



TUSI TULAFONO NEWSLETTER

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Talofa lava and welcome to the second edition of 2019's quarterly newsletter for the months of April to June, from the Office of the Attorney General. In this quarter we will cover the Parliamentary sessions of May and June as Parliament did not sit in April. The session for June continued onto 2nd July 2019. Although there were only 2 Parliamentary sittings this quarter, the Drafting Team saw an increase in workload due to urgent instruments assigned on urgency due to Ministerial portfolio reshuffles, policy changes impacted by international requirements and the preparation for the Pacific Games 2019.

The Attorney General was also called upon to provide an advisory role as counsel assisting to a Parliamentary Committee appointed

to inquire into and report back to Parliament on the question of termination of the President of the Land and Titles Court according to a motion tabled by the Hon. Prime Minister. A representative of the Legislative Drafting Team was appointed as counsel assisting with 2 others assisting in research and legal advice.

Thus in summary, 2 Bills were tabled, 1 Bill withdrawn, and 13 Acts were passed in this quarter. Details on signed subsidiary instruments are set out in the newsletter.

From the Legislative Drafting Team—**MANUIA!**

GALUMALEMANA Noumea Loretta Teueli
Assistant Attorney General/ Chief Legislative Drafter

EDITOR'S NOTE

WELCOME MISS KIMRI THETADIG



Congratulations to the newest member of the Drafting Team in getting admitted onto the permanent roll of barristers and solicitors of the Supreme Court of Samoa:

Ms Kimri Thetadig.



PARLIAMENTARY SITTINGS FOR APRIL - JUNE 2019

May	28th
June	18th —27th & 2nd July

CURRENT LEGISLATION

ACTS PASSED IN THIS QUARTER Commenced Subsidiary instruments	COMMENCED ACTS	
	TITLE	COMMENCEMENT DATE
<p>Film Production (Manumalo Limited) Regulations 2019 Signed: 3 May 2019</p> <p>Trustee Companies Amendment Regulations 2019 Signed: 13 June 2019</p> <p>Customs Prohibited Imports (Turkey Tails) Repeal Order 2019 Signed: 8 April 2019</p> <p>Pacific Games Office (Advertising Zones) Regulations 2019 Signed: 20 June 2019</p> <p>Electricity Rules 2019 Signed: 14 February 2019</p> <p>Electoral (Forms) Regulations 2019 Signed: 8 February 2019</p>	Customs Tariff Amendment Act 2019	1 July 2019
	National Provident Fund Amendment Act 2019	1 July 2019
	Trustees Companies Amendment Act 2019	1 July 2019
	Foundations Amendment Act 2019	1 July 2019
	Companies Amendment Act 2019	1 July 2019
	Arms Amendment Act 2019	1 July 2019
	Law Reform Commission Amendment Act 2019	1 July 2019
	Miscellaneous (Ministerial Assignment) Amendment Act 2019	1 July 2019
	Alienation of Customary Land Amendment Act 2019	1 July 2019
	Head of State Amendment Act 2019	1 July 2019
	Supplementary Appropriation Act 2018/2019	26 June 2019
	Appropriation Act 2019/2020	26 June 2019
	Excise Tax Rates Amendment Act 2019	3 July 2019
	University of the South Pacific School of Agriculture Amendment Act 2019	1 July 2019

BILLS BEFORE PARLIAMENT

TITLE	STATUS
Returning Offenders Bill 2019	Withdrawn from Parliament
Land and Titles Bill 2019	With Select Committee
Alcohol Control Bill 2018	With Select Committee

SUMMARIES

ALIENATION OF CUSTOMARY LAND AMENDMENT ACT 2019 = LEASING AND LICENSING OF CUSTOMARY LAND ACT 1965

The Alienation of Customary Land Amendment Bill 2017 was tabled in Parliament for first reading on 19th December 2017. The second reading and debate of the Bill took place on 20th–21st March 2018. It was finally brought back to Parliament for consideration in detail and 3rd reading on 27th June 2019. The time dedicated in the process of this Bill through the Parliamentary committee stages is an indication of the sensitivity of the matters dealt with in the Bill as according to the Parliamentary Committee Report tabled and approved by Parliament, extensive consultations both with Government agencies, and non-government agencies and the public were undertaken by the Parliamentary Committee. These consultations formed the basis of the recommendations brought before Parliament for consideration.

