



Office of the Attorney General of Samoa LEGISLATIVE DRAFTING DIVISION

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EDITOR'S NOTE



Malo le soifua maua ma le lagi e mama!

Welcome to the third edition of the Legislative Drafting Division quarterly newsletter for the year 2015. The past three months have been a busy but quite a memorable period for the Division, from the passing of 15 new Acts (including 3 separate Amendments to the Electoral Act 1963), to bidding farewell to the Maota Fono which has been demolished for a new Parliament Chamber and concluding with the hosting of the 2015 Meeting of the Pacific Legislative Drafters' Technical Forum in joint conjunction with the Pacific Islands Forum Secretariat (PIFS) and the training by Pacific Office of the UN Economic and Social Commission for Asia and the Pacific (UNESCAP) on the United Nations Convention on the Rights of Persons with Disability (UNCPRD).

The Legislative Drafting Division is happy to once again bring you the latest updates on recently enacted legislation and on workshops and training attended by its members.

Happy reading and God bless!

Siovia Florina Liu (Editor)

State Solicitor—Legislative Drafting

5th Pacific Legislative Drafters Technical Forum, 29th September—2 October 2015, Samoa Conference Centre



Hon. Deputy Prime Minister Fonotote Pierre Laufofo with the Attorney General of Samoa, Tuatagaloa Aumua Ming C. Leung Wai with regional and local participants of the Forum

7. Congratulations on achievements
8. More photos from the Drafters' Forum
9. Upcoming Events

"This is the first time for the Government of Samoa to host the Drafters' Forum. Our commitment to supporting this meeting stems from our deep appreciation of the importance of the processes of legislative drafting that implement government policies developed at the national, regional and international levels."

Hon Deputy Prime Minister Fonotote Pierre Laufofo

PARLIAMENT UPDATE

BILLS TABLED IN PARLIAMENT –AUGUST SITTING

<u>Bills introduced (first reading)</u>	<u>DATE</u>	<u>Bills referred to Select Committee</u>	<u>DATE</u>
Electoral Amendment Bill (No.3) 2015	11 August 2015	Foreign Investment Amendment Bill 2015	13 August 2015
Foreign Investment Amendment Bill 2015	11 August 2015	Sentencing Bill 2015	13 August 2015
Sentencing Bill 2015	11 August 2015	Evidence Bill 2015	13 August 2015
Evidence Bill 2015	11 August 2015	Fisheries Management Bill 2015	13 August 2015
Fisheries Management Bill 2015	11 August 2015	Lands, Surveys and Environment Amendment Bill 2015	13 August 2015
Lands, Surveys and Environment Amendment Bill 2015	11 August 2015	Land Titles Registration Amendment Bill 2015	13 August 2015
Land Titles Registration Amendment Bill 2015	11 August 2015	Competition and Consumer Bill 2015	13 August 2015
Competition and Consumer Bill 2015	11 August 2015	<u>Bills - Consideration in Detail</u>	
Excise tax Rates Amendment Bill 2015	17 August 2015	Electoral Amendment Bill (No.3) 2015	13 August 2015
Electoral Amendment Bill (No.4) 2015	17 August 2015	Petroleum Amendment Bill 2015	13 August 2015
Electoral Amendment Bill (No.5) 2015	27 August 2015	Ports Authority Amendment Bill 2015	13 August 2015
<u>Bills completed second reading</u>		Water Schemes Bill 2015	13 August 2015
Electoral Amendment Bill (No.3) 2015	11 August 2015 to 13 August 2015	Central Bank of Samoa Bill 2015	13 August 2015
Foreign Investment Amendment Bill 2015	13 August 2015	Road Traffic Amendment Bill 2015	13 August 2015
Sentencing Bill 2015	13 August 2015	Tax Information Exchange Amendment Bill 2015	13 August 2015
Evidence Bill 2015	13 August 2015	Credit Union Bill 2015	13 August 2015
Fisheries Management Bill 2015	13 August 2015	Excise Tax Rates Amendment Bill 2015	17 August 2015
Lands, Surveys and Environment Amendment Bill 2015	13 August 2015	Electoral Amendment Bill (No.4) 2015	17 August 2015
Land Titles Registration Amendment Bill 2015	13 August 2015	Electoral Amendment Bill (No.5) 2015	27 August 2015
Competition and Consumer Bill 2015	13 August 2015	National Prosecution Office Bill 2015	27 August 2015
Excise tax Rates Amendment Bill 2015	17 August 2015	Infants Amendment Bill 2015	27 August 2015
Electoral Amendment Bill (No.4) 2015	17 August 2015	Police Service Amendment Bill 2015	27 August 2015
Electoral Amendment Bill (No.5) 2015	27 August 2015	Foreign Investment Amendment Bill 2015	27 August 2015

DEMOLITION OF THE MAOTA FONONO - 14 August 2015

Loretta Teueli (Chief Legislative Drafter), Kylie Wilson and Terina Sefo from the Legislative Drafting Division attended a service on 14 August 2015 to mark the beginning of the project to demolish the 43 year old Maota Fonono which will be replaced with a new Maota Fonono. The Maota Fonono was built in 1972 and has since served Samoa over the years. The Prime Minister in his speech stated that it is remarkable that the building survived over such a long period of time considering its location near the ocean and changes brought about by climate change. The last Parliament sitting held in the Maota Fonono was on the 17 August 2015. The rest of the Parliament sittings for August were held at the Samoa Conference Centre in Sogi. The next Parliament sitting will resume in October this year at the Tuinaimato Gym 1 Complex.



