



# Office of the Attorney General of Samoa

## LEGISLATIVE DRAFTING UPDATE

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### EDITOR'S NOTE



Welcome to this first edition of the Legislative Drafting Update for 2009. This is the second year in which this newsletter has been revived in an effort to keep readers up-to-date with the legislative drafting work of the Office of the Attorney General and the legislative programme of Government.

So far, Parliament has only had its January 2009 sitting. The schedule of Parliamentary sittings for 2009 is included in this edition. We have a number of Bills that are currently with Parliament awaiting tabling, a list of some of which are in this edition.

The Office of the Attorney General continues to host and participate in workshops that are relevant to the legislative reforms that are currently being considered by the Government, particularly in ensuring that Samoa complies with its international obligations. The workshops that occurred in the first quarter of this year include discussions on the legal framework on terrorism in Samoa, and an overseas workshop on human trafficking and people smuggling. You may read more on the issues discussed at these workshops in this edition.

We hope that you continue to enjoy receiving and reading the Legislative Drafting Update as we endeavor to update you on the legislative drafting work in the Office of the Attorney General. We would also appreciate any feedback you may have on the newsletter.

From the Attorney General and the Legislative Drafting Team, Office of the Attorney General—happy reading!

Sarona Rimoni  
Lead Editor for this Issue

## UNIVERSAL LEGAL FRAMEWORK ON TERRORISM DISCUSSED IN SAMOA

The Government of Samoa remains committed to meeting its international obligations under Counter Terrorism Conventions and is currently reviewing the national legislative framework against terrorism and transnational organized crime.

A 2 day workshop co-hosted by the Office of the Attorney General together with technical assistance provided by the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime (UNODC/

TPB) was held in Apia on the 2 & 3 February 2009 to discuss issues relating to the "Universal Legal Framework against Terrorism".

The workshop was well attended by senior Government officials. The discussions were on the following issues:

- the outline of the United Nations Counter Terrorism Conventions and Security Council Resolutions;

- legislation and measures member States are required to have in place;

- issues commonly encountered by States in implementing the conventions; and

- counter terrorism related matters on money laundering, mutual legal assistance and extradition etc.

Discussions on improving Samoa's legislative framework to meet its international obligations and consideration of a working draft Bill on Counter Terrorism and Transnational Organised Crime were also made during the workshop.

## PARLIAMENTARY SITTINGS FOR 2009

MONTH	Monday	Tuesday	Wednesday	Thursday	Friday
<b>January 2009</b>	19 26	20 27	21 28	22 29	23 30
<b>May 2009</b>					29
<b>June 2009</b>	15 22 29	16 23 30	17 24	18 25	19 26
<b>August 2009</b>	17 24	18 25	19 26	20 27	21 28
<b>October 2009</b>	19 26	20 27	21 28	22 29	23 30
<b>December 2009</b>	7 14	8 15	9 16	10 17	11 18

### ACTS PASSED FROM 1 JANUARY TO 31 MARCH 2009

1. Supplementary Appropriation Act (No. 1) 2009
2. Trustee Companies Amendment Act 2009
3. International Companies Amendment Act 2009

### BILLS BEFORE PARLIAMENT UP TO 31 MARCH 2009

TITLE	STATUS
1. Road Traffic (Payment of Fines) Bill 2009	Second reading on 26 January 2009 & referred to Select Committee
2. Value Added Goods and Services Tax Amendment Bill 2009	Second reading on 26 January 2009 & referred to Select Committee
3. Police Service Bill 2008	Second reading on 27 October 2008 & referred to Select Committee
4. Education Bill 2008	Second reading on 18 November 2008 & referred to Select Committee

### ACTS COMMENCED FROM 1 JANUARY TO 31 MARCH 2009

TITLE	STATUS
1. Tobacco Control Act 2008	1 January 2009

## OTHER BILLS AWAITING TABLING IN PARLIAMENT IN 2009

TITLE
1. Supplementary Appropriation Bill (No. 2) Bill 2008/2009
2. Appropriation Bill 2009/2010
3. Unit Titles Bill 2009
4. Broadcasting Bill 2009
5. Patents Amendment Bill 2009
6. Public Service Amendment Bill 2009
7. SEG International Enterprise Bill 2009
8. Narcotics Amendment Bill 2009
9. Daylight Savings Bill 2009

*All official laws passed by the Parliament of Samoa may be found online at [www.parliament.gov.ws](http://www.parliament.gov.ws)*

## BALI PROCESS ON HUMAN TRAFIKKING AND PEOPLE SMUGGLING

A meeting on human trafficking and people smuggling was held in Brisbane, Australia on 24 and 25 March 2009 as a follow up from the Bali Process meeting on Human Trafficking and People Smuggling in 2008. Samoa was represented by Parliamentary Counsel, Teleiai Lalotoa S. Mulitalo and Senior Immigration Officer, Mr Siaopo Pese of the Immigration Division of the Ministry of the Prime Minister and Cabinet. Samoa's representatives observed and learned from presentations on the status of legislative development in other countries of the world represented at the meeting.

