



## OFFICE OF THE ATTORNEY GENERAL LEGISLATIVE DRAFTING DIVISION UPDATE

### EDITORS' NOTE

Tālofa and welcome to our last edition of the Legislative Drafting Newsletter for 2012. This edition gives you a summary of all the laws passed and subsidiary legislation promulgated and signed in 2012, an update of the work in Parliament, and workshops, trainings, that the Legislative Drafting Division (LDD) attended throughout 2012, and upcoming activities and workshops that the Legislative Drafting Division will undertake in 2013.

More importantly, it gives you an update of the work and what has been happening in the Legislative Drafting Division within the October to December 2012 period. Also included is an interesting reading on Plain legal language, which basically gives an overview of the language that drafters prefer to use when drafting legislation.

Finally, this issue is dedicated to le Susuga Papalii Malietau Malietoa, a former Parliamentary Counsel. We thank you for sharing your knowledge and expertise which has been of high value to our future as drafters in this Office. We wish you all the Best with your new job.

(Editor: Fetogi R Vaai)

### PARLIAMENTARY COUNSEL PAPALII MALIETAU MALIETOA APPOINTED AS ELECTORAL COMMISSIONER



Papalii Malietau Malietoa, former Parliamentary Counsel was appointed Electoral Commissioner in October 2012. Papalii is one of the longest serving members of the Office of the Attorney General. His first term as Parliamentary Counsel was from 2007 to January 2010, and continued his second term until his recent appointment.

As a Parliamentary Counsel, he was responsible for meeting the legislative agenda and demands of the State. This means that he had to interact with Samoan leaders from the Prime Minister, Ministers of the State, members of Parliament and CEOs on all issues relating to the laws of Sāmoa and in public consultation of these laws. He was also actively involved with International, Regional and Local projects relating to Drafting of laws.

Most importantly, Mr. Papalii Malietau Malietoa played a major role in sealing a close relationship between our Office and the NZ Parliamentary Counsel Office. A secondment programme between our Office and the Parliamentary Counsel Office of New Zealand, Wellington, was granted this year, and was fully funded by the NZ Ministry of Foreign Affairs. Moreover, Mr. Malietoa showed a lot of commitment to this Office, specifically the Legislative Drafting Division by assisting in every way he could to seek financial assistance so that members of our Division can participate and attend overseas drafting related trainings and workshops.

With most of his academic life spent overseas, Papalii graduated from Auckland University with Bachelor of Arts majoring in History and Political Science, AND Bachelor of Laws majoring in International Law. He also achieved a Professional Diploma in Legislative Drafting from the University of the South Pacific.

A great and a humble leader with a lot of experience in terms of drafting, interpreting and arguing the law, we sadly bid you farewell and proudly wish you good luck with the new appointment.

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1. Proceeds of Crime Amendment Act

##### News for October ~ December 2012

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3. Regional Health Promotion Leadership Training Programme
4. Regional Meeting on the Unexploded Ordinance (UXO) Strategy
5. International Refugee Protection Learning Programme for the Pacific
6. 10th Pacific Islands Advanced Maritime Boundaries Development Workshop
7. Criminal Litigation Training
8. Article on Plain Legal Language

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##### Other Events of July-September 2012

1. Farewell Papalii Malietau Malietoa and Lanola Mary Petelo-Faasau
2. Team Building Exercise

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##### Upcoming Events:

1. Annual Judicial Service
2. Instructors Training on Legislative Process
3. Parliament Update
4. Local and National Workshops and Meetings that LDD members will attend.

## PARLIAMENTARY SITTINGS IN OCTOBER— DECEMBER 2012

MONTH	Monday	Tuesday	Wednesday	Thursday	Friday
OCTOBER	-	23	-	-	-
NOVEMBER	-	-	-	-	-
DECEMBER	-	18	-	-	-

### ACT PASSED BY PARLIAMENT FROM OCTOBER TO DECEMBER 2012 PROCEEDS OF CRIME AMENDMENT ACT 2012

This Act amends section 19 of the Proceeds of Crime Act 2007 which provides that tainted property may be forfeited to the State by an order of the Court. This is in respect of a serious offence of which a person has been convicted.

Under this section, it provides that in order for the Court to determine whether a property is a tainted property, there are two circumstances that must be satisfied, namely the property used in the commission of the offence was in the person's possession or effective control of the person AND that the property was derived, obtained or realized as a result of the person's committing the offence. If both are not satisfied it may prevent property from being forfeited to the State. Therefore the amendment removes the requirement of proving both circumstances but it will be either one of the two circumstances is required to be proven in order for property to become tainted property and be forfeited to the State.

