



OFFICE OF THE ATTORNEY GENERAL LEGISLATIVE DRAFTING DIVISION UPDATE

EDITOR'S NOTE

Malo le soifua maua ma le lagi e mama!

Welcome to the third edition of the Legislative Drafting Division newsletter for 2016. This edition will cover an update of all events from July to September 2016. It includes Bills passed by Parliament and workshops attended by members of the Legislative Drafting Division.

Editors: Steffany Meredith Hunt (Principal Legislative Drafter), Ann Matalasi (Law Clerk)

Samoa Law Society and Maori Law Society Joint Conference 7th —9th July 2016, Taumeasina Island Resort



Participants of the Joint Conference guided by the theme “Where is our Island? – Navigating the waves of custom and law – Finding ourselves in our Islands”. His Highness, the Head of State, Tui Atua Tupua Tamasese Efi delivered the keynote address.

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PARLIAMENT UPDATE

ACTS PASSED IN AUGUST 2016

Name of Legislation	Date passed	Commencement Date
1. Citizenship Amendment Act 2016	23:08:16	24:08:16
2. Bankruptcy Amendment Act 2016	23:08:16	24:08:16

SUBSIDIARY LEGISLATION

TITLE	DATE MADE/SIGNED	COMMENCEMENT DATE
1. Custom Tariff Modification Order 2016	17:08:16	17:08:16

SUMMARIES OF LEGISLATION PASSED IN JULY—SEPTEMBER 2016

Citizenship Amendment Act 2016

The Act amends the Citizenship Act 2004 ('Principal Act') to cover second generation Samoans born overseas who want to become citizens by descent.



Section 7 of the Principal Act is amended by inserting a new subsection (4) as follows: "As an exception to subsections (1) to (3) a person born outside Samoa is a citizen of Samoa by descent provided that at the time of the person's birth at least 1 grandparent of the person

is or was a Samoan citizen by birth".

This is to provide new eligibility for citizens by descent where second generation of Samoans may become citizen by descent if at the time of birth one of the grandparents is or was citizens of Samoa by birth.

A transitional provision is also included under section 3 this is to clarify that the new proposed amendment to section 7 applies to a person born outside of Samoa before the commencement of this Act.

Bankruptcy Amendment Act 2016

The Act amends the Bankruptcy Act 1908. The objective of the Act is to prohibit adjudicated bankrupts from leaving Samoa without the Official Assignee's approval.

A new paragraph is inserted in section 138 of the Principal Act whereby a person declared bankrupt commits a crime if he or she leaves, attempts to leave or make preparation to leave Samoa without having first obtained the consent of the Official Assignee.

The Act also 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.



SAMOA LAW SOCIETY AND MAORI LAW SOCIETY JOINT CONFERENCE

7th—9th JULY 2016, TAUMEASINA ISLAND RESORT

Participants were officially welcome in an ava ceremony hosted by the Ministry of Justice and Courts Administration. It was officially open by His Highness, the Head of State, Tui Atua Tupua Tamasese Efi. The President of the Samoa Law Society Savalenoa Mareva Betham-Annandale said this is the first joint conference between the Maori Law Society and the Samoa Law Society to discuss the key issues on the between custom and law.

The key purpose of the 2 day conference is to discuss, bring together and establish a more formal manner of networking, discussion and professional development between Maori and Samoa lawyers..

The conference was closed by the Honourable Chief Justice, His Honour Patu Tiava'asu'e Falefatu Sapolu.

As follows are the presenters during the joint conference:

- a) Taulapapa Brenda Heather-Latu – Custom and Constitution – a double hulled waka or 2 boats running aground on a Samoan reef?;
- b) Judge Graig Coxhead – The constitutional status of Te Tiriti o Waitangi/ treaty of Waitangi;
- c) Judge Miharo Armstrong, Rachel Mullins – Retention, Development & utilization of Maori land – Finding the right balance;
- d) Tuatagaloa Aumua Ming Leung Wai: Promoting the

economic use of customary land –Will that result in the alienation of our lands?;

e) Justice Tafaomalo Leilani Tuala-Warren: How culture/cultural norms assist with addressing violence in families;

f) Tavake Afeaki, Maiava Visekota: A focus on modern day alternative dispute resolution processes in a Samoan and maori context;

g) Teleiai Dr, Lalotoa Mulitalo: Finding ourselves in our parliament laws, the Electoral Act & Village Fono Act –Samoa;

h) Jamie Feguson, Judge Vaepule Vaemoa Vaai: A focus on the tension between custom and law relating to the rights to the deceased;

i) Judge Ida Malosi ,Judge Emma Aitken: The treaty of Friendship – taking a special relationship to the next level (a judicial perspective).

