



Monday 17th June 2019
MEMBERS PRE-SITTING BRIEFING

The Member's Pre Sitting Briefing for June was held at the Conference Room of Maota Tofilau Eti Alesana (MTEA), Mulinu. The Hon Speaker took lead of the Briefing which was well attended by a total of 34 Members of Parliament. There were 4 Bills on the agenda; presenters included the Police Commissioner, Executive Director of the Samoa Law Reform Commission, and CEO's for the Ministry for Revenue (MfR) and the Ministry of the Prime Minister and Cabinet (MPMC). A summary of these presentations and main issues raised by Members is provided.

(1)Arms Amendment Bill 2019

Presenter: *Fuiavailili Egon Keil - Police Commissioner*
Ministry of Police

The Police Commissioner stated that essentially the Bill sought to provide two changes (specifically to cater for conditions of certain sporting activities in the Pacific Games which Samoa will be hosting in July 2019).

Firstly, the Bill allows minors/juveniles (under the age of 21) to possess firearms and ammunition so as to participate in 'shooting sports' of the Pacific Games; and secondly the Bill provides the Minister of Police authorisation to grant permits for the importation of unlawful weapons for certain purposes such as participating in shooting sports of the Pacific Games or any event similar thereto.

The following issues and queries were made by Members:

- The timeliness of the amendment provided, as there were also sporting events which Samoa hosted in previous years; the Member queried the procedure used in those times with firearms and shooting sports.
- In reference to s.6 2B of the Act, Members were hesitant with the vagueness of the provision, specifically regarding the authority of the Minister of Police to grant the importation of illegal firearms for a relevant purpose.
- One Member queried the protocol when the unlawful firearm has entered Samoa, whether the Police will have custody of the firearm, or whether the individual can legally possess and store the firearm in his home.
- The Minister of Finance commented on the importance of collaboration between the Ministry and the Shooting Association, as there should be a collective

responsibility and shared accountability in the joint monitoring and relevant documentation of the firearms once it has entered Samoa.

- The Associate Minister of Finance commented on the importance of including the minimum age in the Act to ensure there is a certain age prohibited by law to participate in shooting sports (as the amendment only provides for those under the age of 21 to participate in shooting sports; and fails to mention a minimum age).

The Police Commissioner acknowledged the comments and recommendations put forth by Members and responded to the queries made by Members on the amendment Bill.

The Commissioner explained that the Police Service has currently developed a system to follow in terms of handling the firearm once it has entered Samoa; there will be police officers at the airport upon the arrival of the firearm; the police will then transport the firearm to its Police headquarters for safekeeping in the armoury section of the Ministry; the firearm will be properly documented (once it has been registered into the armoury) the time/date when it is received and/or removed will be documented and the identity of who removed the firearm will also be included in the documentation. Furthermore, there will also be police officers at the shooting range who will be on duty for the duration of the shooting sport to observe and monitor the usage of the firearm and to return the firearm to its proper storage for the duration of the Pacific Games.

In regard to the vagueness of certain provisions, the Commissioner clarified that the Police Service also require illegal firearms for their trainings and missions which can only be imported upon the approval of the Minister - these are certain cases which are also provided in the Bill; although these certain firearms are illegal in Samoa, they were obtained legally by the approval of the Minister and will be utilised accordingly by the Ministry of Police Service.

(2) Law Reform Amendment Bill 2019

Presenter: *Telei'ai Dr. Lalotoa Mulitalo* - Executive Director
Samoa Law Reform Commission

The Executive Director provided a brief background on the Law Reform Commission Office and its establishment in 2008; she then explained that in 2018 when the Office reached 10 years of service, it was fitting to review the Principle Act to identify whether there needed to be relevant changes to better reflect the functions of the Office, hence the reason for the amendment Bill.

The Law Reform Amendment Bill 2019 ('The Bill') essentially has 2 main objects; to amend the functions and the reporting responsibilities of the Commission; and to amend

the appointments of Commissioners and Consultants who assist the Commission in carrying out its functions.

The following is a summary of the main queries and issues raised by Members and the responses provided by the Executive Director respectively.