### PARLIAMENT UPDATE OCTOBER TO DECEMBER 2012 SESSIONS

#### OCTOBER

##### Bills introduced to Parliament (1st Reading)

- ◆ Constitution Amendment Bill (No.2) 2012
- ◆ Audit Bill 2012
- ◆ Samoan Language Commission Bill 2012

##### Bills completed second reading and referred to Select Committee (2nd Reading)

- ◆ Attorney General's Office Bill 2012
- ◆ Komesina o Sulufaiga (Ombudsman) Amendment Bill 2012
- ◆ Customary Land Advisory Commission 2012
- ◆ Prisons and Corrections Bill 2012

##### Bills from Select Committee with reports presented to Parliament

- ◆ Sāmoa International Finance Authority Amendment Bill 2012
- ◆ Sāmoa Institute of Accountants Amendment Bill 2012
- ◆ Proceeds of Crime

#### DECEMBER

##### Bills introduced to Parliament (1st Reading)

- ◆ Supplementary Appropriation Bill (No1) 2012/2013
- ◆ Income Tax Amendment Bill 2012
- ◆ Lawyers and Legal Practice Bill 2012

##### Bills complete second reading and referred to Select Committee (2nd Reading)

- ◆ Constitution Amendment Bill (No2) 2012
- ◆ Audit Bill 2012
- ◆ Samoan Language Commission Bill 2012

##### Bills from Select Committee with reports presented to Parliament None

##### Bills considered in detail before 3rd Reading

- ◆ Sāmoa International Finance Authority Amendment Bill 2012
- ◆ Sāmoa Institute of Accountants Amendment Bill 2012

##### Bills in third reading and passed by Parliament (3rd Reading)

- ◆ Proceeds of Crime Act 2012

### BILLS WITH THE CLERK OF THE LEGISLATIVE BUT HAVE NOT BEEN TABLED IN PARLIAMENT

1. Refugee Determination Bill 2011
2. Central Bank Amendment Bill 2011
3. Canine Control Bill 2012
4. National Provident Fund Amendment Bill 2012
5. Broadcasting Amendment Bill 2012
6. Road Traffic Amendment Bill 2012
7. National Health Service Bill 2012
8. Public Finance Management Amendment Bill

#### BILLS WITH SELECT COMMITTEE

1. Family Safety Bill 2012
2. Crimes Bill 2012
3. Counter Terrorism Bill 2012
4. Customary Land Advisory Commission Bill 2012
5. Personal Property Securities Bill 2012
6. Labour and Employment Relations Bill 2012

**ACTS PASSED BY PARLIAMENT IN THE YEAR 2012**

	<b>Name of Act</b>	<b>Passed by Parliament</b>	<b>Commencement Date</b>		<b>Name of Act</b>	<b>Passed by Parliament</b>	<b>Commencement Date</b>
1	Supplementary Appropriation Act 2011/2012	23 Jan 2012	26 Jan 2012	13	Customs Tariff Amendment Act 2012	07 Mar 2012	01 May 2012
2	OPEC Fund Loans Act 2012	24 Jan 2012	26 Jan 2012	14	Land and Titles Amendment Act 2012	07 Mar 2012	16 Mar 2012
3	Tax Information Exchange Act 2012	24 Jan 2012	26 Jan 2012	15	Composition of Boards of Public Bodies Act 2012	07 Mar 2012	01 Apr 2012
4	Limitation Amendment Act 2012	24 Jan 2012	26 Jan 2012	16	Tourism Development Act 2012	07 Mar 2012	16 Mar 2012
5	Stamp Duty Amendment Act 2012	24 Jan 2012	2 April 2012	17	Customs Amendment Act 2012	07 Mar 2012	01 July 2012
6	Public Bodies (Performance and Accountability) Act 2012	24 Jan 2012	26 Jan 2012	18	Supplementary Appropriation Act (No2) 2011/2012	14 June 2012	25 June 2012
7	Airport Authority Act 2012	24 Jan 2012	26 Jan 2012	19	Appropriation Act 2012/2013	14 June 2012	25 June 2012
8	Special Purpose International Companies Act 2012	07 Mar 2012	To be nominated by Minister	20	Tax Administration (No.2) Act 2012	15 June 2012	01 Jan 2013
9	Excise Tax Rate Amendment Act 2012	07 Mar 2012	01 May 2012	21	Income Tax Act	15 June 2012	01 Jan 2013
10	Accident Compensation Amendment Act 2012	07 Mar 2012	13 Mar 2012	22	Casino and Gambling Control Amendment Act 2012	20 July 2012	Date which the Principal Act comes into effect
11	Cluster Munitions Prohibition Act 2012	07 Mar 2012	30 Apr 2012	23	Financial Institution Amendment Act 2012	20 July 2012	26 July 2012
12	Incorporated Societies Amendment Act 2012	07 Mar 2012	16 Mar 2012	24	Proceeds of Crime Amendment Act 2012	18 Dec 2012	08 Jan 2013