The conference was organized by the Continuous Legal Education Committee comprised of 4 members of the Legislative Drafting Division (Steffany Meredith-Hunt, Siovia Liu-Teo, Ann Matalasi and Cata Seiuli).



Some members of the Maori Law Society during the welcoming ava ceremony hosted by the Ministry of Justice, Courts and Administration at the Samoa Tourism Authority fale at Matagialalua.

MCCABE CENTRE FOR LAW & CANCER (“McCabe”) LEGAL INTENSIVE PROGRAM
(“Program”)
AUGUST 29 – 16 SEPTEMBER 2016, MELBOURNE, AUSTRALIA



Participants of the Training with two representatives from Samoa Ms Liza Talei Hakai and Ioane Okesene.

Ms Liza Talei Hakai (State Solicitor) of the Legislative Drafting Division and Mr Lealali Ioane Okesene (Assistant Chief Executive Officer, Legal Division for Ministry of Commerce, Industry and Labour) attended the above Program which was held in Melbourne, Australia from August 29 – 16 September 2016.

The Program is a 3 week training course directed for government lawyers from low-middle income countries which includes follow-up information sharing, technical support, collaboration and network. The purpose of the Program is to:

- a) raise awareness on the effects of the rising burden of cancer, other non-communicable diseases (NCD's) globally and other related impacts on development; and
- b) build capacity in the use of the law to prevent and control cancer and NCDs in the context of developing coherence between health, trade and investment laws, policies and sectors.

The first 2 weeks comprised presentations on International Conventions in relation to tobacco control, international trade, investment and intellectual property rights (Samoa already a member to), its legal weight and the challenges on the implementation of those conventions at the domestic level, by the McCabe Centre staff members.

Case studies were also presented on countries that have experienced those challenges, how those countries dealt with the

challenges (on the national or international level) and disputes, but more importantly the lessons learnt by those countries. Those conventions were discussed and reflected the overlapping nature of these issues in relation to cancer and NCD's control. Participants were allocated into different groups throughout the Program to discuss experiences from their respective



countries on the issues relating to tobacco control, NCDs and cancer, and draw the relationship between those issues and international trade, investment and health.

The last week of the Program was focused on participants developing priority projects for their own country with the assistance and support from the McCabe Centre staff, fellow participants and external experts.

The Program is an eye opening as the prevalence of cancer and NCD continuously increases within Samoa, and provided insight knowledge on the importance of developing coherence between overlapping issues (health, trade and investment) in order to ensure Samoa develops policy and legal framework that effectively controls tobacco, cancer and NCD control.

The Program was conducted by the McCabe Centre for Law and Cancer in collaboration with the World Health Organisation (both headquarters and regional offices), and the Secretariat to the WHO FCTC as part of McCabe Centre's performance of its functions as a WHO FCTC knowledge hub.



PACIFIC WORKSHOP ON NONCOMMUNICABLE DISEASES TRADE AND SUSTAINABLE DEVELOPMENT
1 – 5 AUGUST 2016, LAUTOKA FIJI

Associate Legislative Drafter Leitu Moananu from the Legislative Drafting Division attended the Workshop.

The Workshop was coordinated by the McCabe Centre for Law and Cancer in collaboration with the United Nations Development Program (UNDP Pac Centre), World Health Organisation (WHO), Pacific Office and South Pacific Community (SPC) Public Health Division to build capacity on Law, Non-communicable diseases (NCDs) and Trade and Sustainable Development.

The Workshop responds to the needs created by the rising burden of cancer and other non-communicable diseases (NCDs) globally and in the Pacific, and the related impacts on development, as recognised by the global and regional processes developed to address NCDs. The Workshop builds capacity in the use of law to prevent and control non-communicable diseases (NCDs) particularly in the context of developing coherence between health, trade and investment laws, policies and sectors. "Most Pacific Island countries and territories have implemented some form of legal interventions to prevent N.C.Ds and now the focus is on strengthening enforcement" noted S.P.C N.C.D Officer, Solène Bertrand-Protat.

