)
- (ii) without lawful excuse
- (iii) placed poison
- (iv) where it is a source of danger to human beings or animals.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who placed a poison in a position of danger to animals or human beings without lawful excuse.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 60 of the Crimes Rules – Polluting water

Description

A person who throws offensive matter into or otherwise pollutes any well, tank, or other place from which the supply of water for human use is obtained, commits an offence.

Elements of offence

Rule 60

- (i) a person (accused)
- (ii) threw offensive matter or polluted
- (iii) a well, tank or other place of water supply for human use.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who polluted or threw rubbish into a tank or other place that supplied water for human use.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 61 of the Crimes Rules – Unwholesome provisions

Description

Any person commits an offence, who:

- (i) provides for public consumption; or
 - (ii) sells, or exposes for sale; or
 - (iii) possesses with intent to sell,
- any food or drink which that person knows, or might by the exercise of reasonable care have known, to be unwholesome.

Elements of offence

Rule 61

- (i) a person (accused)
- (ii) provided for public consumption OR sold or exposed for sale OR possessed for sale
- (iii) knew OR ought reasonably to have known
- (iv) any food or drink
- (v) to be unwholesome.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who provided food or drink for public consumption and knew or ought to have known that the goods were unwholesome.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

“Unwholesome” means rotten or prepared wrongly or likely to cause sickness or past the expiry date.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 62 of the Crimes Rules – Insanitary premises

Description

A person who permits any place in his or her occupation or belonging to him or her to be in an insanitary or offensive condition to the danger or annoyance of the public or of neighbours commits an offence.

Elements of offence

Rule 62

- (i) a person (accused)
- (ii) permitted a place
- (iii) in his or her occupation or ownership
- (iv) to be in an unhealthy condition
- (v) that was a danger to or annoyed
- (vi) the public or neighbours.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who occupied or owned the place and permitted it to be in a condition that annoyed or was a danger to others.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

This provision deals with uses of land such as those that may attract rats, flies, insects and spread diseases, and also to those that annoy because of smell or untidiness.

Note the requirement that the public place or neighbours are endangered or annoyed eg: by the smell of rubbish.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 63 of the Crimes Rules – School attendance

Description

- (1) Every person between the ages of 5 and 16 years who is resident in Tokelau shall attend school.
- (2) The parent or guardian of a child required by paragraph (1) to attend school who, without just cause, refuses or neglects to keep the child in regular attendance at school, commits an offence.

Elements of offence

Rule 63(2)

- (i) a person (accused)
- (ii) the parent or guardian
- (iii) of a child between the age of 5 and 16 years resident in Tokelau
- (iv) refused or neglected to keep the child in regular attendance at school
- (v) without just cause.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that the accused is the parent or guardian of a child under 16 years and had refused or neglected to send the child to school regularly.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

No mental element is required it is enough that the parent or guardian has not sent the child to school.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

It is a good defence to have a 'just cause' eg: the child was sick.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 64 of the Crimes Rules – Gaming

Description

A person who plays a game for money with cards or with dice commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) played a card game or dice
- (iii) for money.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who played a game with cards or dice for money.

This rule does not apply to bingo or dominoes. It does not apply to games with cards or dice unless money is used.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 67 of the Crimes Rules – Telephones

Description

- (1) No person, other than a person approved by Teletok for the purpose, shall interfere with or effect any connection or carry out any maintenance to any public telephone line.
- (2) A person who contravenes paragraph (1) commits an offence.

Elements of offence

- (i) a person (accused)
- (ii) not approved by Teletok
- (iii) interfered with OR made a connection line OR carried out maintenance
- (iv) public telephones.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who interfered with the telephone lines.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 68 of the Crimes Rules – Electricity

Description

- (1) No person shall make a connection to a public electricity supply except with the prior approval of the public officer responsible for electricity.
- (2) The public officer responsible for electricity may refuse to approve the connection of any building to any public electricity supply or order the disconnection of any building from any such supply if:
 - (i) the building is not suitably constructed or is unsound;
 - (ii) the connection is likely to endanger the supply of electricity to, or the safety of, other buildings on the same circuit, or the safety of the circuit; or
 - (iii) insufficient generating capacity is available.
- (3) No person, other than a person authorised by the public officer responsible for electricity, shall interfere with or effect any connection to, or carry out any maintenance on, any public electricity supply.
- (4) No person shall:
 - (i) use any electrical appliance connected to any public electricity supply after having been warned not to do so by the public officer; or
 - (ii) use any electricity from any public electricity supply in such a manner as to interfere with the efficiency of the supply.
- (5) The public officer responsible for electricity or a person authorised by the public officer responsible for electricity may, at any reasonable time, enter any building connected to a public electricity supply for the purpose of inspecting or testing any electrical installation.
- (6) A person who contravenes this rule commits an offence.