**SUBSIDIARY LEGISLATION 2012****(Signed/promulgated by Head of State, Cabinet, Minister, Board or other appropriate authority)**

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|---|---|
| <ol style="list-style-type: none"> <li>General Price Order (No.1) 2012, commenced 18 January 2012</li> <li>Notice of Charge on Base Tariff for the Supply of Electricity (No.1) 2012, commenced 01 January 2012</li> <li>Notice of Charge on Base Tariff for the Supply of Electricity (No.2) 2012, commenced 01 February 2012</li> <li>Notice of Charge on Base Tariff for the Supply of Electricity (No.3) 2012, commenced 01 March 2012</li> <li>Stamp Duty Amendment Act 2012—Notice of Commencement</li> <li>Composition of Boards of Public Bodies Act 2012—Notice of Commencement</li> <li>Notice of Change in Tariff per Unit of Electricity 2012, Order of the Regulator (No.1) 2012, commenced 06 April 2012</li> <li>General Price Order (No.2) 2012, commenced 18 April 2012</li> <li>Customs Tariff Amendment Act 2012—Notice of Commencement</li> </ol> | <ol style="list-style-type: none"> <li>Excise Tax Rate Amendment Act 2012 - Notice of Commencement</li> <li>Cluster Munitions Prohibitions Act 2012—Notice of Commencement</li> <li>Declaration of Public Holiday for 50th Independence Day Celebration 2012</li> <li>Intellectual Property Act 2012 , Notice of Commencement</li> <li>Notice of Change in Tariff per Unit of Electricity 2012 (01 August 2012)</li> <li>General Price Order (No.4) 2012, commenced 22 October 2012</li> <li>General Price Order (No.3) 2012, commenced 04 July 2012</li> <li>Dental Practitioners Regulations</li> <li>Pharmacy Regulations</li> </ol> |
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## NEWS FOR OCTOBER - DECEMBER 2012

### SECONDMENT AT THE NEW ZEALAND PARLIAMENTARY COUNSEL OFFICE

13 AUGUST 2012 - 12 OCTOBER 2012

BY FETOI . R. VAAI.

I had the privilege of being selected by former Parliamentary Counsel Papalii to be part of a two months secondment programme between our Office and the Parliamentary Counsel Office of New Zealand (NZ PCO). The secondment aimed to:

- ♦ develop the legislative drafting skills, expertise and experience of the secondee;
- ♦ build legislative drafting capacity in the Samoan Government;
- ♦ enhance the relationship between the Office of the Attorney-General in Samoa and the NZ PCO;
- ♦ Contribute to New Zealand's celebration of the 50<sup>th</sup> anniversary of Samoa's independence from New Zealand and the Treaty of Friendship between our two countries.

The NZ PCO has two main roles, providing law drafting services to the Government and providing access to legislation. Its main responsibilities are drafting all Government Bills and all Statutory Regulations, examine and provide drafting assistance on local Bills and private Bills, and when directed to do so by the Attorney General, provide drafting assistance with Members' Bill.

The Office is headed by the Chief Parliamentary Counsel, Mr. Bill Moore, and made up of three divisions, Parliamentary Counsel Division, Information Division and the Corporate Services Division. The Parliamentary Counsels/Drafters are organised into three teams under the overall leadership of Deputy Chief Parliamentary Counsel, Ms Fiona Leonard. Each team tends to work with a specific group of instructing government department with the same subject matter. However, during my secondment, the NZ PCO restructured its drafting teams into four teams and reallocated some client departments to different teams, still based on the subject matter. The four main teams are the Commercial Financial, Social Justice, Primary Industries Treaty and Natural Resources Science and Health, Business Infrastructure Government.

I was attached to the NZ PCO Pacific Island Law Drafting Desk (Project) which is funded by the NZ Ministry of Foreign Affairs and Trade Aid Programme. Its main objective is to provide drafting assistance, training, and mentoring to legislative drafting officials responsible for drafting legislation in the Pacific Islands. The assistance is focused on Cook Islands, Niue and Tokelau and may be extended to include other Pacific Islands as resources permit.

