

TONGA GOVERNMENT GAZETTE SUPPLEMENT EXTRAORDINARY

No. 16

Tuesday 12 August

2009

FOREIGN EXCHANGE CONTROL ACT (Section 2)

FOREIGN EXCHANGE CONTROL (AMENDMENT) REGULATIONS 2009

IN EXERCISE of the powers conferred by section 2 of the Foreign Exchange Control Act (Cap. 103), His Majesty in Council makes the following Regulations:

1. (1) These Regulations may be cited as the Foreign Exchange Control (Amendment) Regulations 2009.
- (2) The Foreign Exchange Control Regulations, as amended, are in these Regulations referred to as the Principal Regulations.
2. Regulation 2 of the Principal Regulations is amended by inserting the following definition in the appropriate place:

“resident in Tonga” means:

 - (a) a Tongan national residing in Tonga;
 - (b) a person who is not a Tongan national who has:
 - (i) resided continually in Tonga for two years or more; or
 - (ii) been granted a permit to reside in Tonga on assured income;
 - (c) a married couple of whom one of the spouses is a resident in Tonga; or
 - (d) a business entity (partnership, company, branch operation, sole proprietor, trust) that is incorporated, formed or registered and operating under the laws of Tonga.”
3. The Principal Regulations are amended by inserting the following new provision as Regulation 3A:

“3A. (1) The consent of the Reserve Bank for any money to be taken or sent under Regulation 3 may be delegated by the Reserve Bank to any financial institution licensed under the Financial Institutions Act 2004.

 - (2) A delegation made under this regulation shall be written and shall specify the maximum amount to which the delegation applies.”

4. Regulation 5A of the Principal Regulations is amended as follows:
 - (a) in paragraph (c), by deleting "Regulation 6(a)" and substituting it with "paragraph (a)"; and
 - (b) in paragraph (d), by deleting "Regulation 6(a)" and substituting it with "paragraph (a)".
5. Regulation 10 of the Principal Regulations is amended as follows:
 - (a) by re-numbering that provision as sub-regulation (1); and
 - (b) by inserting the following as sub-regulation (2):

"(2) Any person who contravenes any provision under sub-regulation (1) commits an offence."
6. Regulation 11 of the Principal Regulations is amended as follows:
 - (a) in paragraph (a), by deleting "\$2000" and substituting it with "\$20,000"; and
 - (b) in paragraph (b), by deleting "\$2000" and substituting it with "\$200,000".

Made in Nuku'alofa this 29 day of May 2009.

His Majesty George Tupou V.

FAKALAHI KI HE KASETE 'A E PULE'ANGA TONGA KASETE MAKEHE

Fika 16

Tusite 12 'Aokosi

2009

LAO KI HONO PULE'I 'O E FETONGI PA'ANGA MULI (Kupu 2)

NGAAHI TU'UTU'UNI (FAKATONUTONU) KI HE FETONGI PA'ANGA MULI 2009

'I HONO NGAUE'AKI 'o e ngaahi mafai kuo foaki 'e he kupu 2 'o e Lao ki hono Pule'i 'o e Fetongi Pa'anga Muli (Vahe 103), 'oku fa'u 'e he 'Ene 'Afio 'i he Fakataha Tokoni 'a e ngaahi Tu'utu'uni ni:

1. (1) 'E ui 'a e Ngaahi Tu'utu'uni ni ko e Ngaahi Tu'utu'uni (Fakatonutonu) ki he Fetongi Pa'anga Muli 2009.
- (2) 'Oku ui 'a e Ngaahi Tu'utu'uni ki he Fetongi Pa'anga Muli, 'i hono fakatonutonu, 'i he Ngaahi Tu'utu'uni ni, ko e Tefito'i Tu'utu'uni.
2. 'Oku fakatonutonu 'a e Tefito'i Tu'utu'uni 'aki hono fakahu atu 'a e 'uhinga'i lea fo'ou ni 'i hono tu'u'anga totonu:

""taha nofofonua 'i Tonga" 'oku 'uhinga ia:

- (a) ko ha taha tangata'i fonua Tonga nofo 'i Tonga;
- (b) ko ha taha 'oku 'ikai tangata'i fonua Tonga kuo:
 - (i) nofo hokohoko 'i Tonga 'i he ta'u 'e ua pe lahi hake; pe
 - (ii) kuo foaki ange ha ngofua ke nofo 'i Tonga pea tene ma'u ha ma'u'anga vahenga pau;
- (c) ko ha ongo matu'a muli, ko e taha 'ia kinaua 'oku nofo fonua 'i Tonga; pe
- (d) ko ha pisinisi (patinasipi, kautaha, va'a ngaue, taha pule'i taautaha, talasiti) 'oku fakakautaha, fa'u pe lesisita pea fakalele fakataau ki he ngaahi lao 'o Tonga."