Elements of offence

Rule 68(1)

- (i) a person (accused)
- (ii) made a connection to the public electricity system
- (iii) not approved by the public officer responsible for electricity.

Rule 68(3)

- (i) a person (accused)
- (ii) not authorised by the public officer responsible for electricity

- (iii) interfered with or made a connection to or carried out maintenance on
- (iv) the public electricity system.

Rule 68(4)

- 1 (i) a person (accused)
- (ii) used any electrical appliance
- (iii) connected to the public electricity system
- (iv) after being warned not to do so by a public officer.

Rule 68(4)

- 2 (i) a person (accused)
- (ii) used electricity from any public electricity system
- (iii) in such manner to interfere with the efficiency of the supply.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who made a connection or interfered with the system without the approval of the public officer responsible for electricity.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 69 of the Crimes Rules – Sea voyages

Description

- (1) No person shall use a boat of Tokelau for the purposes of travelling between the islands of Tokelau or between an island of Tokelau and any other place without approval of the village.
- (2) Before granting approval under paragraph (1), the village shall satisfy itself that the boat is in a sea-worthy condition, adequately manned and provided with sufficient serviceable life-saving equipment which shall consist of not less than:
 - (i) one life-jacket for each occupant of the boat;
 - (ii) one life-boat compass;
 - (iii) one electric lantern with spare battery or one oil lantern with filled oil container;
 - (iv) one life-boat sea anchor; and
 - (v) life-boat smoke signals or flares.
- (3) In addition to the life-saving equipment the village may require a boat travelling between islands to carry a serviceable radio-transceiver, and to communicate with the Tokelau radio station at designated times.
- (4) A person who travels between islands of Tokelau or Tokelau and any other place in a boat of Tokelau except in accordance with this rule commits an offence.

Elements of offence

Rule 69(1)

- 1 (i) a person (accused)
 - (ii) used a boat of Tokelau
 - (iii) for the purpose of travelling between islands of Tokelau and any other place
 - (iv) without the approval of the village.

Rule 69(2)

- 2 (i) a person (accused)
 - (ii) travelled between the islands of Tokelau in a Tokelau boat
 - (iii) without complying with the requirements in paragraph (2).

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who travelled by boat without the approval of the Taupulega OR the accused travelled without following the requirements of paragraph (2).

This rule does not relate to any boat operated by or for the government of Tokelau.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 72 of the Crimes Rules – Official corruption

Description

- (1) Any public officer commits an offence who corruptly:
 - (i) accepts or agrees to accept; or
 - (ii) obtains,
 - (iii) a bribe,
 - (iv) in respect of any act done or to be done by that person in an official capacity.
- (2) Any person commits an offence who corruptly:
 - (i) gives; or
 - (ii) offers,
 - (iii) a bribe to another with intent to influence that other person in respect of any act done or to be done by that person in an official capacity.
- (3) A public officer who corruptly uses information gained in an official capacity to obtain a personal advantage or an advantage for any other person commits an offence.

Elements of offence

Rule 72(1)

- (i) a person (accused)
- (ii) accepted or agreed to accept or obtained a bribe
- (iii) for an act done or to be done in an official capacity.

Rule 72(2)

- (i) a person (accused)
- (ii) gave or offered a bribe to another
- (iii) with intent to influence
- (iv) an act done or to be done
- (v) in an official capacity.

Rule 72(3)

- (i) a person (accused)
- (ii) public officer

- (iii) corruptly used
- (iv) information gained in an official capacity
- (v) to obtain a personal advantage or an advantage for another person.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that the accused was a public officer who took a bribe or used official information for private benefit; or that the accused was the person who bribed a public officer.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 73 of the Crimes Rules – Abuse of office

Description

- (1) A public officer, acting under pretence of authority who fails to account for money duly levied commits an offence.
- (2) A public officer employed to execute an order of court who by neglect or omission misses the opportunity of executing the order commits an offence.

Elements of offence

Rule 73(1)

- (i) a person (accused)
- (ii) a public officer
- (iii) obtained money from another in the course of their job
- (iv) failed to deal to deal with that money in accordance with the law.