The notable aspects of the recommendations by the Parliamentary Committee included changes to be made to the Bill during consideration in detail. The 2017 Bill was tabled with 8 clauses and passed in 2019 with additional clauses, and substantial changes inserted will appear in the consolidated Customary Land Act 1965 (“1965 Principal Act”) which the Alienation of Customary Land Amendment Act 2019 (“Amendment Act”) amends. The most notable change made during the final stages of the Bill, is introducing an amend-

ing clause to change the name of the 1965 Principal Act from Alienation of Customary Land Act 1965, to Leasing and Licensing of Customary Land Act 1965. This change is to reflect what the Act deals with, which is, only the leasing and licensing of customary land and mortgaging of interests arising from leases on customary



land.

The main aim of the Amendment Act is to reinforce the rights of customary land beneficial owners over customary land that are the subject of leases or licenses. It also updates the Principal Act by removing outdated and archaic provisions, such as the prohibition of Samoans who are not *matai*, to lease land. The removal of this prohibition allows any Samoan (whether *matai* or not) to lease customary land, under the scheme set out in the 1965

Principal Act.

It must also be noted, that substantial changes to the Bill made during its consideration in detail, is the removal of any reference in the Land and Titles Registration Act 2008 to leasing and licensing of customary land, or the maintenance of a leases registrar that the land registrar is obligated to maintain. This in effect means, any or all matters customary land related, must be addressed under the now titled Leasing and Licensing of Customary Land Act 1965.

This newly passed Amendment Act also reinforces the rights of beneficial customary land owners to approve or disallow the use of lease as security, assignment of the lease or licence whether as a result of a default by mortgagor or not, approve or disallow a sublease, right to receive payments in accordance with the terms of the lease or licence, right to initiate or enforce a review of rents as provided for by the terms of the lease, right to enforce beneficial covenants under the terms of the lease or licence including obligations of the lessee or licensee and the right to seek legal advice or be legally represented during the discussion or negotiations of a lease or licence.

CUSTOMS TARIFF AMENDMENT ACT 2019

This Act amends the Customs Tariff Act 1965. It has introduced the Harmonized System 2017 as the new customs tariff of Samoa. The World Customs Organization which Samoa is a member of since 2001, had in accordance with the International Convention on the Harmonized Commodity Description and Coding system made amendments to the Harmonized system in 2017 which is what Samoa is now using in its Customs Tariff Act as of 1 July 2019. This change means Samoa's tariff is brought up to date with international requirements.

NATIONAL PROVIDENT FUND AMENDMENT ACT 2019

The National Provident Fund Amendment Act 2019 amends the National Provident Fund Act 1972. The changes are to progressively increase the minimum employer and employee contribution rates within a period of 3 years. The purpose of the amendment is to assist in growing contribution balances for members, which would in turn mean more funds available to members or fund a life pension at retirement.

TRUSTEE COMPANIES AMENDMENT ACT 2019

The Trustee Companies Amendment Act 2019 amends the Trustee Companies Act 2017 (“principal Act”). Although the principal Act is a relatively new one, these amendments are deemed necessary to clarify provisions in relation to the revocation or surrender of a licence by a Trust Company Service provider (TSSP) or Firm. It also provides for a general amendments for consistency of terms used in the Act.

FOUNDATIONS AMENDMENT ACT 2019

This Amendment Act amends the Foundations Act 2016. The purpose of the Amendment Act is to provide for simplification of the foundation where it is not a foreign benefiting foundation.

ARMS AMENDMENT ACT 2019

In preparation for the Pacific Games 2019, Parliament passed under urgency the Arms Amendment Act 2019 to allow competitors under the age of 21 to participate in the games, as the Arms Ordinance 1960 (“principal Act”) does not allow individuals under the age of 21 to be armed with weapons used in the shooting games. The sport is one of the sports played in the Pacific Games 2019. The Amendment Act also clarifies the authority that is required to grant a permit for the importation of guns for use in the sport, that are otherwise considered unlawful under the principal Act.