3. 'Oku fakatonutonu 'a e Tefito'i Tu'utu'uni 'aki hono fakahu atu 'a e tu'utu'uni fo'ou ko eni ko e Tu'utu'uni 3A:

- "3A. (1) 'E ngofua ki he Pangike Pule ke tuku atu ki ha kautaha pa'anga kuo laiseni 'i he Lao ki he Ngaahi Kautaha Faka-pa'anga 2004, 'a e mafai 'i he Tu'utu'uni 3 ke tali hono 'ave pe 'oatu ha pa'anga.
- (2) Kuo pau ko hono tuku atu 'o ha mafai 'i he tu'utu'uni ni 'e fakahoko 'i he tohi pea kuo pau ke fakaha 'a e pa'anga lahi taha 'e lava fakamafai'i.

TONGA GOVERNMENT GAZETTE SUPPLEMENT EXTRAORDINARY

No. 15

Tuesday 12 August

2009

FOREIGN EXCHANGE CONTROL ACT (Section 2)

FOREIGN EXCHANGE CONTROL (RESTRICTION ON REMOVAL OF CASH) REGULATIONS 2009

IN EXERCISE of the powers conferred by section 2 of the Foreign Exchange Control Act (Cap. 103), His Majesty in Council hereby makes the following Regulations:

1. Short title and commencement date

- (1) These regulations may be cited as the Foreign Exchange Control (Restriction on Removal of Cash) Regulations 2009.
- (2) These regulations shall come into force on the day the Cabinet (Restriction on Removal of Cash from the Kingdom) Order 2006 ceases to be effective.

2. Interpretation

In these regulations, unless the context otherwise requires:

“Customs officer” means any officer employed by the Customs Division of the Revenue Services Department;

“Governor” means the Governor of the National Reserve Bank of Tonga;

“Minister” means the Minister of Finance;

“remove” means any attempt to cross any controlled exit point, including Immigration Division and Customs Division posts, and airline entry control of persons departing on an aeroplane or other craft, whilst carrying restricted cash, or causing such cash to be removed in a suitcase or other baggage or storage that belongs to the traveller or any other person;

“restricted cash” means any cash exceeding the amount of \$10,000 pa’anga, or cash in currency of any country or countries in any combination that exceeds the value of \$10,000 pa’anga.

3. Removal of restricted cash

- (1) No person shall remove any restricted cash, except with the written permission of the Governor.
- (2) Any person who acts in contravention of sub-regulation (1) commits an offence.

4. Declaration

- (1) Any person intending to travel out of the Kingdom shall complete and sign a declaration in the form prescribed in the Schedule to confirm whether he is removing any restricted cash or not.
- (2) Any person who makes a false declaration under sub-regulation (1) commits an offence.

5. Functions of Customs Officers

- (1) Any person who removes restricted cash or makes a false declaration, shall be temporarily held by a Customs officer for the purposes of these Regulations.
- (2) A Customs officer shall perform the following actions in relation to any person temporarily held under sub-regulation (1):
 - (a) advise the person that the restricted cash shall be confiscated and, may be forfeited;
 - (b) seize and confiscate the restricted cash;
 - (c) note the name, address and other details of the person who was carrying the restricted cash;
 - (d) give the person a receipt and notice that he may apply in writing to the Minister for the return of the restricted cash, and if he does so he shall supply evidence as to the satisfaction of the Minister as to why the amount exceeded the stipulated maximum or why a false declaration was made;
 - (e) secure the restricted cash in a safe place; and
 - (f) as soon as practicable, transfer the restricted cash to the custody of the Ministry of Finance.
- (3) The restricted cash may be forfeited to the Crown, unless the person who had such cash confiscated satisfies the Minister in writing within 4 weeks of the confiscation, that it is in the interests of fairness and justice that all or part of the restricted cash should be returned.
- (4) Notwithstanding any decision by the Minister to return restricted cash, the Minister may also decide that a portion of the restricted cash shall be forfeited to the Crown to cover the administrative cost of the confiscation and the application for return.
- (5) Any person who commits an offence against these regulations shall be liable upon conviction, in addition to the forfeiture of any restricted cash:
 - (a) in the case of an individual to a fine not exceeding \$100,000 or imprisonment for a term not exceeding 3 years;
 - (b) in the case of a body corporate, to a fine not exceeding \$200,000.

