



OFFICE OF THE ATTORNEY GENERAL

TUSI TULAFONO NEWSLETTER UPDATE

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1 January- 31 March 2018



Members of the Legislative Drafting Division

EDITOR'S NOTE:

Talofa lava and welcome to the first edition of the Legislative Drafting Division Newsletter 2018. This edition will inform you of all the events occurring from January to March 2018. These events include Bills passed by Parliament, work-shops and trainings attended by the Legislative Drafting Division, and also farewells and newcomers to the Division.

From the Attorney General and the Legislative Drafting Division we wish everyone a wonderful and blessed 2018.

Kylie Wilson & Tacy Seupepe Sasagi
(Editors)

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PRAYER SERVICE 2018

The staff of the Ministry of Justice and Courts Administration (MJCA) start 2018 with a prayer service on the 11 January 2018. In the Prayer Service, the Judges and Lawyers, gathered at Mulinu'u to commit all work in 2018 to the Lord.

Reverend Komisi Samuelu conducted the service with the presence of the Chief Justice, His Honour Patu Tiava'asue Falefatu Sapolu, Cabinet Ministers and Heads of Government Organizations.

Reverend Komisi Samuelu reminded all the staff and Judges that honesty and hard work go a long way and he gave out a word of encouragement for this year, this is as stated below:

"This is the beginning of a new year and therefore we must have new attitudes and new mind-sets on how to conduct our work. Commit our work to God and he will guide us through our journey. Let God be the centre of all that we do this year and commit our work to him. When you have tough days, remember to ask God for help and the strength to carry on. This year is a year of blessing for all of us"

PARLIAMENT UPDATES JANUARY TO MARCH 2018

ACTS PASSED IN JANUARY TO MARCH SITTINGS

<u>Title</u>	<u>Date Passed</u>	<u>Commencement Date/ Date of Assent</u>
Supplementary Appropriation Act (No.1) 2017/2018	25 January 2018	26 January 2018
National Health Service Amendment Act 2018	29 January 2018	29 January 2018
Casino and Gambling Control Amendment Act (No. 2) 2018	21 March 2018	22 March 2018
Customs Tariff Amendment Act 2018	21 March 2018	26 March 2018
Excise Tax Rates Amendment Act 2018	20 March 2018	21 March 2018
Pacific Games Office Act 2018	20 March 2018	21 March 2018
Fire and Emergency Services Amendment Act 2018	21 March 2018	22 March 2018
Honours and Awards Amendment Act 2018	21 March 2018	22 March 2018
Tax Information Exchange Amendment Act 2018	21 March 2018	22 March 2018
Excise Tax Rates Amendment Act (No. 2) 2018	23 March 2018	26 March 2018

BILLS REFERRED TO SELECT COMMITTEE

<u>Title of Bills</u>	<u>Status</u>
Alienation of Customary Land Amendment Bill 2018	<ul style="list-style-type: none"> 1st Reading on 19.12.17 2nd Reading debate continued from January Sitting (Dated 20.03.18-21.03.18)
Constitution Amendment Bill (No.2) 2018	<ul style="list-style-type: none"> 1st Reading on 20.03.18 2nd Reading on 22.03.18 and referred to Select Committee
Constitution Amendment Bill (No.3) 2018	<ul style="list-style-type: none"> 1st and 2nd Reading on 13.11.17 and referred to Select Committee. Bill referred to Select Committee on 20 March 2018
Electoral Bill 2018	<ul style="list-style-type: none"> 1st Reading on 26.03.18 2nd Reading on 26.03.18 and referred to Select Committee
Electoral Constituencies Bill 2018	<ul style="list-style-type: none"> 1st Reading on 26.03.18 2nd Reading on 26.03.18 and referred to Select Committee
Electoral Commission Bill 2018	<ul style="list-style-type: none"> 1st Reading on 20.03.18 2nd Reading on 22.03.18 and referred to Select Committee
Tobacco Control Amendment Bill 2018	<ul style="list-style-type: none"> 1st Reading on 20.03.18 2nd Reading on 22.03.18 and referred to Select Committee

SUMMARIES OF LEGISLATION PASSED IN JANUARY AND MARCH 2018

Supplementary Appropriation Act (No.1) 2017/2018



This Act contains the first Supplementary Appropriation for the Financial Year 2017/2018. It is an Act to authorize the issue and application of certain sums of money out of the Treasury Fund to Ministerial/Departmental Outputs and sub-outputs, outputs provided by third parties and transactions on behalf of the State for the Financial Year ending on the 30th day of June 2018 ("Financial Year").