For 8 weeks, I was fortunate to work alongside very experienced and seasoned drafters in the NZ PCO, mentored by the PCO longest serving drafter, Mr. Peter Williams (whose father assisted Samoa in drafting Ordinances in the early-independence period). I attended various Select Committee meetings and had the pleasure of meeting some Parliamentarians, attended Office Forums and Lectures, involved in discussions during team meetings concerning areas in which the systems in NZ differs from Samoa, and exposed to the advanced and effective electronic filing system used by NZ PCO. Personally, the highlights of this secondment was, attending lectures, participating in the fortnightly Office Forums and being mentored by Mr. Williams on legislative drafting and reviewing techniques.

**LECTURES:** The Counsels in the NZ PCO provides lectures at the Victoria University on Legislative Drafting, in which any new counsel in the Office is encouraged to attend. I was fortunate to have had this included in the secondment program because it strictly focused on drafting Legislation and Regulations and the studies of different parts of any Legislation, and the use of plain English which they called it "a revolution in the PCO in the early 1990s". For instance, words such as "shall", "hereby", "notwithstanding", "for the purpose of section" and etc, are no longer used and replaced by "must", "despite", "for section".

**FORUMS/SEMINARS:** Conducted fortnightly for the whole office in which someone is invited to present on current issues and developments on legislative drafting. During my secondment the Counsel General of Wales presented a paper on the Welsh system of Devolution and Law Making, Internal Process and Challenges of Bilingual Law Making. What I found interesting was that the Bills are drafted bilingually; English and Welsh. The translation process in the Welsh legislative drafting system is a long process and it is done by counsels to ensure that both the English and the Welsh version have the same meaning and do not conflict in any way. The drafters and the translators work closely to discuss what terms to use and to ensure that there is no inconsistency. This was interesting because it is similar to Samoa in terms of having legislation in two languages, however the procedure between Samoa and Wales is different.



**SECONDMENT AT THE NZ PCO CONTINUED**

Learning about the Legislative Process in NZ, the system used by the NZ PCO and most importantly, learning and understanding more on legislative drafting through the lectures and mentoring received during my secondment was an experience of a lifetime. I believe that as the first Samoan to be chosen for this program in the NZ PCO, I am truly honoured and I would like to extend my sincerest gratitude and appreciation to the Government of Samoa and the Office of the Attorney General for giving me this opportunity, and the NZ PCO for making this secondment possible. Personal reflection showed evident changes such as my knowledge and experience capacity in drafting, and in particular, on how to think as a legislative drafter. The Drafting Division in Samoa is still in the developing stage, but after this secondment, I know I have a duty to share my experience and knowledge gained with my colleagues in the Office of the Attorney General.

**REGIONAL HEALTH PROMOTION LEADERSHIP TRAINING PROGRAMME (ProLEAD):****Establishing Health Promotion Foundation****BANGKOK, THAILAND 9 - 12 OCTOBER 2012**

Parliamentary Counsel Papalii Malietau Malietoa, as one of his last commitment to this Office, attended a training on establishing a health promotion foundation at Bangkok. He was joined by other Samoan delegates from the Ministry of Health and Ministry of Finance. The training was organized and funded by the World Health Organization Regional Office for the Western Pacific.

Since 2004, WPRO has provided support to countries that seek to put up health promotion foundations through the ProLEAD programme. Samoa is one of the five countries which have recently included provisions in their national tobacco control laws for the establishment of health promotion foundations. This programme is organized the five countries (Lao PDR, Samoa, Solomon Is, Vanuatu, VietNam). At the end of the workshop, the participants :

- ♦ Reviewed the principles of leadership and governance relevant to setting up a Health Promotion Foundation;
- ♦ Shared experiences on the initial processes and steps to setting up the health promotion foundation; and
- ♦ Prepared an action plan to set up a health promotion foundation.

### **REGIONAL MEETING ON THE UNEXPLODED ORDNANCE (UXO) STRATEGY** **24 - 26 OCTOBER, KOROR PALAU**

Loretta Va'a Teueli attended a Regional Meeting in Palau to discuss issues relating to the continuing presence of unexploded WWII Ordnance (UXOs) which remains a threat to the public safety and the environment of the affected Pacific Island States.

The meeting was held to (a) operationalise the Regional Unexploded Ordnance Strategy which addresses the challenges and the dangers posed by UXOs in the Pacific and discuss it amongst the participants in order to develop a suitable legal framework to coordinate international and regional activities and resources to support national UXO clearance activities, and (b) mobilize and coordinate efforts at the national and regional level to assist members in addressing problems caused by UXOs and other Explosive Remnants of war. The meeting was also an opportunity to raise awareness of UXOs and the effects and challenges they cause in affected countries.

