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This Infosheet is the twelfth in a series produced by the OCLA to explain the work of the Legislative Assembly of Samoa

Other Infosheets in the 2014 series include

6. Parliamentary Services
7. Parliamentary Documents
8. System of Government
9. Opening of a New Parliament
10. Parliamentary Publications
11. The Chamber

Infosheets on a range of topics will be added to this series in the future

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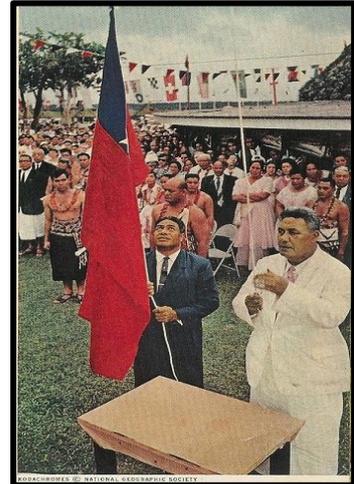


12. PARLIAMENTARY PRIVILEGE

WHAT IS PARLIAMENTARY PRIVILEGE & WHY IS IT NECESSARY?

Parliamentary privileges exist to ‘safeguard the freedom, the authority and the dignity of Parliament’ (May 1989). These privileges are necessary to allow members to properly enact their duties to and within Parliament without fear of legal repercussions. This Infosheet will detail the source of parliamentary privileges, their scope and enactment in the Parliament of Samoa.

Independence Day January 1, 1962 signified the Samoa’s right to self-governance. With the establishment of Parliament, privileges were also ensured for all future Assemblies.



SOURCES OF PARLIAMENTARY PRIVILEGE

The *Constitution of the Independent State of Samoa* ensures that both members of parliament and the Assembly as a whole are guaranteed certain privileges and immunities. Article 13 ensures that all citizens of Samoa enjoy freedom in regards to speech, assembly, association, movement and residence; this by default includes members of parliament. Article 62 entrenches the privileges of the Legislative Assembly.

The *Legislative Assembly Powers and Privileges Ordinance 1960* list specific privileges for members and that of the Assembly. The Standing Orders of the Parliament of Samoa also outline parliamentary privileges in addition to the ethical standards that all members must uphold.

THE PRIVILEGES

Member Privileges

Words spoken by members during debates in the Chamber, Select Committee hearings and written words in Assembly and Committee reports, bills, motions and any other parliamentary matter are protected from legal proceedings. This is to allow members to be open and frank in their discussion of sometimes sensitive issues brought before the House. Members are also free from arrest and detention while the Assembly is in session,

while present in a Select Committee hearing or during the course of his or her movements to and from either of the above. First priority is given to a member's duties to Parliament and actions which may obstruct their ability to fulfill these duties may be held as a breach of privilege or contempt of the House. The serving of any Samoan Court processes within the Chamber or on Assembly precincts while the House is session is also strictly prohibited.

Assembly Privileges

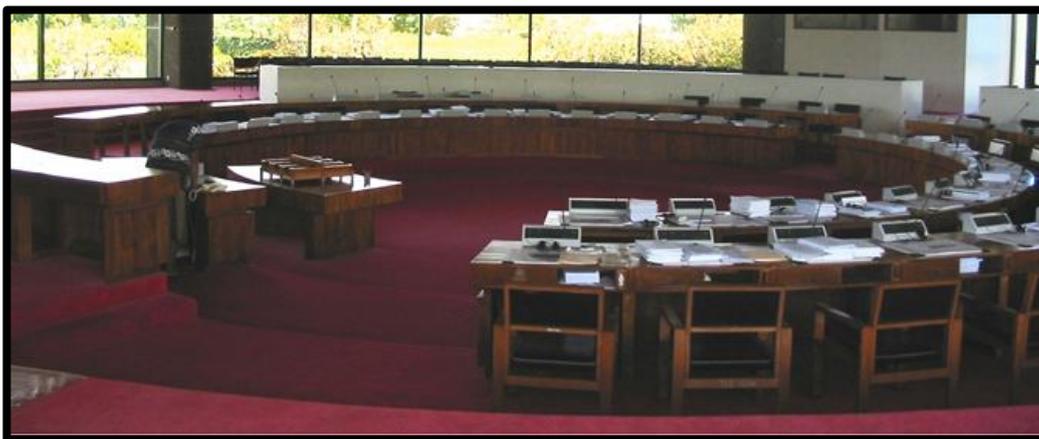
The Assembly may summon the attendance of witnesses before a Select Committee or issue a warrant if one does not comply with such a summons. Control of parliamentary precincts and the Chamber is vested with the Assembly. This means that it may refuse entry of strangers or order their withdrawal as it sees fit.

The Role of the Speaker

Parliamentary privileges are preserved in the Speaker of the House who may enforce and protect all of the Assembly privileges, particularly within the Chamber. Furthermore, if a member raises an issue of privilege it must first be referred to the Speaker who may accept or reject the claim. If the Speaker determines an issue to be one of privilege, he or she will then refer it to the Privileges and Ethics Committee.

The Privileges and Ethics Committee

Established under Standing Order 181, its membership includes the Prime Minister, Leader of the Opposition and seven non-Minister members. It is responsible for investigating matters of privilege presented to them by the Assembly, such as enquiries into the private conduct of members and breaches of the *Code of Parliamentary Ethics*. Reports by this Committee, once tabled in the House are given precedence over the consideration of all other reports.



The importance of issues raised and discussed in the Chamber have necessitated certain parliamentary privileges such as the freedom of speech. This allows members to properly fulfil their parliamentary duties.

PENALTIES & PUNISHMENT

Breaches & Contempts

The Assembly has the authority to declare a person's words or actions to be in contempt of the House or a breach of privilege. Both contempts and breaches of privilege are acts or omissions which directly or indirectly interfere with the execution of a member's or the Assembly's parliamentary duties. This could include failing to answer to a Committee summons or refusing to leave the Chamber or parliamentary precincts when ordered to do so.

Contempts are listed in Standing Order 190. Examples include removal without authority papers or records belonging to parliament; falsifying or altering parliamentary papers or records; bribing members to influence their decisions or assaulting, threatening or intimidating a member or officer of the Assembly while they are executing their duties.

Complaints

All complaints relating to a matter of privilege must first be referred to the Speaker. Members who have had allegations made against them must also be informed. The process once a complaint has been laid is outlined above in "*The Privileges and Ethics Committee*".

Penalties & punishment

If a person is found guilty of an offence (contempt or breach) they may be liable on conviction to either an imprisonment term or monetary fine.

CODE OF ETHICS



The Code of Ethics is outlined in Standing Order 14 and presents a guideline for members to adhere to, promote and respect at all times throughout the term of their service. The principles include loyalty to one's people and nation, respect for the law and all persons and the proper exercise of power. It is clearly stated that every member who holds parliamentary office of any kind is required to adhere strictly to these principles.

MORE INFORMATION:

The Constitution of the Independent State of Samoa
Legislative Assembly Powers and Privileges Ordinance 1960
Erskine May, *Parliamentary Practice*, Butterworths, London 21st ed., 1989.
Infosheet No.2, 'Legislation', OCLA 2013
Infosheet No.3, 'Parliamentary Committees', OCLA 2013
Infosheet No.4, 'Parliamentary Words and Expressions', OCLA 2013
Infosheet No.5, 'Parliamentary Debate', OCLA 2013
Standing Orders of the Legislative Assembly of Samoa, 2010