Fire and Emergency Services Amendment Act 2018



The Act seeks to amend the Fire and Emergency Act 2007 ("Principal Act") to provide for hot work permits to avoid and minimize risks of the fire and explosions in any hot works. There were two sections that were amended, one is section 2 and the other was section 41 (2) of the Principal Act.

Pacific Games Office Act 2018

The Act seeks to establish the Pacific Games Office who will be responsible for the organizing and management of the 2019 Pacific Games and to provide for other matters incidental to the 2019 Pacific Games. The objectives of the Act is to establish the Pacific Games Office and provide for its functions and powers, to establish the Executive Committee and Pacific Games Organizing Committee and their functions and powers, to provide for official sponsors for the 2019 Pacific Games and to provide for tax and duty ex-



National Health Amendment Act 2018

The Act seeks to amend the National Health Service 2014 ("Principal Act") to put into effect the first phase of the merger of the National Health Service and the Ministry of Health and related purposes. The objectives of the Bill are to amend the provisions of the Principal Act that establishes the composition of the Board, to create a Board that reflects the merger of the National Health Service ("NHS") and the Ministry of Health ("MOH") and to give Cabinet general authority to appoint any other member to the Board, to remove the ineligibility of a person employed by the NHS for appointment as a director of the Board and to give authority to the Board of Directors to appoint a secretary or co-secretaries from its members.



Customs Tariff Amendment Act 2018



The Act seeks to make amendments to the First Schedule of the Customs Tariff Act 1975 by replacing rates for tariffs for certain items with new tariff rates and the objectives of the Act is to increase the customs tariff on turkey tails, frozen chicken cuts and lamb flaps.

Casino and Gambling Control Amendment Act 2018

The Act seeks to amend the Casino and Gambling Control Act 2010 ("Principal Act").

The objects of the Act are to provide for certain provisions to address the gaps currently identified within the Principal Act to ensure the smooth operation and management of matters dealt by the Gambling Control Authority ("Authority") under the Principal Act and to exempt the Authority's income from income Tax under the Income Tax Act 2012.



Tax Information Exchange Amendment Act 2018

The Act seeks to amend the Tax Information Exchange Act 2012 ("Principal Act"). The objectives of the Act is to implement the international obligations of Samoa under the Automatic Exchange of Information of Financial Account Information in Tax Matters. The amendment provides for the amending of section 2 which is to insert a new definition for foreign jurisdiction, amend section 10B of the Act to omit the definition "reportable jurisdiction" and to amend section 10K of the Act to substitute the word "account" with "institution" and to amend Schedule 3 of the Act.

Tax Information Exchange



Honours and Awards Amendment Act 2018

The Act seeks to amend the Honours and Awards Act 1999 ("Principal Act"). The amendment provides for the new definition of the Chief Executive Officer of the Ministry of the Prime Minister and Cabinet as the secretary to Cabinet, it amends reference to order of Samoa with Chief Order of Samoa. It provides that awards in section 6 may be posthumously, and includes the Chief Executive Officer of the Ministry of Finance as a member of the Honours Committee.



Excise Tax Rates Amendment Act (No. 2) 2018

The Act seeks to make amendments to the Schedule of the Act by replacing rates for tariffs with a new tariff rates. The objective of the Act is to increase the excise tax rates for sugary products by 3% from the current excise tax



EVENTS OF JANUARY TO MARCH

LEGISLATIVE DRAFTING DIVISION TRAININGS ON WARRANTS

Galumalemana Noumea L. Teueli, Chief Legislative Drafter of the Attorney General's Office conducted training on drafting warrants on 8th April 2018 at the conference room of our Office. This training was mainly for the junior lawyers of the drafting division, introducing how warrants are made, the relevant laws involved in drafting of warrants and the drafting techniques for carrying out this task.



Legislative Drafting Division Trainings-Introduction to Legislative Drafting

Galumalemana Noumea L. Teueli, Chief Legislative Drafter of the Attorney General's Office conducted trainings with regards to the basics or the introductions to legislative drafting. This training was conducted on the 1st February 2018 at the conference room of our Office. The presentation was presented accordingly to the lists of questions as follows:

1. What is Legislative Drafting?
2. Who should draft legislation?
3. How is legislative drafting viewed by users of legislation?
4. What are the responsibilities of drafters?
5. To whom should legislation be addressed?
6. What should be the drafter's aim?
7. Are there constraints on drafters?
8. How does legislative expression compare with other forms of communication?
9. What are differences between every-day language and legal commands?
10. What more is needed to meet legislative requirements?
11. How should a drafter choose the right expression?
12. What do we do to facilitate the tasks of drafting?