Rule 73(2)

- (i) a person
- (ii) a public officer
- (iii) employed to carry out an order of the court
- (iv) missed the opportunity to execute the order because they failed to do something.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that the accused was a public officer and failed to appropriately deal with money OR neglected to carry out an order of the court.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 74 of the Crimes Rules – Contempt

Description

- (1) A person who:
- (i) within or close to the room or place where a court is sitting, intentionally misbehaves in a violent, threatening, or disrespectful manner, to the disturbance of the court, or to the intimidation of suitors or others resorting to the court;
 - (ii) intentionally insults a member of a court, or an officer of a court, during a sitting of a court,
- commits an offence and may be immediately apprehended by order of the court, and detained until the rising of the court.
- (2) A person who:
- (i) intentionally refuses or neglects to appear before a court when summoned to do so;
 - (ii) attempts wrongfully to interfere with or influence a witness before court either before or after the witness has given evidence in connection with the case;
 - (iii) intentionally refuses or neglects to obey a court order;
 - (iv) refuses to be sworn or give evidence, or having been sworn refuses to answer a question that the person is lawfully required to answer,
- commits an offence.

Elements of offence

Rule 74(1)(i)

- (i) a person (accused)
- (ii) intentionally
- (iii) misbehaved in a violent OR threatening OR disrespectful manner
- (iv) within or close to a place where a court is sitting
- (v) disturbed OR intimidated a person in court .

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who misbehaved in a way set out in Rule 74(1)(i) of the Crimes Rules.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 76 of the Crimes Rules – Perverting justice

Description

A person who intentionally obstructs, prevents, perverts, or defeats the course of justice commits an offence.

Elements of offence

Rule 76

- (i) a person (accused)
- (ii) intentionally
- (iii) obstructs, prevents, perverts, or defeats the course of justice

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who intentionally obstructed, prevented, perverted, or defeated the course of justice.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 78 of the Crimes Rules – Offence against public officers

Description

- (1) A person who without reasonable excuse fails to assist a constable when requested by a constable to do so commits an offence.
- (2) A person who intentionally resists, assaults or knowingly obstructs —
 - (i) a public officer in the performance of that officer's duty; or
 - (ii) a person acting in aid of any constable, commits an offence.

Elements of offence

Rule 78(1)

- (i) a person (accused)
- (ii) without reasonable excuse
- (iii) failed to assist
- (iv) a constable
- (v) when requested.

Rule 78(2)

- (i) a person (accused)
- (ii) intentionally resisted or assaulted or knowingly obstructed
- (iii) a public officer in the performance of their duty OR a person acting in aid of a constable.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who failed to assist a constable or intentionally resisted or obstructed a constable or a public officer.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

3 penalty units or 3 months imprisonment.

Rule 79 of the Crimes Rules – Conspiracy

Description

A person who conspires with any other person to commit an offence commits an offence and is liable on conviction to the same penalty as that to which a person who commits that offence may be sentenced.

Elements of offence

Rule 79

- (i) a person (accused)
- (ii) conspires with any other person
- (iii) to commit an offence.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who conspired with any other person to commit an offence.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

The accused is liable on conviction to the same penalty as that to which a person who commits the offence may be sentenced.

Rule 80 of the Crimes Rules – Attempt to commit offences

Description

A person who intends to commit an offence and does an act to accomplish that object, commits the offence intended, whether or not it was otherwise possible in the circumstances either in fact or in law to commit the offence.

Elements of offence

Rule 80

- (i) a person (accused)
- (ii) intends to commit an offence
- (iii) does an act to accomplish that object.

Commentary

(1) Identification

The prosecution should identify the person charged by clearly pointing out that person in court.

The prosecution must prove that it was the accused who intended to commit an offence and did an act to accomplish that object.

(2) Burden of proof

The prosecution must prove all the elements beyond reasonable doubt.

The defence does not need to prove anything, however if the defence establishes that there is a reasonable doubt, then the accused is not guilty and the case must be dismissed.

(3) Defences

If the prosecution has proved the elements of the offence beyond reasonable doubt, the accused may still have a defence.

The accused must establish the defence on the balance of probabilities (ie: more likely than not).

Maximum sentence

The accused is liable on conviction to the same penalty as that to which a person who commits the offence may be sentenced.

Appendices

Appendices

Tokelau Amendment Act 1986 (NZ)

An Act to amend the Tokelau Act 1948

1 Short Title and commencement

- (1) This Act may be cited as the Tokelau Amendment Act 1986, and shall be read together with and deemed part of the Tokelau Act 1948 (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the 1st day of August 1986.

