



Monday 7th October 2019
MEMBERS PRE-SITTING BRIEFING

A total of 29 Members of Parliament, including the Hon Speaker met at the Maota Tofilau Eti Alesana Building (MTEA) Conference Room for its Pre-Sitting Briefing. There were 3 Bills on the agenda; presenters included the Executive Director of the Samoa Law Reform Commission, CEO for the Ministry for Customs and Revenue, CEO for the Ministry of Education, Sports and Culture. A summary of these presentations and main issues raised by Members is provided.

(1) Fabric of Laws Miscellaneous Repeal Bill 2019

Presenter: Telei'ai Dr. Lalotoa Mulitalo - *Executive Director*

Responsible Ministry: *Samoa Law Reform Commission*

The CEO stated that the Bill consists of three clauses which aim to repeal 17 Acts of Parliament. She further stated that the project was initiated in 2017 with three main terms of reference which includes: looking into 287 Acts called the Parliamentary Acts of Samoa; find out who initiated such Acts this includes 58 Ministries and Offices in total and what is the status of such laws, whether they needed amending or repealed. She further went on to clarify each Act that are proposed to be repealed in the Bill and stated that the purpose of the Bill is to ensure that Samoa operates on updated law as much as possible.

Various Members made questions as well as commented on the Bill. They are as follows:

- Faumuina Tiatia Faaolatane Liuga stated that in the commencement of the LTA, a legislation was passed in Parliament which required a certain amount of percentage to be taken away from petrol fees, now that the LTA is able to stand on its own financially from license fees, isn't it suitable to remove that Act?
- Aliimalemanu Alofa Tuuau questioned the translation of the Bill in clause 3 of the Bill;
- Fuimaono Teo Samuelu Teo suggested the removal of a sub-clause in Clause 3 which requires any work provided under any of the repealed Acts to continue until its end, so as to remove any confusion;
- Sulamanaia Fetaiai Tauilili Tuivasa questioned whether the Ministries that own such Acts were informed of their repeal?
- Alaiasa Moefaaouou Malagaitutogiai Sepulona Moananu asked how much did this project cost.

- Minister for the Ministry of Justice, Courts and Administration (MJCA) questioned whether is there a major impact on Samoa's laws and Parliament if these laws were not being repealed?

The Executive Director took note of the suggestion put forth by Faumuina Tiatia Faaolatane Liuga. She also clarified to the members and Aliimalemanu in regards to the translation that she would consult the Office of the Clerk in regards to the translation so as to make the Bill provisions clearer. In response to Fuimaono Teo Samuelu Teo's suggestion, the Executive Director stated that anytime a law is repealed, there should always be a clause similar to the sub-clauses of Clause 3 of the Bill- it is recommendable. She also informed Mr. Sulamanaia that the Ministries who own the Acts that are about to be repealed have already been informed and agree to the proposal of removal as they are mostly not relevant at this time. In regards to costings of the project that has led to the Bill, there is no cost for this project it was the initiative of the Law Reform Commission to update our national laws however if it were a legal consultant hired to do a review of all Samoan laws, the costings of such work would be at an immense cost.

Finally, in regards to the question by the Minister of MJCA, she replied plainly, that there is no major impact on Samoa and Parliament if we did not repeal such Acts however it would be fortunate for a country to operate on updated laws as much as we can thus the initiative to put forth such Bill.

(2) Tax Administration Amendment Bill 2019

Presenter: Matafeo Avalisa Viali Fautuaalii - CEO

Responsible Ministry: Ministry for Customs and Revenue

The CEO provided a brief background of the Bill and stated that the Bill seeks to amend the Principal Act which was passed in Parliament in 2012. The amendment came as a result of Parliament deliberations in January this year which saw several Members question why the Minister for Customs and Revenue being the Minister could not access information (particularly in arrears). This led the Prime Minister to instruct the Ministry to change the way things were done thus the introduction of such Bill to Parliament again.

The CEO explained that prior to the Amendment, information revealing names of taxpayers nor taxpayer files were not allowed to be viewed by the Minister or anyone unless the taxpayer grants his or her consent for the Minister to view his or her file. The Amendment seeks to solve this so as to ensure efficiency in the Minister's work and decision-making.