PARLIAMENT UPDATE continue

ACTS PASSED FROM JULY to SEPTEMBER 2015

Name of Legislation	Date passed	Commencement Date
1. Electoral Amendment Act (No.3) 2015 (passed under urgency certificate)	13 August 2015	1 September 2015 (Assent date)
2. Petroleum Amendment Act 2015	13 August 2015	1 September 2015 (Assent date)
3. Ports Authority Amendment Act 2015	13 August 2015	1 July 2014 (Retrospective effect)
4. Water Schemes Act 2015	13 August 2015	TBC
5. Central Bank of Samoa Act 2015	13 August 2015	2 September 2015 (Assent date)
6. Road Traffic Amendment Act 2015	13 August 2015	2 September 2015 (Assent date)
7. Tax Information Exchange Amendment Act 2015	13 August 2015	1 September 2015 (Assent date)
8. Credit Union Act 2015	13 August 2015	4 September 2015 (Assent date)
9. Excise Tax Rates Amendment Act 2015 – (passed under Urgency Certificate)	17 August 2015	1 September 2015 (Date nominated by the Minister)
10. Electoral Amendment Act (No.4) 2015 – (passed under Urgency Certificate)	17 August 2015	1 September 2015 (Assent date)
11. Electoral Amendment Act (No.5) 2015 (passed under urgency certificate)	27 August 2015	2 September 2015 (Assent date)
12. National Prosecution Office Act 2015	27 August 2015	TBC
13. Infants Amendment Act 2015	27 August 2015	4 September 2015 (Assent date)
14. Police Service Amendment Act	27 August 2015	2 September 2015 (Assent date)
15. Foreign Investment Amendment Act 2015	27 August 2015	2 September 2015 (Assent date)

SUBSIDIARY LEGISLATION

TITLE	DATE MADE/ SIGNED	COMMENCEMENT DATE
Radio Spectrum Fees Amendment Regulations 2015	18 August 2015	18 August 2015 (date signed by HOS)
Telecommunication Licence Fee Amendment Regulations 2015	18 August 2015	18 August 2015 (date signed by HOS)
Broadcasting (Licence Fees) Regulations 2015	18 August 2015	18 August 2015 (date signed by HOS)
Civil Aviation (Safety and Security Levy) Regulations 2015	9 September 2015	26 October 2015 (date nominated by the Minister)

UP COMING PARLIAMENT SITTINGS

MONTH	DATE & DAY
October	TUESDAY 20
November	TUESDAY 17
December	TUESDAY 15

There is but one law for all, namely that law which governs all law, the law of our Creator, the law of humanity, justice, equity – the law of nature and of nations.

Edmund Burke (1729-1797)
British political writer



SUMMARIES OF LEGISLATION PASSED FROM JULY TO SEPTEMBER 2015

Electoral Amendment Act (No.3) 2015

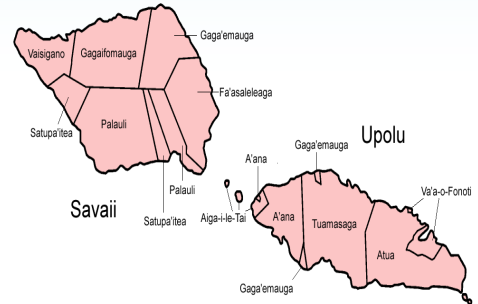
The objectives of the Electoral Amendment Act (No.3) 2015 are:

- to provide a period of at least 3 years (up to the day the nomination paper is lodged with the Commissioner) for a candidate to render village service requirements;
- to address the inconsistency in the Act on the terms of imprisonment relating to—
 - (i) grounds for disqualifications for candidates for Members of Parliament under section 5(5)(b)(i), which is 4 years; and
 - (ii) vacancy of seats of Members of Parliament under section 10(e), which is 2 years;
- to give discretionary power to the Commissioner for re-photographing of voters after 10 to 15 years; and
- to provide for the right of descendants (including their spouses) of persons who are or were on the roll for the Vaimauga and Faleata Territorial Constituencies (TC) on or before the 2011 General Elections to register on those TC rolls, despite the fact that they do not have kinship connection to those TCs. The descendants must reside in those TCs for at least 6 months to qualify.



Electoral Amendment Act (No.4) 2015

The objective of the Electoral Amendment Act (No. 4) 2015 is to ensure that the 5-year transfer rule also applies to those registered in an urban constituency, as section 16(3) and (4) applies to transfer between territorial constituencies. Once a person is registered under an urban constituency, that person cannot move to another urban or territorial constituency except pursuant to the transfer rule under section 16(3) and (4) of the Principal Act.



Electoral Amendment Act (No.5) 2015

The Electoral Amendment Act (No. 5) 2015 re-defines the definition of “village service” to refer to monotaga rendered by a candidate for any of his or her Matai titles within one territorial constituency only and service rendered to communities within urban constituencies.

Police Service Amendment Act 2015

The Police Service Amendment Act 2015 amends section 46 of the Police Service Act 2009 by extending the time period a police officer may retire. The maximum year a police officer may apply to extend was increased from 60 years to 65 years. The age where a police officer should retire is the age of 55 years but a police officer may apply to the Commissioner of Police to extend his or her service and retire up to the age of 65 years. This applies to all police officers working for the Police Service except for the Commissioner, assistant commissioners, auxiliary members and other non-sworn members engaged under contract.



Foreign Investment Amendment Act 2015

The objectives and purpose of the Foreign Investment Amendment Act 2015 are:

- (i) to repeal section 3(2) of the Principal Act to remove the exception which allows non-citizens to work in businesses listed in the Reserve List; and
- (ii) to add a new section 8B to require foreign investment certificates to be renewed on an annual basis.