PART 1 – CIVIL AND CRIMINAL JURISDICTION

2 Interpretation

In this Part of this Act, unless the context otherwise requires, “Commissioner” means the Commissioner for Atafu or for Fakaofu or for Nukunonu appointed under section 5 of this Act.

3 High Court of New Zealand to be a Court of law for Tokelau

- (1) The High Court of New Zealand shall have all jurisdiction which may be necessary to administer the law of Tokelau in the same manner in all respects as if that jurisdiction had been conferred upon that Court as a separate Court of justice in and for Tokelau.
- (2) The jurisdiction conferred on the High Court by subsection (1) of this section may, subject to the provisions of any regulations made under the principal Act and to the provisions of any rules made by the General Fono, be exercised in the same manner in all respects as if Tokelau was for all purposes part of New Zealand.
- (3) In the exercise of the jurisdiction conferred on it by subsection (1) of this section, the High Court may sit either in Tokelau or in New Zealand, or in such other appropriate place as the Chief Justice may direct.

4 Appeals to Court of Appeal of New Zealand

- (1) An appeal shall lie to the Court of Appeal of New Zealand from any judgment, decree, or order of the High Court of New Zealand exercising the jurisdiction conferred on it by section 3 of this Act in the same manner as from any judgment, decree, or order of the High Court exercising its jurisdiction in respect of New Zealand.
- (2) The decision of the Court of Appeal on any appeal under this section shall be final.

5 Appointment of Commissioners

- (1) The Governor-General, on the recommendation of the Minister of Foreign Affairs made after consultation by that Minister with the Elders of the island concerned, may appoint any Tokelauan to be -
 - (a) Commissioner for Atafu:
 - (b) Commissioner for Fakaofu:
 - (c) Commissioner for Nukunonu.
- (2) Subject to subsections (4) and (5) of this section, every Commissioner shall hold office for a term of 3 years.
- (3) Every Commissioner shall be eligible for reappointment from time to time.
- (4) The Governor-General may, if the Governor-General thinks fit, remove a Commissioner for inability or misbehaviour.
- (5) A Commissioner may resign the office of Commissioner by notice in writing addressed to the Administrator of Tokelau.
- (6) Every Commissioner may be paid out of the Tokelau General Account such salary or allowance and other allowances as may be fixed by the Administrator of Tokelau.

6 Incapacity or absence of Commissioner

- (1) If at any time a Commissioner is incapable by reason of sickness or otherwise of performing the office of Commissioner or is absent from the island for which that person is Commissioner, or where there is a vacancy in the office of Commissioner, any person performing in that island the functions of a Faipule may, without further authority or appointment, exercise any function, duty, or power of the Commissioner during that incapacity, absence, or vacancy.
- (2) The fact that any person performing the functions of a Faipule exercises any function, duty, or power of a Commissioner shall be conclusive evidence of that person's authority to do so.

7 Jurisdiction of Commissioners

- (1) A Commissioner shall have jurisdiction -
 - (a) In actions for the recovery of any debt or damages not exceeding \$1,000 in amount:
 - (b) In actions for the recovery of chattels not exceeding \$1,000 in value:
 - (c) In criminal proceedings for any offence punishable by fine only:

- (d) In criminal proceedings for any offence punishable by imprisonment for not more than 1 year.
- (2) Subject to the provisions of any regulations made under the principal Act, a Commissioner shall, in the exercise of that Commissioner's criminal jurisdiction, have power to do any one or more of the following things:
- (a) To impose a term of imprisonment not exceeding 3 months:
 - (b) To impose a fine not exceeding \$150:
 - (c) To order the performance of community work:
 - (d) To place an offender under Police supervision:
 - (e) To give a public reprimand:
 - (f) To order the payment of compensation, not exceeding \$1,000 in amount, for the loss of or damage to any property of the victim of the offence:
 - (g) To order the restitution of any property to the victim of the offence.
- (3) Subject to subsection (3A) of this section, to any regulations made under the principal Act, and to any rules made by the General Fono under section 3A of the principal Act, a Commissioner shall have jurisdiction only in respect of -
- (a) The island for which that Commissioner is appointed; and
 - (b) The territorial sea of Tokelau that surrounds that island.
- (3A) Notwithstanding anything in subsection (3) of this section, but subject to subsection (1) of this section, any Commissioner may exercise jurisdiction in respect of the following offences:
- (a) Any offence to which section 9 of the Tokelau (Territorial Sea and Exclusive Economic Zone) Act 1977 applies:
 - (b) Any offence against the law of Tokelau that is committed on board any vessel or aircraft, in any case where, at the time of the commission of the offence, the vessel or aircraft -
 - (i) Is in the service of Tokelau; and
 - (ii) Is travelling to or from Tokelau or between any of the islands of Tokelau.
- (4) In any criminal proceedings, a Commissioner may, at any time during those proceedings, discuss the case, in the presence of the prosecutor, the

defendant, and the defendant's counsel (if any), with the Taupulega of the island for which that Commissioner is appointed.

