

BANKRUPTCY AMENDMENT BILL 2016

SAMOA

Explanatory Memorandum

Introduction:

The Bill seeks to amend the *Bankruptcy Act 1908* ("the Act"). The objective of the Bill is to prohibit adjudicated bankrupts from leaving Samoa without the Official Assignee's approval.

Clauses:

- Clause 1:** - states that, when enacted, the Bill will be called the Bankruptcy Amendment Act 2016, and will commence on the date of assent by the Head of State.
- Clause 2:** - amends section 138(1) of the Act by deleting paragraph (uu) of the Act and substituting it with a new paragraph (uu) to expressly state that a person declared bankrupt commits a crime if he or she leaves, attempts to leave or make preparations to leave Samoa without having first obtained the consent of the Official Assignee.

- Clause 3:** - provides consequential amendments to the *Immigration Act 2004* to add “persons declared bankrupt” as an additional category of persons prohibited from departing or attempting to depart from Samoa under section 24 of the Immigration Act, unless the Official Assignee gives consent to depart.



(Hon FAAOLESA Katopau T. Ainuu)

**MINISTER OF JUSTICE AND
COURTS ADMINISTRATION**

BANKRUPTCY AMENDMENT BILL 2016

SAMOA

Arrangement of Provisions

1. Short title and commencement
2. Section 138 amended
3. Consequential amendments

2016, No.

A BILL INTITULED

AN ACT to amend the Bankruptcy Act 1908 (“principal Act”).

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement:

- (1) This Act may be cited as the Bankruptcy Amendment Act 2016.
- (2) This Act commences on the date of assent.

2. Section 138 amended:

In section 138(1) of the principal Act, for paragraph (uu) substitute:

- “(uu) while a bankrupt and without having first obtained the consent of the Official Assignee -
 - (i) leaves, or attempts to leave, Samoa, temporarily or permanently; or
 - (ii) makes preparations for leaving Samoa, temporary or permanently; or”.

3. Consequential amendments:

In the Immigration Act 2004:

- (a) for section 24(1) -
 - (i) delete the word “and” after the semi colon at the end of paragraph (a);
 - (ii) delete the full stop at the end of paragraph (b) and substitute with “; and”; and
 - (iii) after paragraph (b), insert:
 - “(c) persons declared bankrupt unless the Official Assignee gives consent to depart under section 138 of the Bankruptcy Act 1908.”.