The countries that are currently being affected by UXOs included Palau, RMI, FSM, Vanuatu, Solomon Islands, Kiribati and Nauru. In addition, there were countries that attended that were not affected by UXO which included Tonga, Cook Islands and Sāmoa.

The workshop was a success in that it raised awareness at all levels of the dangers of UXOs, its impacts on the environment as well as to the safety of human lives. Affected countries also had the opportunities to engage dialogue with donor agencies and regional and international organizations for financial and technical assistance for work on making their countries UXO free. However, for countries that are not affected by UXOs but are party to conventions such as the Mine Ban Treaty and Cluster Munitions Convention, they were encouraged to support the international efforts in the removal of UXOs in whichever capacity they were able to as well as raise awareness of the dangers of UXOs and the importance in removing them in their own countries. They were also asked to continue their efforts in reporting regularly even if they did not have UXOs to report on.

Relative to Sāmoa, we have ratified and domesticated the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction (Chemical Weapons Convention), with the enactment of the Chemical Weapons Act 2010. We have also ratified and domesticated the Cluster Munitions Convention with the enactment this year of the Cluster Munitions Prohibitions Act 2012. These Acts are regarded to have domesticated some aspects of the Anti Mine Ban Convention, which provides a legal framework on UXOs.

### **INTERNATIONAL REFUGEE PROTECTION LEARNING PROGRAMME FOR THE PACIFIC** **PHASE II – WORKSHOP**

**BRISBANE, 26 – 30 November 2012**

**Academic Centre, Emmanuel College, University of Queensland**

Mrs Loretta Teueli was one of the 3 member delegate (two from the Division of Immigration) from Sāmoa who attended this workshop which aimed at raising awareness on relevance issues of Refugees to the South Pacific and offer informed options on how different Pacific Island countries can deal with such an issue if it ever surface in the same.

This workshop is Phase 3 of the 3 Phases of the International Refugee Protection Learning Programme for the Pacific, which is funded by the United Nations High Commissioner for Refugees. The foundation from which the UNHCR conducted the workshop was first by outlining to the participant countries respective obligations member States have under the 1951 Refugee Convention. Sāmoa was invited as one of the countries who ratified the 1951 Refugee Convention and domesticated the core intention of the Convention. Sāmoa has domesticated this Convention through the Refugee Determination Bill and the Crimes Bill which are currently in Parliament. Part of this workshop was a course that focused on the legal status of a Refugee, Internally Displaced Persons and Stateless People.

At the end of the workshop, each country was to come up with immediate proposed projects in which they could further implement their country's obligations under the Convention. This project will receive assistance from UNHCR where relevant. This proposal will be submitted separately by the 3 member delegate of this workshop to the relevant heads of Offices for approval before assistance is sought for UNHCR in putting into place depending on the need of the implementing agencies.

## 10<sup>th</sup> PACIFIC ISLANDS ADVANCED MARITIME BOUNDARIES DEVELOPMENT WORKSHOP

University of Sydney, Sydney, Australia  
26 – 30 November 2012

The workshop is a continuing effort by the combined experience of representatives from Samoa, Cook Islands, Kiribati, Fiji, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu, Niue and Nauru to assist the Pacific Islands with maritime boundary development. Its basically a follow up from previous workshops and continuing work on the progress for delimitation of maritime boundaries with their neighbouring countries. The assistance and expertise available at the workshop came from panel members representing, SOPAC, Australia Attorney General's Department, Pacific Islands Forum Fisheries Agency, UNEP-GRID, GEOCAP and Officers of GEOSCIENCE AUSTRALIA.

Issues raised by the Samoa representatives to this workshop, Constance Rivers from our Office and a representative of the Ministry of Natural Resource and Environment, were discussed and considered by the panel. These included:

- ◆ Current progress with the Maritime Zones Amendment Bill 2012
- ◆ Participation of an additional representative from the Ministry of Foreign Affairs and Trade. SOPAC and FFA indicated willingness to fund additional representative.
- ◆ Recommended that Samoa approach Tonga and Tokelau first as they are the less complicated boundaries that need to be formalised.
- ◆ Samoa still has the option of seeking assistance through the Commonwealth relating to capacity building for negotiation
- ◆ Communication of geographic coordinates to the Secretary General of the International Maritime Organization (IMO). The templates for the process will be provided the Australian Attorney General's Department.

Samoa representatives had preliminary contact with Tonga during the workshop which led to a tentative work plan and timeframe. They also were given an opportunity to meet with the USA maritime working team to discuss and elaborate on the US current work within the Pacific.