(5) Where any such discussion is held, the Commissioner shall give –

(a) The prosecutor; and

(b) The defendant or the defendant's counsel (if any)-

the opportunity to be heard and to tender evidence on any matter raised in that discussion.

8 Extension of jurisdiction of Commissioners by agreement between the parties

If, but for the amount or value of the subject-matter claimed or in issue, a Commissioner would have jurisdiction under section 7(1)(a) or (b) of this Act, and the parties, by memorandum signed by them or by their respective agents, agree that a Commissioner shall have jurisdiction to hear and determine the proceedings, that Commissioner shall, notwithstanding anything in any enactment, have jurisdiction to hear and determine the proceedings.

9 Abandonment of part of claim to give Commissioner jurisdiction

(1) Where a plaintiff has a cause of action for more than \$1,000 in respect of which a Commissioner would have jurisdiction if the amount were not more than \$1,000, the plaintiff may abandon the excess, and thereupon a Commissioner shall have jurisdiction to hear and determine the action.

(2) Where any action, in which the plaintiff has abandoned part of the plaintiff's claim under this section, is heard by a Commissioner, the plaintiff shall not recover an amount exceeding \$1,000 together with costs thereon, and the judgment of the Commissioner in the action shall be in full discharge of all demands in respect of the cause of action, and judgment shall be entered accordingly.

10 Appeal from Commissioners

(1) Subject to subsections (2) and (3) of this section, any party to any proceedings, whether civil or criminal, before a Commissioner may appeal from the judgment of the Commissioner to the High Court of New Zealand in the exercise of the jurisdiction conferred on it by section 3 of this Act -

(a) Subject to any other enactment, as if that judgment were a decision of a District Court in New Zealand; and

- (b) In accordance with such procedures as a judge of the High Court determines are appropriate to the circumstances.
- (2) Any person who wishes to appeal pursuant to subsection (1) of this section shall, within 28 days after the date of the judgment of the Commissioner, give notice in writing to the Administrator of that person's intention to appeal.
- (3) No appeal shall lie pursuant to subsection (1) of this section in respect of any judgment of a Commissioner in any proceedings for any offence punishable by imprisonment for not more than 3 months or any offence punishable only by a fine of not more than \$150, but any party to any such proceedings may appeal from the judgment of the Commissioner to such body, and in accordance with such procedures, as are prescribed by regulations made under the principal Act.

Rule 16 of the Constitution of Tokelau

16 Human Rights

- (1) Individual human rights for all people in Tokelau are those stated in the Universal Declaration of Human Rights, and reflected in the International Covenant on Civil and Political Rights.
- (2) The rights of individuals in Tokelau shall be exercised having proper regard to the rights of other individuals and to the community to which the individual belongs.
- (3) If a person thinks that one of their human rights as provided in this Constitution has been denied or may be denied, that person may apply to the Council for the Ongoing Government for protection of that right.
- (4) If the Council of Ongoing Government agrees with the complaint, it may make any order it thinks appropriate for the protection of that right.
- (5) An order made under paragraph (4) may be enforced in the same manner as a judgment of the High Court.
- (6) The Council for the Ongoing Government has original and final authority to determine all matters of human rights.

[from the Constitution]

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, 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. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.

- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Article 21

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

International Covenant on Civil and Political Rights

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

- 1 All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- 2 All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
- 3 The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II*Article 2*

- 1 Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, 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.
- 2 Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
- 3 Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

- 1 In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
- 2 No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

- 3 Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

- 1 Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
- 2 There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

- 1 Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
- 2 In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
- 3 When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
- 4 Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
- 5 Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

- 6 Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

- 1 No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
- 2 No one shall be held in servitude.
- 3 (a) No one shall be required to perform forced or compulsory labour;
(b) Paragraph 3(a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
 - (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - (iv) Any work or service which forms part of normal civil obligations.

Article 9

- 1 Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
- 2 Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

- 3 Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
- 4 Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
- 5 Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

- 1 All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
- 2 (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
- 3 The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

- 1 Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
- 2 Everyone shall be free to leave any country, including his own.
- 3 The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms

of others, and are consistent with the other rights recognized in the present Covenant.