Made at Nuku'alofa this 26 day of June 2009.

His Majesty George Tupou V.

SCHEDULE

PASSENGER DECLARATION REGARDING RESTRICTION ON THE
REMOVAL OF CASH FROM THE KINGDOM

Full Name
Passport Number
Flight Number
Date

1. I understand that:

- (a) no person may remove (or cause to be removed) cash from Tonga, exceeding the amount of \$10,000 pa'anga, or cash in currency of any country or countries in any combination that exceeds the value of \$10,000 pa'anga, without the written permission of the Governor of the Reserve Bank of Tonga.
- (b) any cash that I try to carry past a controlled exit point may be forfeited to the Crown, unless I satisfy the Minister of Finance in writing within 4 weeks of the initial confiscation, that it is in the interests of fairness and justice that all or part of the funds should be returned.
- (c) I may apply in writing to the Minister of Finance for the return of the restricted cash, and must supply evidence to the satisfaction of the Minister as to why the amount exceeded the stipulated maximum or why a false declaration was made.

2. I am not carrying cash exceeding the amount of \$10,000 pa'anga, or cash in currency of any country or countries in any combination that exceeds the value of \$10,000 pa'anga.

Signed

NB: A combination of cash in currencies that together adds up to the equivalent of more than \$10,000 pa'anga would breach the restriction.

FAKALAHI KI HE KASETE 'A E PULE'ANGA TONGA KASETE MAKEHE

Fika 15

Tusite, 12 'Aokosi

2009

LAO KI HE PULE'I 'O E FETONGI PA'ANGA MULI (Kupu 2)

NGAAHI TU'UTU'UNI KI HE PULE'I 'O E FETONGI PA'ANGA MULI (FAKANGATANGATA HONO 'AVE HA PA'ANGA) 2009

'I HONO NGAUE'AKI 'o e mafai kuo foaki 'e he kupu 2 'o e Lao ki he Pule'i 'o e Fetongi Pa'anga Muli (Vahe 103), 'oku fa'u 'e he 'Ene 'Afio 'i he Fakataha Tokoni 'a e Ngaahi Tu'utu'uni ni:

1. Hingoa nounou mo e kamata'anga

- (1) 'E ui 'a e Ngaahi Tu'utu'uni ni ko e Ngaahi Tu'utu'uni ki he Pule'i 'o e Fetongi Pa'anga Muli (Fakangatangata hono 'Ave ha Pa'anga) 2009.
- (2) 'E kamata ngaue'aki 'a e Ngaahi Tu'utu'uni ni 'i he 'aho 'e ngata ai hono ngaue'aki 'a e Tu'utu'uni 'a e Kapineti (Fakangatangata hono 'Ave ha Pa'anga mei he Fonua) 2006.

2. 'UHINGA'I LEA

'I he ngaahi tu'utu'uni ni, tukukehe 'o ka fiema'u ha 'uhinga kehe 'i hono tu'unga:

"Ofisa Kasitomu" 'oku 'uhinga ia ki ha 'ofisa pe 'oku ngaue 'i he Va'a Kasitomu 'a e Potungae Tanaki Pa'anga;

"Kovana" 'oku 'uhinga ia ki he Kovana 'o e Pangike Pule Fakafonua 'o Tonga;

"Minisita" 'oku 'uhinga ia ki he Minisita Pa'anga;