## CRIMINAL LITIGATION TRAINING - ATTORNEY GENERAL'S OFFICE



Judges: Muriel Lui, Precious Chang and Aumua Ming Leung Wai (AG)

One of the best experiences as a lawyer is to go to court. Court experience gives a lawyer a whole new point of view on the law and thus the experience brings out the best in providing legal opinions. Our Office conducted a training programme to encourage lawyers in our Office to develop their court skills. The three weeks in-house training was co-ordinated by the Attorney General and ACEO-Criminal, Precious Chang and ACEO-Civil Muriel Lue.

The training was not limited to just appearing in court but extended to all skills that are needed and required by a lawyer in preparation to running a good case in

court. The training targeted in identifying legal issues, preparing and putting together court documents such as submissions and court correspondence, developing case theories, identifying possible defences, leading of the evidence, arguing legal submissions in court, identifying evidential issues. The idea behind it is to determine from this training as to what level and standard are we at now and then try and improve that standard by providing comments or overview of the strengths and weaknesses found from each individuals and provide guidance on how to improve on those weaknesses.

All the lawyers and the support staff participated, with lawyers playing the roles of either a prosecutor or a defense lawyer and the support staff played the roles of witnesses and police officers. The judges role were played by management. The training was a huge success because it not only improved on the court skills of some of the lawyers who already had court experience but it also gave the opportunity to some of the lawyers that never had any court experience at all.

This training will be conducted annually to ensure continual training on court skills within the Office is available for not only the new recruits but also to refresh court skills for the lawyers in the Office.





# ARTICLES

## ARTICLE ON PLAIN LEGAL LANGUAGE – WHAT TO AVOID

**BY: Rupeni Nawaqakuta (Legislative Drafting Advisor)**

One Paul Eveleigh said that “*lawyers choke their writing with multiple adjectives, lengthy sub-clauses and hundred-word paragraphs, which make life very hard for readers.*” He said that “*most professional writers prefer plain English. Why? The main advantages of plain English are:*

- *it is faster to write;*
- *it is faster to read; and*
- *you get your message across more often, more easily and in a friendlier way. Remember: everybody’s ignorant, just on different stuff.”*

Here are some of the things to avoid or consider when using plain language in legislative drafting or legal writing.

### Archaic Words

Do not use old words or expressions. They are no longer used in speech or writing.

*Examples:*

aforementioned	foregoing	hereby	hereto	hitherto
aforesaid	forth	herein	heretofore	howsoever
beforementioned	henceforth	hereinafter	hereunder	in lieu of
chattels	hereafter	hereof	herewith	herewith

### Old commercial languages

Old style of writing used in older business documents or letters. They should be replaced with polite or plain language.

*Examples*

At your earliest convenience = soon, as soon as you can	Inst. = this (month)	Prox. (proximo) = next (month)	Ult. (ultimo)= a date last month
Enclosed please find = I enclose/ enclose is / I have enclosed	Please find enclosed	same	undersigned

### Compound prepositions

Avoid compound prepositions. Use simple prepositions

*Examples*

as a consequence of = because of / so / therefore	for the reason that = because	in case = if	in respect of = about / for / in / of / to / with	in the event that/of = if
as regards = for / about / regarding	for which (there is) = with	in conjunction with = with / and	in terms of = about / for / in / of / to / with	in the nature of = like / similar
as to = by / in / into / for / of / on / with	in accordance with = under / by/ as required under [by] / according to / as specified in / agrees with	in connection with = about / for / in / of / to / with	in the absence of = without	In the vicinity = about / near / close to
by means of = by way of / by / with / using	in addition to = as well as / additional to / also / and	in favour of = for / supporting	in the affirmative = for / yes	In which = where / when
by virtue of = because / under / by	in as much as = since / because of / so far as	in order that/to = to / so that	in the case of = for / in	
for the purpose/purposes of = in this (section) / for / because of / under / to / for	in association with = with	in regard to = about / for / in / of / to / with	in the context of = for / of / to	

### Dogmatic words

Avoid unjustified use of dogmatic words. These are words based on assumptions or obvious exaggerations, eg *clearly, obviously, undoubtedly*, etc.

Dogmatic words should be reserved for cases where their use is necessary and beyond contention.

*Examples*

actually	definitely	necessarily	really
certainly	incontestably	obviously	surely
clearly	inevitably	quite	undoubtedly



**Doublets and Triplets**

Use specific suitable word. Avoid using 2 or 3 words when one word can be used. Only use when they are used as term of art, *egaid and abet*.