Road Traffic Amendment Act 2015

The Road Traffic Amendment Act 2015:

- amends certain terms and inserts definitions for “authorised officer” and “Chief Executive Officer”. Both terms have the same meaning as used in the Land Transport Authority Act 2007;
- amends section 3 of the Principal Act by ensuring that references are also made to the Land Transport Authority Act 2007;
- repeals the proviso to section 27(5) of the Principal Act to make it compulsory for all drivers to carry their licence at all times when driving and failure to produce their licence on request by an authorised officer is an offence;
- amends section 36 of the Principal Act by substituting “60cwt” with “3tonnes” of net weight and prohibiting a person under 25 years of age from driving a motor omnibus;
- inserts new sections 72C to 72E to provide for the powers of authorised officers to stop, impound and sell impounded vehicles; and
- provides for other general amendments to the Principal Act for consistency.



SUMMARIES OF LEGISLATION PASSED FROM JULY TO SEPTEMBER 2015

Credit Union Act 2015

The Credit Union Act 2015 was a result of a review of the Credit Union Ordinance 1960 that was carried out by the Ministry of Commerce, Industry and Labour and the Samoa Law Reform Commission in 2012. The aim of the review was to look at the recent developments in the region on the laws relating to credit unions.

The review proposed amendments to the Ordinance to include new parts to consolidate all sections dealing with legal status, object, functions and powers and members of credit unions; with rights and obligations; with the Registrar and deputy registrars; with the registration process and procedures for registration.

Other amendments include:

- new definitions (account, bylaws, credit committee, dividend, Federation of Credit Unions, member, membership share, officer, share account, standard bylaws and supervisory committees);
- CEO of the Ministry as the Registrar;
- provides for appointment of deputy registrars;

- Register of Credit Unions and right of members only to access Register;
- simplifying the making of bylaws i.e. to be made by the Registrar (CEO) instead of the approval of the Head of State under the Ordinance;
- Cancellation of registration to be done by the Registrar instead of the Head of State under the Ordinance.

The Credit Union Act 2015 repeals the Credit Union Ordinance 1960.



Water Schemes Act 2015

The Water Schemes Act 2015 gives formal legal recognition to the Independent Water Schemes as a water service provider in villages. The Independent Water Schemes comprise community managed water schemes that exist throughout the villages and communities in Samoa and are registered with the Independent Water Scheme Association (Association). The Independent Water Schemes is Samoa's second water service provider, the other being the Samoa Water Authority (SWA).

The Independent Water Schemes is one of the stakeholders of the Water and Sanitation Sector which has been identified as a priority sector under the Strategy for the Development of Samoa. The overarching development goal of this Sector, as set out in the Water for Life: Water and Sanitation Sector Plan 2012-2016, is to secure "reliable, clean, affordable water and basic sanitation within the framework of Integrated Water Resources Management, for all people in Samoa to sustain health improvements and alleviate poverty". The Act will ensure that the Independent Water Schemes contribute towards increasing and improving access by people in the rural villages to reliable, clean and affordable drinking water and have better control over the prevalence of water borne diseases through the provision of basic sanitation.

The aims of the Act are:

- to formally recognize Independent Water Schemes as a water service provider to replace water Committees established under the repealed Water Act 1965;

- to strengthen its governance and management structure;
- to provide a legal basis for assistance from the Government and other sources channelled through the Ministry of Women, Community and Social Development;
- to provide a proper legal framework for the coordination of services between the Independent Water Schemes and other Sector stakeholders; and
- to create responsibilities to ensure the water supplied meets the required national drinking water standards and the sanitation requirements, as well as for sustainable management of water resource.



Infants Amendment Act 2015

The objective of the Infant Amendment Act 2015 is to clarify that in the case of an application for adoption of an infant by 2 applicants if one of them is a Samoan citizen, then the application is not to be treated as an "overseas adoption".



Petroleum Amendment Act 2015

The main objective of the Petroleum Amendment Act 2015 is for the Government to regulate the importation of "bulk fuel" to Samoa by a person other than a contractor.

The new section 10A prohibits a person other than a contractor from importing bulk fuel unless there is prior written consent from the Minister of Finance.

The term "bulk fuel" is defined as any petroleum imported in quantities greater than 500,000 litres per annum and includes Liquefied Petroleum Gas in quantities of 500,000 litres per annum.



Tax Information Exchange Amendment Act 2015

The Tax Information Exchange Amendment Act 2015 addresses the deficiencies highlighted during Samoa's Phase 2 Peer Review under the Global Forum on Transparency and Exchange of Information for Tax Purposes which was conducted in December 2014. The Amendment Act will ensure that the right to keep documents confidential or right to secrecy and legal privilege is overridden to allow for transparent exchange of information for tax related purposes in order to resolve the problem of tax avoidance. The Amendment Act amends the following provisions of the Principal Act:

- section 10(2) - subsection (2) is substituted to provide that for an obligation in relation to confidentiality as referred in subsection (1).
- Schedule 1 is amended to insert Mexico, Japan and South Africa; and
- makes consequential amendment to section 80(1) of the Trusts Act 2014 and section 147(7) of the Special Purpose International Companies Act 2012 to provide that both provisions are subject to section 10 of the Tax Information Exchange Act 2012.

Excise Tax Rates Amendment Act 2015

The objective of the Excise Tax Rates Amendment Act 2015 is to amend the Schedule of the Excise Tax Rates Act 1984 to give effect to the 2015/2016 Budget to increase excise tax rates in the following areas:

- tobacco;
- alcohol;
- bottled water; and
- fuel.