Several members raised questions and comments on the Bill, which are as follows:

- Faumuina Tiatia Faaolatane Liuga mentioned that during Committee deliberations, when they request the Ministry to provide certain information they respond that they cannot. It should be taken into account by the Ministry that parliamentarians should not be tied down by not giving information it needs so as to be more efficient even more the need to identify the bad debtors.
- Olo Fiti Afoa Vaai stated that he is still not clear with the amendment. He questioned what kind of information the Minister can have access to as he is concerned with the Minister having access to the tax system. Furthermore, he does not support the amendment as it can also be seen as way in which the Minister can abuse his power and authority.
- Tafua Maluelue Tafua questioned why the Minister didn't have access to such information prior to the Bill. He provides an example of both Electric Power Corporation (EPC) and the Samoa Water Authority (SWA) provides all the information to Committees once it is requested.

The CEO responded that at the moment individual taxpayer information cannot be provided to anyone. When list of arrears are given to Auditors and the Ministry of Finance (MOF), tax numbers are used rather than individual names. There have been cases that are referred to the Minister who require information and the CEO is reluctant to provide the files unless the taxpayer gives their consent to give such files. In saying that 'confidentiality' is at the epitome of the Ministries work, this is evident by the fact that even courts cannot view such records unless the taxpayer gives their consent. However, it has been thought out by the Ministry that this should be changed so as to ensure effective decision making by the Minister thus the provision of such amendment Bill- to give the Minister access to such information particularly information concerning arrears.

Further comments by members were put forth:

- Aliimalemanu Alofa Tuuau questioned what is so important that such information is being withheld, yet information regarding government loans in foreign banks is easily released by the Ministry of Finance upon request? She also stated the fact the Auditors need to have this kind of information so that they can foretell the progress of the Ministry financially.
- Fuimaono Teo Samuelu Teo stated that this amendment just seems suspicious to him because in his own understanding the Minister should have access to this information simply because he is the Minister.
- Faumuina Tiatia Faaolatane Liuga further added another reason why Parliament should be given access to customs information is so that we can assist the Ministry with writing off bad debts if it is appropriate.

The CEO clarified that there is a difference between tax and loans. Loans are granted to the individual to spend whilst tax is someone's contribution to government to assist with national developments thus the sacredness of such information. She also explained that

the usual process of writing off bad debts is that the court rules on writing off bad debt then it is referred to Parliament to approve the write off. She also clarified that the operation of Business tax is different from individual tax whereby business tax is determined by net profit and individual tax is determined by salary.

(3) Teacher's Amendment Bill 2019

Presenter: Afamasaga Dr. Karoline Afamasaga-Fuata'i- CEO

Responsible Ministry: *Ministry of Education, Sports and Culture (MESCC)*

The CEO explained to the Members that the Amendment Bill seeks to clarify the Principal Act that was passed in Parliament in 2016. She stated that the Amendment Bill seeks to clarify where the money from teacher's fees goes into and who approves the Teacher's registration and license fees.

She explained that upon consultation with the Ministry of Finance, it was advised that the fees should be transferred to the Ministry's budget until the Teacher's Council is strong enough to stand alone. She also clarified that a proposal of registration and license fees for teachers have already been submitted to the National Revenue Board as per amendment bill and standardized fees have been approved.

Several members raised questions and commented on the Bill. They are as follows:

- Lealailepule Rimoni Aiafi questioned why teachers have to pay a registration fee when they already have qualifications for education. Isn't that enough?
- Peseta Vaifou Tevagaena also stated that the fees teachers have to pay seem like Business fees and must be referred to the Inland Revenue instead of the Ministry.
- Olo Fiti Afoa Vaai stated that he is confused. He recalls that at the time of deliberation of the Teachers Act in 2016 the Prime Minister explained that the fees (registration and license fees for teachers) will be reverted to the Teacher's Union for their development now this Bill says otherwise that the money goes back into the government purse.

The CEO clarified that the fees mentioned is following the same process of other professions such as doctors and lawyers. For teachers in this case, it has been established by the Principal Act that a Teacher has to gain a qualification in education, 2 years of supervised work then they are qualified to register as a teacher. A teacher is to work three years before license is renewed. The CEO clarified again that the current process is temporary and fees will be reverted to the Teachers Council once it is strong to stand on its own but for the time being it should be reverted to the Ministry's budget. The CEO further clarified that the whole idea behind registration and renewal of a teacher's license after every three years is to ensure that the teacher is on their feet at all

times and not being complacent. It is the belief of the CEO and the Ministry that if a teacher is aware that their performance is being assessed after every three years then there would be no time for them to be slack thus benefitting the students they teach.

The Hon. Speaker concluded with a Prayer and the Briefing was adjourned.