The Workshop also Identified practical steps that can be implemented to improve policy coherence and multisectoral collaboration between health, sustainable development, trade, investment and human rights priorities, obligations and processes in order to reduce the burden of NCDs in the Pacific Region and in participating countries. A focus on the law is mainly on legislation, regulations, treaties and other international instruments, litigation and case laws.

The Workshop was facilitated through presentations, case studies, group exercises and question and answer sessions focusing on lessons learnt from sessions and experiences of participants from their own respective jurisdictions.

Officials from the legal, trade and health departments who attended the five-day Workshop were from the Federated States of Micronesia, Fiji, Guam, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu. Certificate of Attendance and Participation were awarded to participants upon completion of the 5 days workshop.



The participants at the meeting including Leitu Moananu third from left, front row

TAXING SUGAR-SWEETENED BEVERAGES TECHNICAL WORKSHOP

22 - 23 SEPTEMBER 2016 MANILA, PHILLIPINES



Assistant Attorney General and Chief Legislative Drafter Noumea L. Teueli attended a 2 day (22 - 23 September 2016) technical Workshop together with a representative from the Ministry of Health and a representative from the Ministry of Finance in Manila Philippines. The technical Workshop was to discuss methods and option on the taxing of sugar sweetened beverages (SSB). The aim of the Workshop was to address the growing number of deaths as a result of non-communicable diseases (NCD) which is attributed to the high consumption of SSB products.

Alarming statistics have revealed that if the current trend remains, many countries will see the increase in death of the younger generation before the older generation. This is based on statistics indicating the growing number of NCD among the adolescent age group (i.e. 18 - 40). The 3 member delegation represents stakeholders involved in the event legislative measures are taken further to tax or increase tax of SSB. It is noted that Samoa is quite ahead of most members present at the meeting such as Mongolia, Northern Mariana Islands, Malaysia etc. Samoa was the only representation from the Pacific Islands group. Mexico who is also ahead of imposing a specific tax on SSB was present to provide their experience and success to assist countries without an SSB tax. It was a successful meeting.

**Presentation on the Prisons and Corrections Act 2013 ("the Act")
(15 September 2016 – Samoa Prisons and Corrections Services, Tafaigata)**

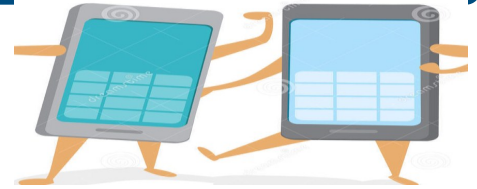


Principal Legislative Drafter Steffany Meredith-Hunt presenting at the Training.

Samoa Prisons and Corrections Services ("SPCS") held a 6-week training for new recruits which was conducted by the New Zealand Corrections team as part of their partnership agreement. During their training the Commissioner of SPCS requested for a representative of the Office of the Attorney General ("OAG") to share the knowledge and interpretation of the above Act and its subsidiary legislation to the new recruits and existing staff. Thus, Steffany Meredith (Principal Legislative Drafter) and Titilua Aiono (State Solicitor) of the Legislative Drafting Division attended on behalf of the OAG to present on the above Act (and its subsidiary legislation) pertaining to the roles of the new recruits and existing Officers.

The Training was very fruitful as discussions were based on questions pertaining to the Act specifically on Officers roles and duties, establishment of SPCS and the management of the SPCS.

**OFFICE OF THE REGULATOR CAPACITY BUILDING TRAINING
16—25 AUGUST 2016
TANOA TUSTITALA, CONFERENCE FALE**



The Office of the Regulator in collaboration with Group Special Mobile Association ('GSMA') hosted a five day capacity building training. The facilitator was Ms Ronda Zelezny-Green, Senior Digital Learning and Training Manager of GSMA. The purpose of the training was to provide an insight on two topics namely "Mobile for Social and Economic Development" and "Children and Mobile Technology".