Central Bank of Samoa Act 2015



The Central Bank of Samoa Act 2015 repeals the Central Bank of Samoa Act 1984 (old Act). The Review of the Central Bank Act 1984 was carried out in 2013 to modernise provisions of the old Act to best suit international practices. The review was also done as a result of continuous evolution of challenges everyday which place

more duties and obligations on the Central Bank of Samoa. The new Act addresses these challenges and forms of protection to protect the Central Bank of Samoa. The major changes include:

- strengthening the autonomy of the Central Bank of Samoa;
- the appointment of the Governor is now for 6 years with a renewal term of 6 years (12 years altogether);
- conflict of interests are now spelt out in the new Act;
- an Audit Committee is established under the new Act;
- the appointment of an Internal Auditor to submit reports to Audit Committee; and
- international standards are provided for in the new Act.

The objectives of the Central Bank of Samoa Act 2015 are:

- to continue the establishment of the Central Bank of Samoa ("Bank") and provide for its administration, functions, duties and powers;
- to provide for authorised capital of the Bank, the General Reserve Account, distributable profit and annual budgets;
- to empower the Bank to issue currencies in Samoa;
- to provide for international reserves and foreign exchange;
- to regulate monetary and financial stability;
- to provide for its relationship with the Government;
- to provide auditing of the Bank's operations; and
- to repeal the Central Bank of Samoa Act 1984, the Banking Ordinance 1960 and the Monetary Board of Samoa Act 1974.

Ports Authority Amendment Act 2015

The objective of the Ports Authority Amendment Act 2015 is to authorise the transfer of the ownership of the Mulifanua and Salelologa ports from the Samoa Ports Authority to the Samoa Shipping Corporation Limited ("SSCL"). Schedule 1 and other provisions of the Ports Authority Act 1998 are amended, to reflect the amendment with regard to the transfer of the two Ports to SSCL.



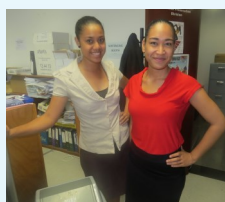
National Prosecution Office Act 2015

The National Prosecution Office Act 2015 (NPO Act) establishes the National Prosecution Office (Office) and provides for the Director of Public Prosecutions (Director) functions, duties and powers.

The passing of the NPO Act is an important milestone for Samoa in establishing an independent National Prosecution Office. The independence of the Office ensures that no arm of Government influences the prosecutorial duties of the Director. The duty and role of the prosecution is currently vested in the Attorney General under Article 41 of the Constitution which has been the case since Samoa became independent. However with the development of the prosecutorial capacity of legal officers within Government dealing with prosecutions, Government has seen that it is now timely for the National Prosecution Office to be established as Samoa is firmly committed to ensuring the promotion and maintenance of the rule of law, good governance and transparency.

The NPO Act therefore sets out the terms of appointment, removal and suspension of the Director. It also sets out the Offices values, principles and code of conduct. The NPO Act also sets out the appointment of staff and secondment of officers to the Office, subject to terms and conditions of secondment, as well as the remuneration of the staff to be determined under the Remuneration Tribunal Act 2003. The NPO Act further provides protection of the Director and staff from personal liability for acts done in good faith under the NPO Act, and other miscellaneous matters.

A Bill to amend the Constitution is before Parliament to deal with amending Article 41 of the Constitution to remove the prosecutorial duties of the Attorney General. A new Article 41A will provide for the appointment of the Director and the Directors Prosecutorial duties.



Prosecutors of the Criminal Division

5th Pacific Legislative Drafters' Technical Forum
Date: 29 September—2 October 2015, Samoa Conference Centre

The Government of Samoa hosted the 5th Pacific Legislative Drafters' Technical Forum (Drafters' Forum) at the Samoa Conference Centre in Apia, from 29 September to 2 October 2015 in partnership with the Pacific Islands Forum Secretariat. This is the first time Samoa has hosted the Drafters' Forum and it was indeed a big milestone for the Attorney General's Office, specifically the Drafting Division. The Drafters' Forum also included a two day training on the United Nations Convention on the Rights of Persons with Disability (UNCRPD).



Members of the Legislative Drafting Team with Kerryn Kwan of PILON and Parliamentary Counsel Teleia'i Dr. Lalotoa S. Mulitalo

mission for Asia and the Pacific (UNESCAP).

Honourable Fonotoe Pierre Laufo, Deputy Prime Minister delivered the keynote address where he stated that it is an honour and privilege for the Government of Samoa to host the 5th Drafters' Forum and stressed the importance of legislative drafting work in implementing government policies.

Participants of the meeting included the Attorney General from the Republic of Marshall Islands (RMI) and senior legislative drafters from Australia, Cook Islands, Kiribati, Nauru, New Zealand, Palau, Papua New Guinea, Samoa, Solomon Islands,

Tonga, Tuvalu and Vanuatu.

Days 1 and 2—Discussion of institutional and technical legislative development and drafting issues

During the first two days of the meeting, the regional participants were given the opportunity to present their country reports on updates on work done and development of their respective legislative departments or units. Loretta Teueli (Chief Legislative Drafter—Attorney General's Office, Samoa) presented the country report for Samoa. The participants were also privileged to hear presentations from the more seasoned legislative drafters from around the region on "Techniques and best practices for addressing technical drafting issues". Presenters included Rupeni Nawaqakuta (Legal Legislative Drafting Adviser for the Attorney General's Office—Samoa), Ms Fiona Leonard (Deputy Chief Parliamentary Counsel, Parliamentary Counsel Office, New Zealand), Mr Johnny Bogombari (First Legislative Counsel, Office of the Legislative Counsel, Department of Prime Minister and NEC, Papua New Guinea) and Teleiai Dr. Lalotoa S. Mulitalo (Parliamentary Counsel, Office of the Clerk of the Legislative Assembly, Samoa).