UNIVERSITY OF THE SOUTH PACIFIC SCHOOL OF AGRICULTURE AMENDMENT ACT 2019

The University of the South Pacific School of Agriculture Act 1977 was amended by the University of the South Pacific School of Agriculture Amendment Act 2019 (“USP Amendment Act”). The most notable change brought about by the USP Amendment Act is to reflect recent changes made to the University of the South Pacific Convention (“USP Convention”), that Samoa is a party to. One of the amendments reflected is changing the name of the Act by removing “School of Agriculture”. The USP Amendment Act clarifies the existence of the University as a legal entity in Samoa.

EXCISE TAX RATES AMENDMENT ACT 2019

The Excise Tax Rates Amendment Act 2019 makes amendments to the Schedule of the Excise Tax Rate act 1984 (“principal Act”) by replacing rates for tariffs for certain items with new tariff rates. The excise tax rates for alcohol content of more than 40% is provided (set out below in Table A) and the excise tax rates of less than 40% is reduced. The reduced tariff items will again increase in 1 July 2020, and again in 1 July 2021. (Set out below in table B)

TABLE A

Tariff Item	Description	Excise Rate
2208.3020	Alcohol strength of 40% or higher but not more than 57.12%	\$38.60 per litre
2208.3090	Alcohol strength of 57.12% or higher	\$38.60 per litre
2208.4020	Alcohol strength of 40% or higher but not more than 57.12%	\$38.60 per litre

TABLE A

Tariff Item	Description	Excise Rate
2208.4090	Alcohol strength of 57.12% or higher	\$38.60 per litre
2208.5020	Alcohol strength of 40% or higher but not more than 57.12%	\$38.60 per litre
2208.5090	Alcohol strength of 57.12% or higher	\$38.60 per litre
2208.6020	Alcohol strength of 40% or higher but not more than 57.12%	\$38.60 per litre
2208.6090	Alcohol strength of 57.12% or higher	\$38.60 per litre
2208.7012	Alcohol strength of 40% or higher but not more than 57.12%	\$38.60 per litre
2208.7019	Alcohol strength of 57.12% or higher	\$38.60 per litre

Table B

Tariff Items (Column 1)	Repealed Description (Column 2)	Amendment to Description (Column 3)	Current Rate of Excise (Column 4)	Substituted Rate of Excise (Column 5)	Amendments on 1 July 2019 (Column 6)	Amendments on 1 July 2020 (Column 7)	Amendments on 1 July 2021 (Column 8)
Whiskies							
2208.3010	Of an alcohol Strength by volume of 40% or less	Of an alcohol strength by volume of 25% or less	\$38.60 per litre	\$13.20 per litre	\$13.20 per litre	\$14.52 per litre	\$15.97 per litre
2208.3020	of an alcohol strength by volume of 40% or higher but not exceeding 57.12%	Of an alcohol Strength by volume exceeding 25% to 40%	\$38.60 per litre	\$21.23 per litre	\$21.23 per litre	\$23.35 per litre	\$25.68 per litre
2208.3090	Of an alcohol Strength by volume of 57.12% or higher	Of an alcohol Strength by volume exceeding 40%	\$38.60 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre
Rum and Tafia							
2208.4010	Of an alcohol Strength by volume of 40% or less	Of an alcohol strength by volume of 25% or less	\$38.60 per litre	\$13.20 per litre	\$13.20 per litre	\$14.52 per litre	\$15.97 per litre
2208.4020	of an alcohol strength by volume of 40% or higher but not exceeding 57.12%	Of an alcohol Strength by volume exceeding 25% to 40%	\$38.60 per litre	\$21.23 per litre	\$21.23 per litre	\$23.35 per litre	\$25.68 per litre
2208.4090	Of an alcohol Strength by volume of 57.12% or higher	Of an alcohol Strength by volume exceeding 40%	\$38.60 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre

TABLE B continued

Gin and Geneva							
2208.5010	Of an alcohol Strength by volume of 40% or less	Of an alcohol strength by volume of 25% or less	\$38.60 per litre	\$13.20 per litre	\$13.20 per litre	\$14.52 per litre	\$15.97 per litre
2208.5020	of an alcohol strength by volume of 40% or higher but not exceeding 57.12%	Of an alcohol Strength by volume exceeding 25% to 40%	\$38.60 per litre	\$21.23 per litre	\$21.23 per litre	\$23.35 per litre	\$25.68 per litre
2208.5090	Of an alcohol Strength by volume of 57.12% or higher	Of an alcohol Strength by volume exceeding 40%	\$38.60 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre
Vodka							
2208.6010	Of an alcohol Strength by volume of 40% or less	Of an alcohol strength by volume of 25% or less	\$38.60 per litre	\$13.20 per litre	\$13.20 per litre	\$14.52 per litre	\$15.97 per litre
2208.6020	of an alcohol strength by volume of 40% or higher but not exceeding 57.12%	Of an alcohol Strength by volume exceeding 25% to 40%	\$38.60 per litre	\$21.23 per litre	\$21.23 per litre	\$23.35 per litre	\$25.68 per litre
2208.6090	Of an alcohol Strength by volume of 57.12% or higher	Of an alcohol Strength by volume exceeding 40%	\$38.60 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre
Liquers							
2208.7010	Of an alcohol Strength by volume of 40% or less	Of an alcohol strength by volume of 25% or less	\$38.60 per litre	\$13.20 per litre	\$13.20 per litre	\$14.52 per litre	\$15.97 per litre
2208.7012	of an alcohol strength by volume of 40% or higher but not exceeding 57.12%	Of an alcohol Strength by volume exceeding 25% to 40%	\$38.60 per litre	\$21.23 per litre	\$21.23 per litre	\$23.35 per litre	\$25.68 per litre
2208.7019	Of an alcohol Strength by volume of 57.12% or higher	Of an alcohol Strength by volume exceeding 40%	\$38.60 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre	\$35.00 per litre
Beer							
2203.0020	Of alcohol strength by volume exceeding 3%	Of alcohol strength by volume of 3% to 7%	\$3.08 per litre	\$3.40 per litre	\$3.40 per litre	\$3.50 per litre	\$3.60 per litre
2203.0030	Of alcohol strength by volume exceeding 7%	Of alcohol strength by volume exceeding 7%	\$3.08 per litre	\$5.00 per litre	\$5.00 per litre	\$5.15 per litre	\$5.30 per litre
2203.0090	Other beer not elsewhere specified	N/A	\$3.08 per litre	\$5.00 per litre	\$5.00 per litre	\$5.15 per litre	\$5.30 per litre

LAW REFORM COMMISSION AMENDMENT ACT 2019

The Law Reform Commission Amendment Act 2019 (“Amendment Act”) amends the Law Reform Commission Act 2008 (“principal Act”). The Amendment Act updates the Samoa Law Reform Commission therein established to take into account developments the Commission has undergone in the past 10 years since its first establishment. The objects of the Bill are to amend the functions and the reporting responsibilities of the Commission and amend the appointments of Commissioners and Consultants that assist the Commission as set out in the principal Act.

MISCELLANEOUS (MINISTERIAL ASSIGNMENT) AMENDMENT ACT 2019

This Act was passed to give effect to the Ministerial Assignment made by the Hon. Prime Minister pursuant to Article 35 of the Constitution which saw the reshuffle of a few Offices to different Ministers. The Act made changes to various Act such as the Land Transport Authority Act 2007, Police Powers Act 2007, Road Traffic Payment of Fines Act 2009, Road Traffic Ordinance 1960, Building Alignment Ordinance 1932 and the Ministry of Works Act 2002.

HEAD OF STATE AMENDMENT ACT 2019

The Head of State Amendment Act 2019 (“Amendment Act”) which amends the Head of State Act 1965 (“principal Act”) makes a number of amendments to the principal Act. The changes include updating the principal Act regarding financial arrangements for the Office of the Head of State.

UPCOMING EVENTS

REMAINING PARLIAMENT SITTINGS:

8th October 2019

17th December 2019

The Office of the Attorney General prepares to host the following events:

Annual meeting of the Pacific Islands Law Offices Network (“PILON”) in November 2019.

The PILON Litigation Skills Training in December 2019.