*Examples*

until and unless	all and singular	if and when
void and of no effect	any and all	pay, satisfy and discharge
final and conclusive	give, devise and bequeath	possession, custody and control

**Euphemisms (speaking nicely)**

Avoid euphemisms.

ablution facilities	imbibe	pass away
decease/deceased	inebriated	permanent layoff
demise (for death)	intoxicated	revenue enhancement

**Foreign Words** Avoid use of foreign words

*Examples*

<i>ab initio</i>	<i>ceteris paribus</i>	<i>in camera</i>	<i>in situ</i>
<i>ad hoc</i>	<i>de novo</i>	<i>in loco parentis</i>	
<i>ad idem</i>	<i>ex officio</i>	<i>in personam</i>	
<i>bona fidei</i>	<i>force majeure</i>	<i>in rem</i>	

**Legalese**

Avoid using complicated, technical language and complex style of writing used in older legal documents. Legalese often makes documents incomprehensible.

*Examples*

as appropriate	derogate	same	time is of the essence
as the case requires	except as otherwise provided	seemle	unless the contrary intention appears
body corporate	in pursuance of	several	wherever occurring
call in question	said	subject of	from time to time

**Padding**

Padding phrases are throat-clearing or flotsam phrases which do not help in understanding the meaning or float idly without carrying any meaning. Replace them with simpler word

*Examples*

I can say that ...	In the circumstances...	It is interesting that...	It should be appreciated that...
I note that...	In the first instance...	It is significance that...	It should be pointed out that...
I observe that...	In this connection/regard...	It is/should be noted that...	It should not be forgotten that...
I should point out that...	It is important to bear in mind...	It may be recalled that...	My sense is that...
In my considered opinion...	It is appreciated that...	It may be stated with some confidence...	Of course
In terms of...	It is important to note that...	It seems	The fact that...

## Article on Plain Legal Language Cont'd

### Technical words

Define or explain legal and technical words used as they obscure or irritate readers who do not know their meaning. For example, *chose in action, in personam, in rem*, etc

### Timid phrases

Avoid them and use direct and confident words. They are words that suggest timidity or doubt

Examples

At least as far as ... is/are concerned	It is apprehended that	It appears that	It might be said that
It is respectfully suggest	It seems	It would appear that	On the one hand... but on the other

### Weasel words

Do not use unreliable words or expression. It comes from the example when weasels suck out contents of eggs leaving the shell superficially intact. Weasel words destroy the meaning by vague or ambiguous qualifications.

Examples

Compelling	meaningful	reasonable	Seems	Somewhat	Substantial	Very
If practicable	rather	relatively	significant	Sort of	unduly	virtually

For legislative drafting, vague words may be used, such as *reasonable, as soon as practicable, etc.*, to cover unforeseen circumstances. For example, *The report may be tabled in Parliament by the Minister, as soon as practicable*. The intention is cover infrequency of meetings of Parliament.

“Plain English is clear THINKING written down” –said one John Hightower.

## SOME TIPS:

Two short sentences are better than a long one

Kill that bad habit of using long sentences

Use active voice because it is certain

Be certain on what you want to say: don't say 'on a regular basis' but “by end of March, June, September and December”

Archaic words add nothing to meaning

Do not hide behind an impenetrable drafting style

A clear provision works better than a legalese one.

Source: Guide to Plain Legal Language 1997, Office of Legislative Drafting, Federal Attorney General's Department, Australia.

## OTHER EVENTS OF OCT - DEC 2012

### FAREWELLS

These last three months of the year was not an easy time for our team because two of our senior and experienced drafters left our Office to pursue their careers in other fields. Papalii Malietau Malietoa (see Article in first page) joined the Office of the Electoral Commission as the new Electoral Commissioner and Mrs. Lanola Mary Petelo Faasau was appointed as Drafting Advisor at the Pacific Islands Forum Secretariat. She was initially attached for six months at the Pacific Forum Secretariat

Mrs. Faasau commenced employment in the Attorney General's Office in 2008 in the Legislative Drafting Division. Mrs Faasau resigned from our Office while holding the position of Senior Legislative Drafter. She also achieved her Masters in Legislative Drafting from USP Vanuatu, during her time here at the Office. Mrs. Faasau also attended a three months course in Legislative Drafting in London.

Mrs. Faasau is considered as one of the most qualified and experienced drafters in our team. During her time here, she worked on Legislation relating to Trade, Company, Cybercrime and Electoral matters. She was also involved in most regional and national projects, representing this Office. Her decision to leave is a great disadvantage to the Drafting team. We wish her all the best with her future endeavours.