The first part of the trainings directed the discussion on topics in relation to mobile as a driver of economic growth. The topic provided an insight on the impact mobile technology has on the economy and development as well providing regional case studies as support. This in turn opened the floor up to group discussions and presentations between the stakeholders present (Government agencies, NGO's, Internet service providers, private sector) providing case examples from the different sectors within Samoa. The presentations also focused on the socio-economic impact of mobile technology in terms of enhancing the affordability through best-practice taxation methods (i.e. taxes on mobile users and fees and levies on the operators and so forth). It also touched on the regulatory methods for extending the access to broadband in terms of universal service funds and wholesale access networks and network sharing. Further topics touched on health service delivery and how the role of mobile fits into the health service delivery.

The last two days of the training provided an in depth presentation on the rights of a child under the UN Convention on the Rights of a Child and how they are applied in today's connected societies. Such examples focused on the impact of Information Communication and Technology hinging on the rights of children and how mobile technology is enabling children to access many of their rights (i.e. freedom of expression, access to information and education and so forth).

Child Online Protection was another important topic of discussion which provided an informative insight on the distinction between the misuse of technology by adults to exploit children and the potential harmful risks that can be evaded by safe and responsible use by children. The combat against child online sexual abuse highlighted the importance of clear legislation to address such pressing issues that are arising worldwide. The presentation also covered the need for effective collaboration between hot-lines, law enforcement agencies, private sector and NGO's as well as technical solutions to prevent re-victimisation through online images. A way forward for this was to develop a high-level action plan for child online protection.

Mearold Viliamu (Senior State Solicitor), Kylie Wilson (State Solicitor) of the Legislative Drafting Division together with Bryan Patea (Accountant Clerk) and Uitiriai Kapeteni (Principal IT) of the Corporate Services Unit attended the training on behalf of the AGO.



Participants of the Training including members from AGO.

OTHER EVENTS FROM JULY TO SEPTEMBER 2016

LEGISLATIVE DRAFTING DIVISION CONTINUOUS 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 skills inviting members from the Civil Division and lawyers and officers from other ministries. The training is where each member of LDD raises technical issues they find challenging and discusses them with the whole Division with the assistance from the senior drafters of the Division. These trainings are conducted by Rupeni Nawakaquta.



VOLUNTEERS

The Legislative Drafting Division was fortunate to have Ms. Imeleta Coffin a student from Brigham Young University (BYU) Hawaii. She volunteered for one month. Members of the Legislative Drafting Division convey their gratitude to Ms. Imeleta Coffin for her assistance and we wish her all the best with her future endeavours.



NEW DISTRICT COURT JUDGE –JUDGE TALASA LUMEPATA ATOA-SAAGA



Judge Sa'aga was sworn in on 24 August 2016 by His Honour Chief Justice Patu Falefatu Maka Sapolu.

The CJ reminded Judge Sa'aga of the oath she took to serve Samoa in accordance with the Constitution and the Law and to serve without prejudice, fear, love or anger. Moreover, the CJ said Judge Sa'aga no longer has human feelings, but will stand independently under the guidance of God.

The Attorney General Lema-lu Hermann P. Retzlaff encouraged Judge Sa'aga to be strong and not to take her new role lightly especially when faced with many challenges.

The Vice President of the Samoa Law Society, Alalatoa Rosella Viane Papalii on behalf of the Society acknowledged another milestone not only for the Society but for women Judges.

Judge Sa'aga served as a legal officer for the Development Bank of Samoa for 18 years and she is known for her commitment to her work. Judge Sa'aga honoured her parents with her new appointment saying where she is the product of her parents prayers and her own hard work.

Congratulations

Siovia Liu-Tea for giving birth to a healthy baby boy Helium Tea on 6 September 2016. Also newest addition to the Legislative Drafting Family.



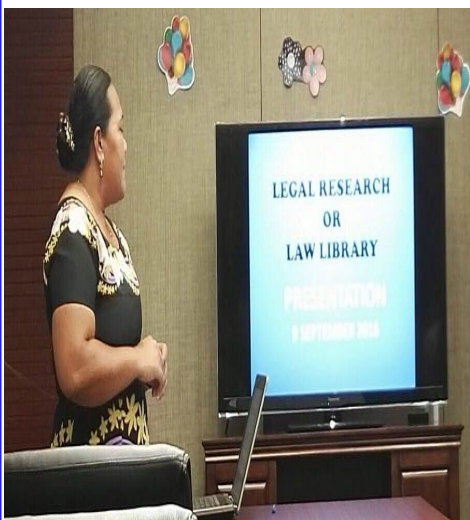
OTHER EVENTS FROM JULY TO SEPTEMBER *continue*

LAW LIBRARY TRAINING

Former Librarian Leutu Leulua'ialii has conducted and will continue to conduct Library Trainings for all lawyers and secretaries at the Office of the Attorney General. The main focus of these trainings is to train Secretaries and especially lawyers on how to use the Library effectively for their legal research.