Other presenters included Mr. Luke Muffet of the Australian Government Attorney General's Department, Mr Yoli Tom'tavala, Secretariat of the Pacific Community, and Mrs Nola Faasau, Legislative Drafting Office, Pacific Islands Forum Secretariat who presented on assistance provided by their respective offices to countries of the region on legislative drafting and policy development.

Facilitators of the different sessions included Mr. Tuatagaloa Aumua Ming C. Leung Wai, Attorney General, Samoa; Mr. Natan Brechtefeld, Attorney General, RMI; Mr Johnny Bogombari, Mrs Loretta Teueli, Ms. Fiona Leonard, and Mr. Rupeni Nawaqakuta.

Background

The Drafters' Forum is the regional network for senior government legal officers responsible for legislative drafting in Forum Island Countries. It last met in Suva, Fiji in April 2014. The meeting forms part of the Forum Secretariat's ongoing support to legislative drafting services in Forum Island Countries, which includes: facilitating professional development and training opportunities for government lawyers responsible for legislative drafting; providing direct legislative drafting assistance to Forum Island Countries; and coordinating the provision of legislative drafting assistance from other organisations.

Objectives of the 2015 meeting

The objectives of the 2015 meeting was to enable legislative drafters from Forum Island Countries to:

(a) share information, discuss best practices and identify new opportunities for improving access to high quality legislative drafting services;



Hon Deputy Prime Minister Fonotoe Pierre Laufo delivered the keynote address

(b) increase knowledge, through peer-learning, of current legislative development and drafting issues; and

(c) acquire specific skills and experience in relation to the legislative aspects of the UNCRPD. This component of the meeting will draw on technical expertise provided by the UN Economic and Social Com-

mission for Asia and the Pacific (UNESCAP).

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CONTINUE...

Days 3 and 4— Interactive training on the legislative implementation of the UN Convention on the Rights of Persons with Disabilities

Part of the Drafters' Forum was a training conducted by the UNESCAP on the UNCRPD. The training was held from 1 – 2 October 2015.

Mr. Carlos Rios Espinosa (UNESCAP Trainer) an expert on the UNCRPD conducted the training. The objective of the training was to develop participants' skills and experience in relation to the legislative implementation of the UNCRPD.

On the last day of the training, representatives from Nauru, Samoa and the Pacific Disability Forum presented on their experiences in developing a UNCRPD compliant legislation. Ms. Leitu Moananu (Senior Legislative Drafter) presented on behalf of Samoa.

Conclusion

At the conclusion of the UNCRPD training, each participant was awarded a certificate for the completion of the training on UNCRPD. A regional draft action plan for the Drafters' Forum was developed as a way going forward for each country to pursue before the next Drafters' forum meeting next year.



Participants of the Drafter's Forum with Mr. Carlos Rios Espinosa (front row: 3rd from left)

**OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) REGIONAL MEETING ON THE RIGHTS OF INDIGENOUS PEOPLES AND MINORITIES IN PACIFIC ISLAND COUNTRIES
Held at Port Vila, Vanuatu, 10 – 12 AUGUST 2015**

From 10 to 12 of August 2015, the Office of the United Nations High Commissioner for Human Rights (OHCHR) organised a regional meeting on the rights of indigenous peoples and ethnic, religious and linguistic minorities in Port Vila, Vanuatu. Mearold Viliamu (State Solicitor) attended the meeting on behalf of the Attorney General's Office.

The meeting coincided with the International Day of the World's Indigenous Peoples which is celebrated every year on 9 August. It brought together a range of representatives from Pacific Island Country Governments, Civil Society Organisations, National Human Rights Institutions and UN agencies, and included participants from Cook Islands, Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The aim of the meeting was to create a platform to discuss the rights of indigenous peoples and minorities, share experiences on how to better protect these rights and promote the implementation in the Pacific of the relevant international human rights standards.

The Honourable Dunstan Hilton, Minister for Justice and Community Services in Vanu-

atu, opened the meeting and in his closing address asserted that "this workshop (was) a wakeup call for Governments and NGOs, nationally and regionally, to raise human rights issues in the Pacific to another level."

During the meeting, participants discussed the impact of climate change on the rights of indigenous peoples, the right to land and natural resources, the principle of "free, prior and informed consent", and the role of national human rights institutions in the protection of the rights of indigenous peoples and minorities. The meeting proved to be an invaluable opportunity for participants from across the Pacific region to share their respective experiences, including good practices, and discuss challenges in the protection of indigenous peoples' and minority rights. At the end of the meeting, participants committed to take action towards the implementation of the UN Declaration on the Rights of Indigenous Peoples and UN Declaration on the Rights of Per-

sons belonging to racial, ethnic and linguistic and religious minorities.



Catherine Phuong (Acting Head of Office—OHCHR) with participants of the workshop including Mearold Viliamu

Topic: Dual Listed Companies (DLC) Wealth Management Workshop

Venue: Development Bank of Samoa Level 5 & 6

Date: 28 July to August 7 2015



Mark Lea (workshop trainer)
Photo credit: Lea & White
Solicitors website
<http://www.lea-white.com/Content/Partners.html>

Kylie Wilson, Law Clerk of the Legislative Drafting Division and Gemma Nelson, State Solicitor of the Civil Division of the Office of the Attorney General attended the extensive two week workshop in relation to Dual Listed Companies Wealth Management, conducted by Mark Lea.