Those are some of the questions that were discussed and explained in the trainings. The training was opened to anyone in the office as well as the legal officers from government ministries.



National Enforcement Workshop: Implementation of the Shark Sanctuary Provisions within the Marine Wildlife Protection Regulation 2018



The Ministry of Natural Resource and Environment (MNRE) work in collaboration with the Secretariat of the Pacific Regional Environment Programme (SPREP) and the Pew Charitable Trusts to conduct a workshop focusing on the implementation and enforcement of Samoa's shark and ray regulations that are developed for the National Marine Sanctuary for sharks, turtles, whales and dolphins. The main objectives of the workshop are to raise the awareness of Samoa's shark and ray sanctuary measures and the importance of these species in Samoa in the region and globally as well as to facilitate the implementation, enforcement and compliance of the measures at the national level. The workshop was conducted for 2 days, there were presentation conducted by different speakers from MNRE and SPREP.

On the first day of the workshop, it started out with an official opening and welcome by Stuart Chape of SPREP and Ulu Bismarck Crawley of MNRE. The speaker of SPREP gave a brief workshop overview and objectives, this outline the agenda and the goals of the workshop. Later on, there were sessions conducted individually by members from SPREP and MNRE.

This includes the shark and ray education which highlight the importance of sharks and rays, the threats that sharks face and the biology of sharks and rays, this was conducted by Juney Ward of SPREP. The shark sanctuary education provide understanding of shark sanctuaries around the world and why they were established, including international obligations, such as Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and Convention on the Conservation of Migratory Species of Wild Animals (CMS), this was elaborated by Jennifer Sawada in her presentation. Meeting international and regional obligations at the National level, this provides the overview of international conventions and measures and how Samoa measures implement and comply with those obligations, including CITES. This was conducted by Maria Satoa of MNRE.

The shark and Ray conservation and management in Samoa provide understanding of the shark and ray activities and programs implemented at the national level, this was elaborated and explained by Samantha of MNRE. Furthermore, key agencies such as Police, Customs, Transnational Crime Unit and Samoa Tourism Authority were given opportunities to individually provide and explain their roles with regards to the protection of wildlife and specifically on sharks, how is wildlife and sharks incorporated into their programs, monitoring and what the Ministry sector plans are. The Marine Wildlife Protection Regulation Amendment 2018 which was presented by Kathleen Taituave of MNRE gave a brief background on amendments made to the Marine Wildlife Protection Regulation 2009 and to inform the participants on these amendments which includes ban on commercial fishing, by catch retention, sale and trade as well as the penalties associated with any violations of this regulation.

On the second day of the workshop, it started off with the sharing of experience on successful case study on confiscation of wildlife species. Later on, we were broken up into groups by agency to discuss roles of each agency and how they coordinate with each other. This was done to promote inter-agency discussion for enforcement and compliance and the roles each play in ensuring sharks and rays are protected, to facilitate cooperation between the agencies and identify tools that be used to improve coordination and enforcement. Furthermore, each agency was grouped up to discuss the scenarios and each group was given the opportunity to present in front of the other agencies.

The workshop was concluded by a Certificate Presentation and the evaluation of the workshop. Tacy Seu-pepe Sasagi of the Attorney General's Office attended this workshop.





SAFETY OF NAVIGATION FAMILIRISATION WORKSHOP

The Safety of Navigation (SON) Familiarization Workshop was conducted by the Secretariat of the Pacific Community (SPC) consultant Jillian Carson-Jackson and SPC Legal Officer Francesca. The main focus was on the aids for navigation and navigation aids that exists internationally and to deliberate with the participants especially members from Ministry of Work, Transport and Infrastructure (MWTI) Shipping and Ports Authority on the types of aids that are utilized within Samoa. The overall summary of the workshop was on identifying navigation-

al aids and to reinforce the need for navigational safety for all vessels when traversing on our waters nearer our shores.

The SON Project as understood from SPC is a 5 year project currently fronted by the Secretariat consisting of three components as follows:

- i) Technical Assessments;
- ii) Legal Assessment; and
- iii) Economic Assessments.