- 4 No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

- 1 All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
- 2 Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
- 3 In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him,

- in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
- 4 In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
 - 5 Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
 - 6 When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
 - 7 No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

- 1 No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
- 2 Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

- 1 No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
- 2 Everyone has the right to the protection of the law against such interference or attacks.

Article 18

- 1 Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
- 2 No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
- 3 Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

- 1 Everyone shall have the right to hold opinions without interference.
- 2 Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- 3 The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;

- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

- 1 Any propaganda for war shall be prohibited by law.
- 2 Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

- 1 Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
- 2 No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
- 3 Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

- 1 The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
- 2 The right of men and women of marriageable age to marry and to found a family shall be recognized.
- 3 No marriage shall be entered into without the free and full consent of the intending spouses.
- 4 States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during

marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

- 1 Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
- 2 Every child shall be registered immediately after birth and shall have a name.
- 3 Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

...

Court Clerk

Each Commissioner has a court clerk. The clerk is appointed by the relevant Taupulega.

The court clerk must fully understand the role of the Commissioner and be a careful and reliable assistant to the Commissioner by being professional at all times.

For a clerk, being professional means:

- perform tasks promptly when asked;
- maintain a dignified personal appearance;
- maintain focus when there is work to be done; and
- display respectful behaviour in all public functions.

Duties

The duties of the court clerk are set out in the law and in the job description. They include:

Daily activities

- inform the Commissioner when the Police or other persons have commenced a case in the Commissioner's court.
- keep a record book in which he or she registers all cases commenced in the Commissioner's court and records every order made by the Commissioner.
- The book must have an alphabetical index (Rule 85(1) of the Crimes Rules).
- co-ordinate and maintain the Commissioner's appointments and sittings.
- ensure the courtroom is properly arranged for the trials, court papers are in order and the Commissioner is ready for each court sitting.

In court

- The court clerk must check that the defendant is the person whose full name was called out.
- In criminal cases, the court clerk must read out the charge, ensure that the accused understands the charge, and take the accused's plea (guilty or not guilty).

- If any witnesses are called in the case, the court clerk must administer the oath or affirmation.
- The court clerk must keep a record of arguments and evidence presented in court and properly manage the court filing system.
- The court clerk must take custody of any exhibits presented during the trial, and ensure that they are correctly labelled.

After judgment

- The court clerk should ensure that the Police accurately record any sentence imposed.
- In a criminal case where the accused has been convicted, the court clerk must inform that person of their right to appeal.

Minutes of proceedings

All witness evidence must be recorded in writing and in Tokelauan.

One of the most important duties of the court clerk is to keep an accurate record of the proceedings.

Tokelau Court Register

<i>Case No</i>	<i>Date filed</i>	<i>Prosecution</i>	<i>Accused</i>	<i>Offence & section</i>	<i>Decision</i>	<i>Receipt and date</i>
01/24	01/04/24	Police	Mele loane	Fighting in Public (Rule 44)	Fine. \$20 to be paid within 14 days	\$20 - Rec # 237 22/04/24
02/24	14/04/24	Police	Malia Uga	Drunkenness (Rule 52)		
03/24	04/05/24	Police	Mete Sione	Assault (Rule 15)	Fine. \$50 to be paid within 2 months	
04/24	18/05/24	Police	Viliamu Iona	Throwing stones (Rule 47)		

Custom as a Source of Law Rules 2004

1 Name

These are the Custom as a Source of Law Rules 2004.

2 Custom as a source of law

- (1) Where in a case before the High Court, any party to the proceedings or the Court raises a matter of Tokelau custom, the Court shall seek the advice of the General Fono on that question and shall adjourn its proceedings for 30 days or the earlier receipt of advice from the General Fono.
- (2) Where the High Court refers a matter to the General Fono it shall —
 - (i) briefly state the facts relevant to the matter;
 - (ii) enquire whether there is Tokelau custom on the matter; and
 - (iii) if there is Tokelau custom on the matter, request a description from the General Fono of the custom.
- (3) On receipt of a reference under this rule, the General Fono shall refer the matter to each Taupulega and shall, on the basis of the Taupulega responses, tender a formal response to the High Court.
- (4) Where within 30 days from the date of the request the General Fono gives information on a Tokelau custom, the Court shall determine issues concerning the matter of custom by reference to that information.
- (5) Where within 30 days from the date of the request the General Fono does not respond or responds that there is no relevant Tokelau custom, the High Court shall decide the matter on the basis that custom is not applicable.