Mr Lea is a partner in Lea & White, Solicitors, Hong Kong and Managing Director of Lea & White International Advisers.

Mr Lea is currently acting as a legal consultant to the Government of Samoa and is in the process of amending the Trusts Act 2014 and also drafting a Foundations Bill 2015.

The purpose of this informative workshop was to cover various topics on wealth management such as; the different kinds of Trusts, what they can provide a client and reasons behind its establishment as well as its advantages and disadvantages. It also covered in brief, the Foundations Bill Mr. Lea is in the process of finalising in order to provide the relevant stakeholders an idea of what the Bill will cover and for the participants to raise any issues before the Bill is finalised.

The workshop also covered the contrast and comparison between a trust and a foundation. A Trust has no separate personality, thus cannot sue or be sued. The trustees has the burden of being sued and the right to sue on behalf of the trust. Trusts are not required to be registered and are created by a Settlor or by Trustees.

Foundations have a separate legal personality and it can sue or be sued. Foundations must be registered under the law and is endowed with assets by its Founder.

The workshop further touched on Samoa's Trusts Act 2014 and why it is so attractive to overseas countries. Other topics covered were the reserved powers, protection of assets, and taxation of different countries under both a Trust and Foundation .

**SAMOA'S UNIVERSAL PERIODIC REVIEW WORKSHOP FOR GOVERNMENT AND
NON GOVERNMENTAL ORGANISATIONS (NGO's)**

18 –19 August 2015, Tanoa Hotel, Apia Samoa

The Office of the United Nations High Commissioner for Human Rights (OHCHR) in collaboration with the Pacific Island Forum Secretariat (PIFS) and SPC/RRRT hosted a workshop for Government and NGOs Samoa's Universal Periodic Review (UPR) reporting in preparation for its

upcoming UPR in April/May 2016. Samoa's first UPR was in 2011 and since then a lot of legislative and policy reforms have been done to reflect recommendations made in 2011.

The purpose of the workshop was to train participants in preparation for Samoa's reporting on Samoa's second UPR in 2016.

Participants included representatives from government Ministries and agencies and non-government organisations. Elenor Fruen (Law Clerk –Civil Division) and Siovia Liu (State Solicitor—LDD) attended the workshop on behalf of the Attorney General's Office.

Catherine Phuong (Acting Head of Office) of the OHCHR presented on "Open Forum: Universal Periodic Review 2nd Cycle" and what the UPR entails. UPR is a peer review of Samoa's report on aspects of human rights which is submitted to the United



Ombudsman Maiava Iulai Toma with Catherine Phuong and participants of the workshop

Nations Council. This is the opportunity for the 47 members of the UNC to ask questions and make recommendations in relation to Samoa's report.

The Ombudsman, Maiava Iulai Toma spoke on an update of Samoa's human rights generally. One of the biggest achievements is the establishment of the National Human Rights Institution within his Of-

fice.

Tasha Siaoosi (Ministry of Foreign Affairs and Trade) provided a brief background of Samoa's experience during the first UPR and those involved and the process taken during Samoa's preparation.

Seema Naidu from PIFS facilitated group discussions and how to provide an effective report and what to report on taking into consideration the recommendations made in 2011.

Conclusion

At the conclusion of the workshop a draft report was drafted with the assistance from participants, the Attorney General's Office, PIFs and the Ministry of Foreign Affairs and Trade.

Topic: Consultation Workshop on Legal Preparedness for International Disaster Response in Samoa

Date: 28th—29th July 2015 Venue: Millennia Hotel Conference Centre, Sogi, Samoa



Attorney General Tuatagaloa Aumua Ming C. Leung Wai, Vaasilifiti Moelagi Jackson (President of the Samoa Red Cross Society) and Ambassador of Japan with the Participants



Attorney General Tuatagaloa Aumua Ming C. Leung Wai delivering the opening speech

Donald Kerslake (legal consultant for the International Disaster Response Law Study) conducted a consultation workshop from 28 to 29 of July 2015 held at the Millennia Hotel Conference Centre. Mearold Viliamu (State Solicitor) Lizatalei Hakai (Law Clerk) and Siovia Liu (State Solicitor) attended the workshop on behalf of the Attorney General's Office and assisted with facilitation of group discussions and note taking during the consultation.

Participants of the consultation included representatives from government Ministries and agencies and non—government organisations and relevant stake holders dealing with the implementation of disaster laws. The workshop is one of the outputs of the “Disaster Law Study” undertaken by Leafa Donald Kerslake with the support of the Samoa Red Cross Society (SRCS) and the Attorney General's Office (AGO) with technical assistance from the International Federation of Red Cross and Red Crescent Societies (IFRC).

The Attorney General, Tuatagaloa Aumua Ming C. Leung Wai delivered the opening speech and stated that the study undertaken by Mr. Kerslake, was to identify gaps in Samoa's disaster laws and find a solution to legally strengthen our disaster response and to minimise legal barriers for relief disaster response. He also acknowledged the recent achievements of the Samoa Red Cross Society in the passing of the Geneva Conventions Act 2015, which updates the Samoa Red Cross Act 1993 and formally recognises the Samoa Red Cross Society as a statutory body.

The Disaster Law Study examines relevant domestic laws, policies and practices against the recommendations of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines).