The purpose of the project is to identify the current and future needs for SON systems, procedures for governance and funding, and support the enhancement of the capacity to establish, operate and maintain aids for navigation and navigation aids.

Senior Legislative Drafter, Kylie Wilson and State Solicitor, Shalon Time of the Legislative Drafting Division attended this workshop.

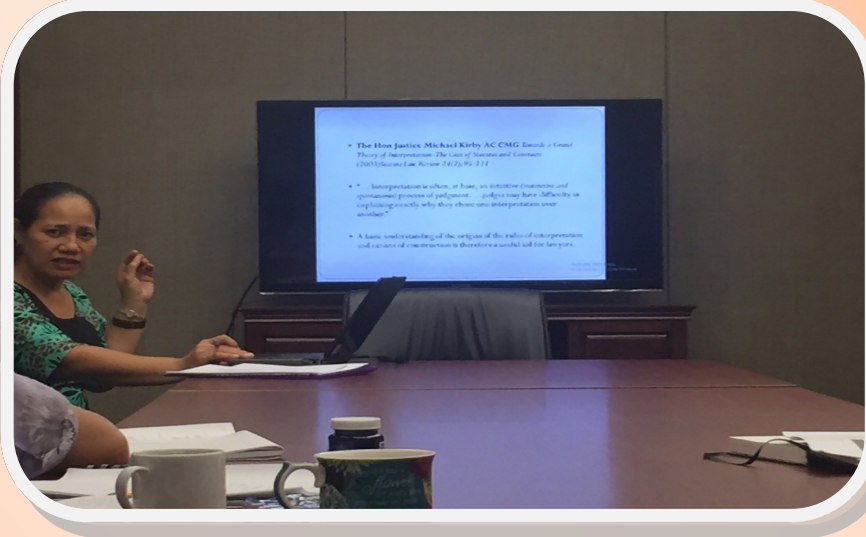


Samoa Law Reform Commission (SLRC) Consultation and Awareness on Fabrics of Laws Project

Telei'ai Dr. Lalotoa Mulitalo, Executive Director of the SLRC conducted a presentation on the Fabrics of Laws at the AGO Conference room on the 8th February 2018. The training was attended by lawyers of the Attorney General's Office. The training was to inform the AGO of the Commission's recommendations and findings in relation to the laws administered by the Attorney General's Office (i.e. what laws to amend/repeal). The overall aim of this project is to have an appreciation of the fabrics of laws of Samoa, and to be better informed on which laws are administered by which Ministry, Constitutional Authority, and State Owned Enterprises/Corporations. This, it is hoped, will be helpful for the whole of Government sector approach to policy development and decision making, in addition to the public being informed of which government office or authority is responsible for which public service. The Executive Director elaborated and explained why the current law needs to be updated. After the presentation, the floor was opened for questions and discussions.



TRAININGS ON STATUTORY INTERPRETATION



Telei'ai Dr. Lalotoa Mulitalo, Executive Director of the SLRC conducted training on Statutory Interpretation upon request by the Legislative Drafting Division of the AGO as part of its continuing legal capacity building initiative. The training was attended by lawyers of the Attorney General's Office and in-house counsels. The Executive Director conducted a presentation focusing on explaining and elaborating the rules of statutory interpretation and the Acts Interpretation Act 2015. The presentation provided an over-

view of legal language is, in part, the language that is used by the legislature to communicate with the people. This is also the language that lawyers and judges use to communicate. The language used in legislation is a significant part of what we call 'legal language', this is in the case in verbal communication, you understand the words a speaker uses-the speaker communicates his or her intention through words. The existence of rules of interpretation such as literal, golden and mischief rule to help the lawyers get a better understanding of what the legislation is saying and what the drafter is trying to portrayed in that piece of legislation. The Executive Director also elaborated on the reason for the existence of an Act (*that is the ratio legis*) is a very handy aid when we have to interpret a statute.

We acknowledge the contribution and availability of Telei'ai Dr. Lalotoa Mulitalo, in contributing to the capacity building of Government lawyers.



LDD WALKATHON FUNDRAISING

The LDD had their first walkathon fundraising in the beginning of this year on 26 January 2018, this was a good exercise to promote health awareness. Savali mo lou soifua maloloina!