Leutu also touched on the Twinning Program between the Office of the Attorney General in Samoa and the Australian Attorney General's Department. The Twinning Program has been assisting the Office for materials that are not found in our Library. This on-going program has benefited the Office and Leutu when she was the Librarian was the contact person to the AAGD for any information we need. The most important factor for the future of the Twinning Program is the willingness of Australian and New Zealand agencies to continue to be part of the program and to encourage new partners to join. This will depend on the capacity of Law Librarians to promote the work to their agency management. It should be noted the assistance required to become a 'twin' is not onerous to an agency: regular contact, a standing offer to assist with library management or legal research questions, keeping a back up copy of the titles in the collection, and the willingness to forward suitable material. The goodwill generated including the value to the Pacific of having up to date material, is immeasurable, not to mention the benefit to staff within Australia who often feel a sense of community and purpose knowing that they are contributing to a worthwhile cause.

These trainings will continue until all materials in the library is fully explored. The Office of the Attorney General would like to Thank Leutu for availing herself to conduct these trainings..



New Member for Legislative Drafting Division

Jasmine Falefaga

Jasmine Falefaga is the new appointee to the post of Senior Legislative Drafter with the Legislative Drafting Division.

She was a former Senior Legal Analyst with the Samoa Law Reform Commission.

Welcome to Legislative Drafting Team Jasmine and may God bless you.



**Samoa Qualification Authority
13 September 2016
TATTE Convention Centre**

The Office of the Attorney General was fortunate to be part of the Samoa Qualification Authority's Career Day for students in Year 9 & 10. The aim of this Career Day is for students to realise what they want to do in the future.

Many students were interested in the work that the Legislative Drafting, Civil and Corporate Service Division are doing within our Office.

Jacek Tuala, Ann Matalasi (Law Clerk from Legislative Drafting Division) and Kome Siatulau (Human Resource Officer) attended the Career Day.





The Office of the Attorney General bid farewell to Leutu Leulua'iali, Glory Fuimaono, Marcus Ofoia and Faalau Lagaaia.

Leutu was one of the longest serving member within the Office who worked in the Corporate Service Unit for a period of as a Librarian. Leutu now holds a post as the Principal Librarian for the Legislative Assembly.

Glory Fuimaono worked in the Civil Division for over 2 years , she is now the Principal Legal Officer for the Office of the Electoral Commissioner.

Marcus Ofoia worked with the Corporate Service Unit for over 2 years as an IT Network Officer. He is now the Senior IT Network Officer for the National Prosecution Office.

Faalau Lagaaia worked with the Legislative Drafting and Civil Division for over 2 years, she is now a Public Prosecutor for the National Prosecution Office.

We wish you all the very best. May God Bless.



MEMBERS OF THE LEGISLATIVE DRAFTING DIVISION 2016

Upcoming
EVENTS

next Parliament Sitting—18 October 2016

Lemalu Hermann P. Retzlaff, Attorney General

Loretta Teueli, Assistant Attorney General

Rupeni Nawaqakuta, Legislative Drafting Advisor

Leitu Moananu, Associate Legislative Drafter

Steffany Meredith, Principal Legislative Drafter

Siovia F. Liu, Principal Legislative Drafter

Mearold Viliamu, Senior State Solicitor

Jasmine Faleafaga, Senior State Solicitor

Lizatalei Hakai, State Solicitor

Kylie Wilson, State Solicitor

Titilua Aiono, State Solicitor

Terina Sefo, Law Clerk

Ann Matalasi, Law Clerk

Jacek Tuala, Law Clerk

Losa Kelekolio, Senior Legal Secretary

Cata Seiuli, Part Time Law Clerk

DISCLAIMER

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