The IDRL Guidelines are a framework of recommendations for the effective facilitation of international response in times of disaster developed by the IFRC and its members after seven

years of extensive research and global consultation on the subject.

Effective application of relevant IDRL Guidelines can have very real benefits for Samoa as they are aimed at ensuring quality, timely and effective international disaster response when it is needed.

The aims of the workshop are:

- to present the findings from legal research conducted so far on the application of national, regional and international standards related to International assistance and the key legal issues, which would arise in the event of a large-scale disaster requiring international assistance in Samoa;
- to generate discussion and encourage inter-agency dialogue on the findings and recommendations to explore what will be required in Samoa to harmonize our laws with the needs of effective disaster response;
- to identify additional issues (or loopholes in the existing laws and practices) through group discussions examining the practical application of IDRL laws and practices in Samoa; and
- to agree and work towards a draft action plan which may be relied upon by agencies to realise the recommendations raised in the legal research and workshop.

Ms Finau Limuloa (Regional Humanitarian Diplomacy & Disaster Law Delegate) of IFRC presented on the brief background on international disaster response laws.

Mr. Kerslake presented and facilitated on the key findings of the study and participants were encouraged to voice their views on the recommendations made based on findings from the study.



Leafa Donald Kerslake

Conclusion

The consultation concluded with the drafting of a draft action plan as a way forward for the study.

Melanesian Spearhead Group (“MSG”) and the Pacific Small Arms Action Group (“PSAAG”) Regional workshop on the United Nations Program of Action and the Arms Trade Treaty (“ATT”)

1 – 2 September 2015, Port Vila, Vanuatu



Steffany Meredith with other presenters at the workshop

The MSG in collaboration with PSAAG hosted the above workshop held in Port Vila, Vanuatu from 1 to 2 September 2015. The purpose of the workshop was to review the MSG member States (Fiji, Solomon Islands, Papua New Guinea and Vanuatu) current position on the ATT with the aim to create action plans to lead each member towards ratification and accession of the ATT. Steffany Meredith of the Legislative Drafting Division of the Office of the Attorney General was nominated to attend the above workshop to present on the process that Samoa took to prepare the ratification of the ATT. In the hope that it would inspire and encourage other MSG member States to ratify and accede to the ATT.

The ATT was signed by the Hon. Prime Minister of Samoa in New York at the 68th session of the United Nations General Assembly on 25 September 2013. On the 3rd of June 2014, Samoa deposited its ratification instruments to coincide with the 1st anniversary signing of the ATT a year earlier. Samoa currently has a draft Bill in place for Samoa to nationalise the ATT.

The workshop was conducted over a period of 2 days and was held at the MSG Secretariat (Port Vila, Vanuatu). Ms. Laura Spano an Arms Control Manager at PSAAG facilitated the workshop and several presentations were made by presenters (including Samoa) on the different topics discussed.

The 2 day workshop was divided into the following sessions:

- advancing the United Nations Program of Action on Small Arms and Light Weapons (“UNPoA”);
- the ATT: the current State of Play;
- highlighting synergies with the UNPoA and other regional security frameworks;
- the reality of the ATT: putting it into practice; and
- the next step for Melanesian States: recommendations and conclusions.

The workshop provided an insight of what challenges MSG member States are currently facing and how they can be assisted in order to ratify and enact enabling legislation for the ATT. Presenting on Samoa’s process of ratification was a great initiative by the PSAAG and MSG Secretariat as it would be in the hope that it would inspire Samoa’s neighboring countries to become a party and to encourage the prevention of illicit trade of conventional arms. It is expected that all MSG member State countries would sign and ratify or accede to the ATT in the future.

Anti-Dumping Remedies for Samoa— 4 - 7 August 2015
Ministry of Foreign Affairs and Trade—Conference Room



Dr. Gustav Brink

The “Anti-Dumping Remedies for Samoa” training was held from 4 to 7 of August 2015 at the Ministry of Foreign Affairs and Trade Conference room. Titilua Aiono (Law Clerk) and Elizabeth Tiitii (Volunteer) from the Legislative Drafting Division attended together with Faalau Iupati, Angie Seiuli and Rebecca Shuster of the Civil Division. The training was conducted by South African professor Gustav Brink. The purpose of the training was:

- to provide an overview on the 3 trade remedies: anti-dumping measures, countervailing duties and safeguard measures;
- to consider the necessary knowledge and expertise required to conduct a trade remedies investigation;
- to identify the advantages and disadvantages of using trade remedies in Pacific Island Countries; and
- to inform the members on basic information of trade remedies and anti-dumping, and its effects on the economy of Samoa.

The training proposed the initiation of an Anti-dumping Bill, Regulations and a manual assisting to carry out the procedures and framework for an anti-dumping investigation.

Dumping products is a common practice by economies of scale where manufacturers dump a mass produced product manufactured at very low prices into a country selling it at a cheaper price causing material injury to a domestic industry producing a like product. The issue of dumping is condemned under WTO Regulations the implementation of a new legislation and training of government officials in this regard will assist to protect local manufacturers infant industries and strengthen Samoa’s trade policies.



Domestically, very low prices are called a “sale”, but internationally that’s illegal dumping.