TREE PLANTING ACTIVITY

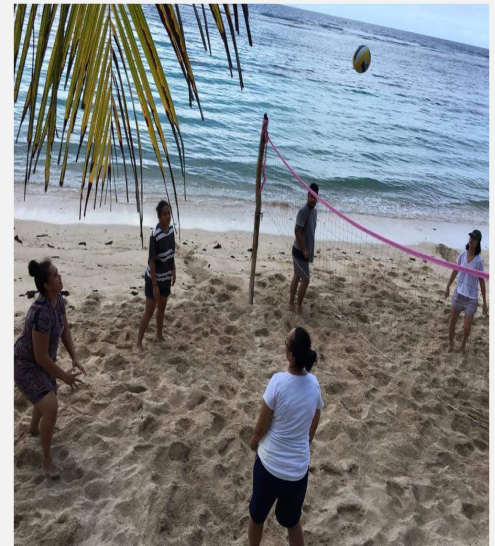
The Attorney General's Office staff members came together as one team and partner with the Ministry of Natural Resources and Environment (MNRE) for the tree planting event in the botanical garden at Vailima on the 23rd March 2018. Our Office was assigned a specific area to plant 1000 trees at the botanical garden. This initiative set up as one of the projects under MNRE that contributes to the set Sustainable Development Goals (SDG) of Samoa that set out to plant 1 million trees by 2020; in sustaining and contributing to the fight against Global Warming and Climate Change.

The event was concluded by a word of thanks by Sefo Ainuu, Chief Public Solicitor of the Attorney General's Office to the MNRE.



LDD TEAM BUILDING ACTIVITY AT MANUSINA BEACH FALES

The first LDD team building activity for 2018 was a team retreat at Manusina Beach Fales in Lepa. It was a great day of team activities and bonding out of the Office.

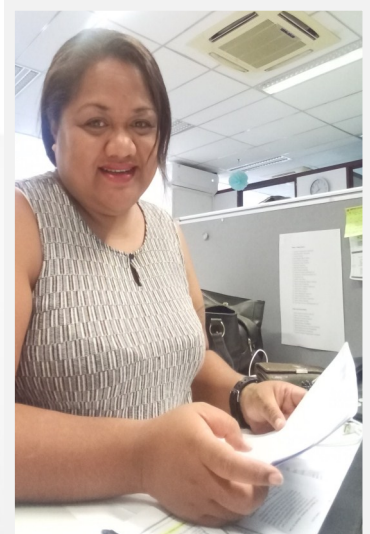
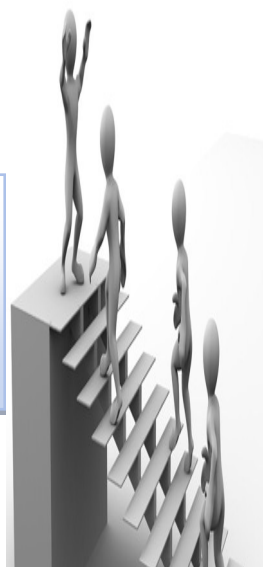


NEW RECRUIT

FAREWELL



Victor Ale started on 18 September 2017 as a Law Clerk. He later left the LDD to join the Criminal Division of our office. We wish you all the very best.



Welcome Shalon Time to the LDD. Shalon started on 26 February 2018 as a State Solicitor. Shalon previously worked in the Ministry of Police and is now pursuing her legal career in legislative drafting with the LDD.

Members of the Legislative Drafting Division

Lemalu Hermann P. Retzlaff (Attorney General)

Galumalemana Noumea L. Teueli (Chief Legislative Drafter)

Leitu Moananu-Morin (Associate Legislative Drafter)

Steffany Meredith-Hunt (Principal Legislative Drafter)

Siovia Flo Liu-Tea (Principal Legislative Drafter)

Jasmine Faleafaga– Vaiaso (Principal Legislative Drafter)

Kylie Wilson (Senior Legislative Drafter)

Titilua Aiono (Senior Legislative Drafter)

Beau Jacek Tuala (State Solicitor)

Ioata Tanielu (State Solicitor)

Shalon Time (State Solicitor)

Vacant (Law Clerk)

Vacant (Law Clerk) Tacy Seupepe Sasagi (Part-time Law Clerk)

UPCOMING EVENTS — LEGISLATIVE DRAFTING TEAM

Parliamentary Schedule for the year 2018:

- ♦ 29 May 2018
- ♦ 19 June 2018
- ♦ 2 October 2018
- ♦ 18 December 2018

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.