Samoa's delegation informed participants at the meeting that Samoa is considering various options in strengthening its domestic laws on human trafficking and people smuggling e.g. by the inclusion of these criminal acts into our Crimes Ordinance. The current Criminal Law review will be considering human trafficking and people smuggling as criminal offences in Samoa. However Samoa has not yet ruled out having stand alone legislation for these matters.

Overall it was an educational and informative experience; particularly on how each country represented have addressed these issues within their domestic legal frameworks and government structures. The countries that are most affected by a high rate of human trafficking and people smuggling activities now have well established authorities and offices to deal with these matters like the Red Cross Offices, Human Rights Offices and other health related offices. Human trafficking and people smuggling are not just criminal acts requiring criminal prosecution by the courts, there are other considerations following these convictions, e.g. the right to health, education and life of the smuggled or trafficked people now in a different country.

The experiences of other countries were noted by Samoa's representatives to be considered when developing our own domestic legislation, and how Samoa would be dealing with human trafficking and people smuggling in future.

*Unofficial consolidated Acts of Samoa as of 31 December 2007 may be found on at [http://www.pacii.org/ws/legis/consol\\_act/](http://www.pacii.org/ws/legis/consol_act/)*

## UPCOMING EVENTS

### COUNTER-TERRORISM WORKSHOP, TONGA, APRIL 2009

A further update on the region's actions against terrorism will be included in our next edition. The meeting was attended by various participants from countries in the region and 2 representatives from Samoa.

Progress of reforms in the region on counter-terrorism and other related issues will be included in our second edition, 2009. So stay tuned!

### UPDATE FROM THE 4TH PIMLA ANNUAL GENERAL MEETING

The 4th Annual General Meeting of the Pacific Islands Maritime Lawyers Association ("PIMLA") will be held in Tonga, May 2009. Samoan members of PIMLA will be represented by 2 drafters in the Office of the Attorney General.

Find out about matters discussed at the AGM 2009 and any other matters of interest to maritime lawyers in our next edition.

### 2ND REGIONAL MEETING OF MINISTERS FOR MARITIME TRANSPORT—TONGA, 2009

Members of the drafting team will be attending the Second Regional Meeting of Ministers of Maritime Transport in Tonga, May 2009. They will be assisting Samoa's Minister of Works, Transport and Infrastructure and delegation on legal issues discussed at the meeting. A report on this important meeting will be in our next edition.

### VICHEALTH VISIT, MELBOURNE, AUST—MAY 2009

A drafter from the Office of the Attorney General will be part of Samoa's delegation on a fact-finding mission in Melbourne Australia in relation to health promotion and institutional set up departing in May 2009.

Read up on the results of this fact-finding mission and the importance of this mission to Samoa in our next edition.

## CRIMINAL LAW REVIEW UPDATE

The Criminal Team of the Office of the Attorney General together with the Samoa Law Reform Commission are pioneering a comprehensive review of Samoa's criminal laws, which started in November 2008. The review covers the Crimes Ordinance 1961, Criminal Procedure Act 1972 and Evidence Ordinance 1961. The criminal law review project is timely given that the legislation reviewed is at least 30 years old and Samoa's laws need to be updated to meet the demands of this fast changing society that we live in and to be consistent with reforms in criminal law in other jurisdictions.

At this initial stage of the project, consultations amongst key stakeholder Government Ministries and agencies is carried out in order to discuss policies and areas of reform in the legislation concerned.

It is envisaged also that Sentencing legislation will be prepared setting out principles for sentencing and other relevant sentencing matters in this project.

Given the importance of this project to both Government implementing agencies and the public at large, it is anticipated that wider public consultations will be carried out once all policy matters and proposed legislative reforms for the Crimes Ordinance 1961, Criminal Procedure Act 1972 and Evidence Ordinance 1961 are settled.

For more information on this project, please contact the Samoa Law Reform Commission offices on 28493/4 or the Criminal Team, Office of the Attorney General on 20295/6/7.

### HOW WELL DO YOU KNOW YOUR LATIN STATUTORY INTERPRETATION MAXIMS?

1. ***Ejusdem generis*** — general matters are constrained by reference to specific matters. For example, in specifying the animals that may be carried on a ferry, the drafter may refer to 'horses, cows, sheep and other animals'. It would be regarded as an improper reading of the Act if it were suggested that a tiger fell within the words 'other animals'. The general words are limited to apply only to animals of the same kind as those specifically mentioned. It is another way of saying that the words derive meaning from the context in which they appear.
2. ***Expressio unius est exclusio alterius*** — an express reference to one matter indicates that other matters are excluded. It is a reasonable assumption that where legislation includes provision relating to similar matters in different terms, there is a deliberate intention to deal with them differently.
3. ***Generalia specialibus non derogant*** — where there is a conflict between general and specific provisions, the specific provisions prevail. An Act may contain provisions of a general nature and also provisions relating to a particular subject matter. It is commonsense that the drafter will have intended the general provisions to give way should they be applicable to the same subject matter as is dealt with specifically.



Government officials during a session of the Counter-terrorism workshop that was held in Apia on 2 & 3 February 2009 at Insel Fehmarn Hotel—refer page 1.

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