**Lanola Mary Petelo-Faasau**



### TEAM BUILDING EXERCISE

The Legislative Drafting Division had its first team building exercise in December at the Leuaina Resort. The main objective is to encourage team work and development, not only individually but as a team. It also discussed some of the outcomes that needed to be met before the end of the year 2013. These outcomes included:

- ◆ Consolidation of Laws 2012
- ◆ Amendments to Drafting Directives and incorporate them in the Legislative drafting Handbook
- ◆ Review of the Legislative Drafting Handbook
- ◆ Instructors Course on the Legislative Drafting and Parliamentary Process
- ◆ Consolidation of Regulations
- ◆ Completion of an Induction Manual
- ◆ Procedure in Finalising Bills and Regulations
- ◆ Proper networking and relationship with other related Offices, i.e. Legislative Assembly and Law Reform Commission



**LDD team at Leuaina Beach Resort– Team Bonding Ex**



**PMM giving his last speech to the team**

## LDD WORKSHOPS AND EVENTS FOR 2012

- ◆ INTERNATIONAL CRIMINAL COURT PACIFIC OUTREACH ROUNDTABLE (Sydney, Australia)
- ◆ 9th TECHNICAL WORKSHOP ON ASSISTING PACIFIC ISLAND COUNTRIES WITH MARITIME BOUNDARY DELIMITATION
- ◆ NATINAL WORKSHOP ON THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA(CITES)- (Sāmoa)
- ◆ WORKSHOP ON DEEP SEA MINERALS(DSM) PROJECT – (National Stakeholders Consultation)
- ◆ LEGISLATIVE DRAFTER SAMOAN LANGUAGE WORKSHOP - (Sāmoa)
- ◆ 6 WEEKS LEGISLATIVE DRAFTING DIVISION- (Sāmoa)
- ◆ COMMONWEALTH MARITIME BOUNDARIES AND OCEAN GOVERNANCE FORUM - (Marlborough House, London, UK)
- ◆ FFPACIFIC APPLIANCE LABELING AND STANDARDS (PALS) PROGRAMME'S WORK PLAN IMPLEMENTATION WORKSHOP - (Suva Fiji)
- ◆ CYBERCRIME LEGISLATION AND POLICY - (Norfolk Island)
- ◆ PACIFIC REGIONAL ROUNDTABLE ON THE MONTREUX DOCUMENT ON PRIVATE MILITARY AND SECURITY COMPANIES (PMSCs) - (Canberra, Australia)
- ◆ PROFESSIONAL PLACEMENT - POLITICAL GOVERNANCE AND SECURITY PROGRAMME OF THE PACIFIC ISLANDS FORUM SECRETARIAT (PIFS) - (Suva; Fiji )
- ◆ THIRD PACIFIC LEGISLATIVE DRAFTERS' TECHNICAL FORUM - PACIFIC ISLANDS FORUM SECRETARIAT (PIFS) - ( Suva, Fiji )
- ◆ COMPLETION OF PROFESSIONAL PLACEMENT—POLITICAL GOVERNANCE AND SECURITY PROGRAMME OF THE PACIFIC ILSANDS FORUM SECRETARIAT (PIFS) - (Suva, Fiji)
- ◆ THIRD PACIFIC LEGISLATIVE DRAFTERS' - TECHNICAL FORUM
- ◆ COMPREHENSIVE CRISIS MANAGEMENT COURSE - (Honolulu, Hawaii)
- ◆ THIRD MEETING OF STATES PARTIES TO THE CONVENTION ON CLUSTER MUNITIONS - (Oslo, Norway)
- ◆ INVEST SAMOA CONFERENCE - (Auckland, New Zealand )
- ◆ LEGISLATIVE DRAFTING TRAINING BY NICK HORN - (Attorney General's Office, Apia, Samoa )
- ◆ SAMOA PUBLIC SERVICE DAY - (Apia, Sāmoa)

### **MEMBERS OF THE LEGISLATIVE DRAFTING DIVISION (LDD)**

Ming C. Leung Wai, Attorney General  
Rupeni Nawaqakuta, Legislative Drafting Advisor  
Loretta Teueli, Legal Consultant, Drafting  
Constance Tafua-Rivers, Legal Consultant, Drafting  
Salote Peteru, Principal Legislative Drafter  
Fetogi R. Vaai, State Solicitor  
Sioa Sioa, State Solicitor  
Martha Papalii, Law Clerk  
Theodora Fipe Taleni Matalavea, Law Clerk  
Losa Kelekolio, Senior Legal Secretary  
Makereta Vaaelua, Senior Bills Officer

### **UPCOMING EVENTS**

- ◆ Annual Judicial Service
- ◆ Instructors Training on the Legislative Process
- ◆ Update on Parliament
- ◆ Pacific ACP States Regional Workshop on Deep Sea Minerals Law and Contract Negotiations—Nukualofa Tonga.

### **DISCLAIMER**