"'ave" 'oku 'uhinga ia ki ha feinga ke hu ki tu'a 'i ha feitu'u hu kitu'a 'oku pule'i, kau ai 'a e ngaahi feitu'u 'a e Va'a 'Imikuleisoni pe Va'a Kasitomu, pe feitu'u hu'anga pule'i 'e ha kautaha vakapuna hu'anga 'oku pule'i ki ha vakapuna pe fa'ahinga vaka, lolotonga hono to'oto'o ha pa'anga fakatangata (pe fakautpu ha fa'ahinga pa'anga pehe ke 'ave 'i ha kato leta pe ha fa'ahinga kato pe me'a fa'o'anga 'oku 'a'ana 'e he taha folau pe ha taha kehe);

"pa'anga fakatangata" 'oku 'uhinga ia ki ha fa'ahinga pa'anga 'oku lahi hake he pa'anga 'e \$10,000, pe ha pa'anga 'o ha fa'ahinga fonua pe ngaahi fonua 'i hono fa'ahinga fakatahataha'i pe 'oku lahi hake 'a hono mahu'inga 'i he pa'anga 'e \$10,000.00.

3. 'Ave 'o ha pa'anga fakangatangata

- (1) 'Oku 'ikai ngofua ha taha ke ne 'ave ha pa'anga fakangatangata, tukukehe kapau kuo tali 'i ha tohi 'e he Kovana.
- (2) 'Oku fakahoko ha hia 'o kapau 'e 'i ai ha taha 'oku ne maumau'i 'a e tu'utu'uni-si'i (1).

4. Fakamatala fakaha

- (1) Kuo pau ki he taha kotoa pe 'oku taumu'a ke folau atu mei he Pule'anga ni ke ne fakafonu ke kakato pea fakamo'oni hingoa 'i he foomu 'oku tu'utu'uni 'e he Tepile ke fakapapau'i pe 'oku ne to'oto'o ha pa'anga fakangatangata pe 'ikai.
- (2) 'Oku fakahoko ha hia 'o kapau 'e 'i ai ha taha 'oku ne fai ha fakamatala 'oku loi koe'uhi ko e tu'utu'uni-si'i (1).

5. Ngaahi Fatongia 'o e kau 'Ofisa kasitomu

- (1) Kuo pau ki ha taha 'oku ne 'ave pa'anga fakangatangata, pe kuo ne fai ha fakamatala 'oku loi, ke tauhi faka-taimi ia 'e ha 'Ofisa Kasitomu 'o fakatatau ki he taumu'a 'o e Ngaahi Tu'utu'uni ni.
- (2) Kuo pau ke fakahoko 'e ha 'Ofisa Kasitomu 'a e ngaahi me'a ni fekau'aki mo ha taha kuo tauhi faka-taimi 'i he tu'utu'uni-si'i (1):
 - (a) fakaha ki he taha ko ia 'e to'o mei ai 'a e pa'anga fakangatangata pea, 'e malava ke fa'ao;
 - (b) puke mo to'o mei ai 'a e pa'anga fakangatangata;
 - (c) hiki 'a e hingoa, tu'asila mo ha fa'ahinga fakamatala pe 'o e taha ko ia na'a ne to'oto'o 'a e pa'anga fakangatangata;
 - (d) 'oange ki he taha ko ia 'a e tohi fakaha kuo to'o mei ai, pea mo ha fakaha 'oku malava ke ne fai ha kole 'i ha tohi ki he Minisita ki hono fakafoki 'a e pa'anga fakangatangata, pea kuo pau ke 'oatu ha ngaahi fakamo'oni ke fakafiemalie'i 'a e Minisita ki he 'uhinga na'e lahi ai 'a e pa'anga pe ko e 'uhinga na'e fai ai 'a e fakamatala loi;
 - (e) tauhi malu 'a e pa'anga fakangatangata 'i ha feitu'u malu; pea
 - (f) 'i he taimi vave taha, 'ave 'a e pa'anga fakangatangata ke tauhi 'e he Potungaue Pa'anga.
- (3) 'E malava ke fa'ao 'a e pa'anga fakangatangata ma'ae Kalauni, tukukehe kapau 'e hanga 'e he taha na'e 'i ai 'a e pa'anga ko ia 'o fakafiemalie'i 'a e Minisita 'i ha tohi 'e fai 'i loto 'i he uike 'e 4 mei hono to'o mei ai, 'oku 'i he taumu'a 'o e totonu mo e fakamaau totonu ke fakafoki 'a e kotoa pe kongā 'a e pa'anga fakangatangata.
- (4) Tukukehe ha tu'utu'uni 'a e Minisita ke fakafoki ha pa'anga fakangatangata, 'e ngofua ki he Minisita ke ne tu'utu'uni kuo pau ke fa'ao ma'ae Kalauni 'a e kongā 'o e pa'anga fakangatangata ke totongi'aki 'a e ngaahi fakamole fakangaue ki he to'o mei ai pea mo e kole ke fakafoki.