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OTHER EVENTS FROM JULY TO SEPTEMBER 2015

LEGISLATIVE DRAFTING DIVISION BASIC AND TECHNICAL TRAININGS

The Legislative Drafting Division (LDD) has been conducting monthly technical trainings for the members of the division and a basic training on legislative drafting inviting members from the Criminal and the Civil Divisions and lawyers and officers from other ministries. So far LDD has conducted 2 technical trainings and 1 basic training. The basic training was conducted by Mr. Rupeni Nawaqakuta (Legal Adviser) and Mrs. Loretta Teueli (Chief Legislative Drafter) from 21 to 23 of July whereby lawyers from the Criminal and the Civil Divisions attended as well as lawyers and policy officers from the Ministry of Natural Resources and Environment, Public Service Commission, Ministry of Finance and Ministry for Revenue. The technical drafting trainings were held on 25 August 2015 and 16 September 2015, where each member of LDD raises technical issues they are finding challenging and discuss them with the whole Division with the assistance from the senior drafters of the Division.



VOLUNTEERS

The Legislative Drafting Division was fortunate to have Ms. Grace Lofi a fourth year law student from the University of the South Pacific and Ms Elizabeth Tiitii who recently graduated with a Bachelor of Law from the Zhongnan University of Economics and Law in China, where she studied from 2011-2015. Ms Lofi was with the Division for two weeks before she left for Vanuatu to complete her studies.

Ms. Tiitii volunteered for the Division for four weeks before joining the Criminal Division. Members of the Legislative Drafting Division convey their gratitude to Ms. Lofi and Ms Tiitii for their assistance and we wish them all the best with their future endeavours.



Ms. Lofi



Ms. Tiitii

VOLUNTEERING FOR THE 2015 SAMOA COMMONWEALTH YOUTH GAMES



During the 2015 Commonwealth Youth Games hosted by Samoa from 5 TO 11 September 2015, a 6 members of the Attorney General's Office volunteered to assist with the Games. Mr. Dominic Taouli (State Solicitor) and Ms. Glory Fuimaono (State Solicitor) of the Civil Division and Ms. Titilua Aiono (Law Clerk) and Ms. Siovia Liu (State Solicitor) of the Legislative Drafting Division were among the volunteers, together with Mrs. Toitua Tuae Mulipola Simeona (Legal secretary) and Ms. Muriel Schuster (Human resource officer) of the Corporate Services Division. It was indeed a experience of a life time where the volunteers were able to interact with the athletes and their managers and coaches from different countries of the Commonwealth and participate in the opening and closing march of the Games.

Dominic and Glory were with the food Committee and were also involved with the drafting of contracts for the Games, Siovia, Titilua and Muriel were liaison officers for Saint Vincent and the Grenadines, Uganda and Tuvalu, whereas Toitua was a village operator.



WELCOME TO THE LEGISLATIVE DRAFTING DIVISION!

Legislative Drafting Division (Drafting Division) would like to formally welcome Ms. Ann Matalasi to our Division. Ann Matalasi first joined the Criminal Division and has moved to the Drafting Division.

Welcome Ann!!!



OTHER EVENTS FROM JULY TO SEPTEMBER *continue*

Drafting Team Refresher Training, 7 August 2015



After a hectic and challenging first six months of the year the Legislative Drafting Division went on a team refresher training away from the Office to re-group and re-

lax and reflect on what has happened so far within the team. Rupeni conducted an exercise on the Constitution where the team was challenged to go back and refresh their memories on some of the important provisions of the Constitution when drafting legislation. Malo lava drafting team for all the hard work done these past few months.

HAPPY BIRTHDAY ATTORNEY GENERAL TUATAGALOA AUMUA



The staff of the Attorney General's Office celebrated the Attorney General's 42nd birthday on 9 September 2015. Muriel Lui (Assistant Attorney General—Civil Litigation and Opinions) gave a few remarks on behalf of the office in commemorating this special day.

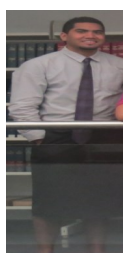
Special thanks to the Attorney General's wife, Fiti Leung Wai for treating the Attorney General and the whole staff to a delicious cake and cupcakes to celebrate his birthday. May our loving Heavenly Father continue to bless you with many more years to come. God knows you have been a blessing to each and every one of us and we are fortunate to have you as the leader of our Office.



DRAFTING TEAM FOR COMING IN 2nd IN THE GO THE MANU COMPETITION



LIZATALEI HAKAI, KYLIE WILSON, TITILUA AIONO & MEAROLD VILIAMU ON ADMISION TO THE COMMONWEALTH ASSOCIATION OF LEGISLATIVE COUNSEL



STEFFANY MEREDITH ON TYING THE KNOT



LORETTA TEUELI ON A NEW ADDITION TO THE FAMILY

Introducing our future drafter:
Myles Rupeni Teueli



Born on 2 October 2015

More photos from the Drafters Forum



MEMBERS OF THE LEGISLATIVE DRAFTING DIVISION 2015

Ming C. Leung Wai, Attorney General

Loretta Teueli, Assistant Attorney General

Rupeni Nawaqakuta, Legislative Drafting Advisor

Meiapo Fa'asau, Associate Legislative Drafter

Leitu Moananu, Senior State Solicitor

Steffany L. Meredith, State Solicitor

Siovia F. Liu, State Solicitor

Mearold Viliamu, State Solicitor

Lizatalei Hakai, Law Clerk

Kylie Wilson, Law Clerk

Titilua Aiono, Law Clerk

Losa Kelekolio, Senior Legal Secretary

Terina Sefo, Part Time Law Clerk

Ann Matalasi, Part Time Law Clerk

Upcoming
EVENTS

next Parliament Sitting—20 October 2015

DISCLAIMER

Please note that the information contained in this Newsletter is not intended to be taken as legal advice and therefore should not be relied upon as such. Any fault in the accuracy of the information in this Newsletter is ours alone.