Lawyers in the courts of Tokelau

The qualifications needed to practice law in the courts of Tokelau are stated in Rule 95 of the Crimes Rules.

Lexicon

accessory	hoa
accessory after the crime	hoa/na fehoahoani i te umaga o te holigatulafono
accident	fakalavelave he taupulea
accusation	moliaga
accused	tino molia
acquit	fakaikuga (ko te tino molia e heki holitulafono)
act	gaoioiga
Act	Tulafono Fakapalemene
adjourn	tolopo
administer	pulepulea
administration	pulepulega
aid	fehoahoani
appeal	apili
appendix	pepa fakaopoopo
arrest	haihai
ascertain	mautinoa
assault	fakamanukalia/fakaogohia
attempt	taumafai
bail	tatala togi tupe
balance of probabilities	fakapaleni na molimau
belief	talitonuga
beyond reasonable doubt	aunoa ma he mahalohaloga talafeagai
bigamy	faipoipo kae iei te avaga faipoipo

breach of trust	he tauhi feagaiga
bribe	kalei i he totogi
budget	tupe tauhi
burden of proof	ko ai te ia fakamaonia
cannabis	kenapi
capital punishment	hala oti
charge	moliaga
Chief Justice	Fakamahino Maualuga
civil	va o te tagata ma te tahi
civil right	aiatatau hivili
commentary	fakamainaga
compellability	tiute (ona ko he holitulafono na fai)
compensation	taui ona ko he afainaga na pa kiei
competence	te mea e mafai
competent	e he talafeagai
complainant	tino tagi
complaints	tagi
confession	takutino
Constitution	Tulafono Fakavae
contempt	he fakaaloalo
convict	fakaikuga (ko te tino molia kua holitulafono)
corruption	fakaaoga hehe (o he tofi/tulaga)
court	fono fakamahinoga, fale fakamahino
credibility	fakatalitonugia

criminal	va o te tagata ma te malo
criminal law	Tulafono i te va o te tagata ma te malo
cross-examination	fehili kalava
decree	poloakiga/fakatonuga aloakia
defence	itu tautali/puipuiga
defendant	tino tautali
defraud	fakatogafitia
discretion	fakaeteete, fakaikuga
discrimination	fakakehe
document	fakamaauga/tuhituhiga
drugs	fualakau fakaha
duress	fakamalohia
dynamite	fanaika
elements of offence	vaega patino o te holigatulafono
enactment	fakatulafonogia
enforce	fakmamalugia
exhibit	mea faitino e fakamaonia ai he holitulafono
explosives	potu / fanaika
false representation	fakamatalaga (tuhituhia pe tukugutu) hehe
forfeiture	kave kehea ke togi hala ona ko he holitulafono
forgery	fakahehe
fornication	faitaaga

framework	fauhaga
fraud	fakavalea
freedom	haolotoga
good faith	loto lelei
guardian	tino tauhi
guilty	agahala
guilty plea	kua agahala
Head of Government	Ulu o te Malo o Tokelau
Head of State	Ulu o te Atunuku (Kuini pe ko te Kovana Hili o Niuhila)
hearing	fakamahinoga
identification	fakamateaga
in accordance with	e tuha ai
inalienable	he kavekehea/tumau
incorporation	tuku fakatahi ke kavea ma fakalapotopotoga
indecent	mataga
influence	takina
innocent until proven guilty	mama heiloga kua fakamaonia te agahala
insane	valea/he malohi te mafaufau
intent	fuafua
intention	fuafuagia

judgment	fakahalaga
judicial notice	ko na mea e tatau ke iloa e ho he fakamahino
jurisdiction	malohi
justice	amiotonu
knowledge	iloa/atamai
legal privilege	e tuha ai ma te tulafono
manslaughter	finau tino pakivalea
miscarriage	fakatafetama
mitigating	fakalelei (ni itu)
motive	mafuaaga e fai ai he mea
murder	finau tino fakamoemoegia
negligence	fakatamala
non-self-governing territory	enua e heki pulea fakalotoifale
not guilty	he agahala
offender	tino holitulafono
omission	gaoioiga e heki faia
party	itu kau
penalty	hala (tupe, galue mo te nuku, falepuipui, tunoa, munaia, tautalagia)

penalty unit	iunite o te hala
perjury	tauto pepelo
persuade	tauanau
plaintiff	itu tagi
plea	tali (a te tino molia)
political right	aiatatau tau politiki
premeditated	holitulafono fakamoemoegia
presumption	fakatalitonugia na fakamatalaga kae heai ni fakamaoniaga
pretence	fatagafai
private place	nofoaga faitele
procedure	fakahologa
proof	fakamaonia
prosecution	fakatino moliaga
provocation	fakaohoho
public	tagata lautele
public place	nofoaga faitele
punish	fakahala i he auala e he toe holitulafono ai (falepuipui)
real evidence	he mea fai tino
Realm of NZ	Fenua o te kaukaiga o Niu Hila
reasonable doubt	mahalohaloga talafeagai
rebut	tautali
receiving	talia o ni mea kaihohoa