- (5) Ko ha taha 'oku ne fakahoko ha hia 'i he ngaahi tu'utu'uni ni, kuo pau 'e ala tautea ia 'o ka halaia, 'o tanaki atu ki hono fa'ao 'o e pa'anga fakangatangata -
- (a) kapau ko ha taha, ke mo'ua pa'anga 'o 'ikai lahi hake 'i he \$100,000 pe ngaue popula 'i ha taimi 'o 'ikai laka hake 'i he ta'u 'e 3;
- (b) kapau ko ha kautaha ke mo'ua pa'anga 'o 'ikai lahi hake 'i he \$200,000.

Na'e fakahoko 'i Nuku'alofa 'i he 'aho 26 ni 'o Sune 2009.

Ko 'Ene 'Afiu Siasia Tupou V.

TEPILE

FAKAMATALA HA TAHA FOLAU FEKAU'AKI MO E NGAahi
 FAKANGATANGATA KI HONO 'AVE PA'ANGA MEI HE
 PULE'ANGA

Hingoa Kakato

Fika Paasipooti

Fika 'o e Vaka Folau

'Aho

1. 'Oku ou 'ilo'i:

- (a) 'oku 'ikai ngofua ke 'ave (pe fakatupu ke 'ave) ha pa'anga mei Tonga 'oku lahi hake he pa'anga 'e \$10,000, pe ha pa'anga muli 'o ha fa'ahinga fonua pe ngaahi fonua 'i hono fa'ahinga fakatahataha'i pe 'oku lahi hake 'a hono mahu'inga 'i he pa'anga 'e \$10,000.00, ka 'ikai ha tohi fakangofua mei he Kovana 'o e Pangike Pule Fakafonua 'o Tonga.
- (b) ko ha fa'ahinga pa'anga teu feinga ke to'o 'i ha feitu'u hu ki tu'a 'oku pule'i 'e malava ke fa'ao ma'ae Kalauni, tukukehe kapau te u fakafiemale'i 'a e Minisita 'i ha tohi 'e fai 'i loto 'i he uike 'e 4 mei hono to'o meia au, 'oku 'i he taumu'a 'o e totonu mo e fakamaau totonu ke fakafoki 'a e kotoa pe kong'a 'a e pa'anga fakangatangata.
- (c) 'e ngofua keu kole 'i ha tohi ki he Minisita Pa'anga ke fakafoki mai 'a e pa'anga fakangatangata, pea kuo pau keu 'oatu ha ngaahi fakamo'oni ke fakafiemale'i 'a e Minisita ki he 'uhinga 'oku lahi ai 'a e pa'anga 'i he pa'anga kuo tu'utu'uni pea mo e 'uhinga na'e fai ai 'a e fakamatala loi.

2. 'Oku 'ikai teu to'oto'o ha pa'anga 'oku lahi hake he pa'anga 'e \$10,000 pe ha pa'anga muli 'o ha fa'ahinga fonua pe ngaahi fonua 'i hono fa'ahinga fakatahataha'i pe, 'oku lahi hake 'a hono mahu'inga 'i he pa'anga 'e \$10,000.00.

Fakamo'oni Hingoa:

NB: Ko ha fakatahataha'i 'o ha pa'anga muli pe 'oku fakatahataha'i 'oku tanaki ia ki he mahu'inga tatau mo e pa'anga 'e \$10,000, 'oku maumau'i 'e ia 'a e fakangatangata.

BY AUTHORITY:
 Metuisela Falesiva, General Manager
 Tonga Print Ltd. - 2009.