Regulation	Tulafono Fakatonutonu
rehabilitate	toe fakaleleia te olaga
remand	taofia
reparation	tupe ke totogi ai he mea na fakakino ona ko he holigatulafono
reprimand	munaia / akoaki
restitution	totogi o ni mea na fakakino ona ko te holitulafono
rights	aiatatau
rule of law	pule a te tulafono
schedule	pepa fakaopoopo
seal	fakamau fakailoga
self-defence	puipui te tino o te tagata
self-determination	filifiliga faigamalo
self-governing-territory	malo pulea fakalotoifale
sentence	ko te fakahalaga
standard of proof	tulaga o te moliaga
structure	fakanofonofoga
suicide	toai
summon	poloakiga ke tulaki (i te fakamahinoga)
territory	atunuku
testify	fai he molimau
treason	holigatulafono e lamatia ai te atunuku
treaty	feagaiga

trial	fakamahinoga
trustee	tauhi feagaiga
victim	tino afia
warrant	tuhi haihai
witness	molimau

Glossary

Term	Meaning
Balance of probabilities	The standard of proof required in civil cases. The person bringing the claim has to prove it on the balance of probabilities. This means “more likely than not”.
Beyond reasonable doubt	The standard of proof required in criminal cases. The prosecution has to prove all the elements of the offence beyond reasonable doubt. This means you are left in no real doubt at all that the person is guilty.
Burden of proof	This means, who has the responsibility to prove something? In a criminal case, the prosecution has the burden of proving the accused is guilty, beyond reasonable doubt. In a civil case, it is the person bringing a claim who must prove it, on the balance of probabilities.
Cause of action	In civil cases, the type of claim brought by a person against another person, and which explains why that other person should pay money or do something.
Charge	In a criminal case, this is the allegation which the Police make against the accused.
Civil wrong	An act or omission which gives rise to a dispute between individuals or companies. Not a crime.
Contested or defended hearing	In a criminal case, a hearing in front of the Commissioner where the prosecution tries to prove the accused is guilty. A defended hearing follows on from a not guilty plea. In a civil case, a hearing in front of the Commissioner where the applicant tries to prove their claim. It follows on from the other party not admitting the claim.

Term	Meaning
Contract	An agreement between two or more people. It can be oral or written.
Convict	The formal process of recording the guilt of the accused after either a guilty plea or decision of guilt.
Crime	An act forbidden by the laws of Tokelau.
Crimes Rules	Crimes, Procedure and Evidence Rules 2003
Decision	The formal process of saying, at the end of the case, what the result is, and what your reasons are.
Defended or contested hearing	<p>In a criminal case, a hearing in front of the Commissioner where the prosecution tries to prove the accused is guilty. A defended hearing follows on from a not guilty plea.</p> <p>In a civil case, a hearing in front of the Commissioner where the applicant tries to prove their claim. It follows on from the other party not admitting the claim.</p>
Discharge	When someone is guilty of a charge, but you do not want to enter a conviction.
Identification	The formal process of showing that the person before the court is the correct person.
Impartial/Impartiality	Being free of any interest or bias in a case.
Jurisdiction	The lawful power to hear a case, and act.
Penalty unit	As at 1 September 2024, one penalty unit is \$50.
Plea	In a criminal case, the formal statement as to whether the person admits or denies the charge. Will be either guilty or not guilty.
Plea in mitigation	The speech given before sentence, by an offender, or by the offender's lawyer, in which they will give

Term	Meaning
	reasons to try to justify a lesser sentence.
Right of appeal	In any case you hear, and after your decision has been given, the right a person has to come before a higher court and have the matter reconsidered.
Sentencing	The penalty that an offender must pay or do. You pass sentence after you have either found someone guilty, or that person has pleaded guilty. Usually a fine or imprisonment.
Standard of proof	<p>In criminal cases, the standard of proof is beyond reasonable doubt.</p> <p>In civil cases, the standard of proof is on the balance of probabilities (more likely than not).</p>
Summons	A formal document requiring someone to come to court.

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