The Member for Faasaleleaga No.2 queried the criteria and conditions of employment for Commissioners and Consultants who will be utilised for the Commissions projects. On the similar issue, the Member for Faasaleleaga No.1 also queried whether consultants were from the legal profession (those with legal background).

The Executive Director explained that depending on the nature and terms of reference for each project, it is sufficient that the consultants and commissioners have some working knowledge and expertise in the field which the project is focused on.

The Minister for Tourism commented on the issue of individual rights infringing upon communal rights (customary beliefs/values). The Minister explained that with modernisation and the requirements of international laws, it has become worrisome that the legal/modern views have taken a more superior position over the customary practice and decisions made by the Village Fono.

The Executive Director attempted to clarify that Samoa is one of the nations in the Pacific who promote and encourage the existence of the individual rights and communal rights alongside each other; rather than the majority group superseding the minority. She iterated that many countries of the world experience the same problem, as there will always be friction between the two groups; however it is important that Samoa has learned to grow and adapt with the changes in time.

The Member for Gagaemauga No.3 voiced his concern with the English language utilised to draft legislation in Samoa, he noted that when there is a disagreement in the interpretation of the law, the English version takes precedence over the Samoan version, which was worrisome for him. He asserted that it was the utmost importance to begin drafting the legislation for our people in our own language as it has been 57 years since we have become independent - it was about time to do so.

Telei'ai, acknowledged the concern raised by the Member and explained that the Attorney General Office and the Law Reform Commission were currently considering this change to ensure the importance of the Samoan language is portrayed, especially in the law - noting that the Samoa language is part of our identity.

The Executive Director thanked the Hon Speaker and Members for their comments and queried and concluded her presentation by informing Members of the current projects which the Commission was working on.

(3) Customs Tariff Amendment Bill 2019

Presenter: *Matafeo Avalisa Viali-Fautuaalii* - CEO
Ministry for Revenue

The CEO explained that for every 5 years a review is conducted on the Tariff Schedule, to ensure the schedule is updated. Since 2012 - 2016 the Ministry followed the duties and taxes on the schedule. In 2016, a review was conducted on the 2012-2016 Tariff Schedule whereby six employees of the Ministry attended and have therefore made more than 200 changes, to the headings, sub-heading and national coding for the different categories and products included in the Schedule.

It was from the review that the following recommendations were made and incorporated into the Samoa Customs Tariff (HS2017)

Members were generally receptive of the Bill, and few comments and queries were made to the CEO which included:

- The Member for Falealili West noted that the Government encourages the development of lands for agricultural and horticultural products, however it is displeasing to see the import duty on tractors and ploughs being quite high; the Member stated that this not only discourages the farmers to purchase such products, but is also an obstacle for the development of families/villages and the nation as a whole.
- Other Members suggested the Ministry to keep the duties high with products which are detrimental to the health and wellbeing of our people, while the more accessible and affordable products should have a decrease in tax to assist our people with the increasing cost of living.
- The Minister for Finance suggested that proper ways be sought to ensure the local producers and manufacturers were protected from international companies and their cheap products, especially since Samoa has become a signatory to the PACER Plus agreement. The Minister urged the Ministry to take a stronger approach with protecting our local producers and products from overseas competition.

The CEO acknowledged and took note of all the recommendations and concerns raised by Members and explained that the Government through different Ministries have established different schemes and policies such as the Code 121 in Schedule 2 which provides local producers the opportunity to receive zero duty on its products imported for their local business (this was one way Government was lending assistance to our local farmers/producers).

(4)Miscellaneous Ministerial Assignment Amendment Bill 2019

Presenter: Agafili Shem Leo - CEO

Ministry of the Prime Minister and Cabinet

The CEO briefly explained that the Bill simply had 2 primary purposes; firstly, to provide for various amendments to certain Acts to accommodate the Ministerial Assignments made by the Prime Minister pursuant to Article 35 of the Constitution; and secondly, to clarify the various legal mandates and functions that are to be carried out by the respective Offices in order to give effect to the Ministerial Assignments and the reshuffle of functions.

Members were receptive of the Bill and the proposed amendments; the only issue which was raised by the Minister of Works, Transport and Infrastructure (MWTI) was in regard to the transitional provision, whereby Traffic Officers for the Land Transport Authority (LTA) would be automatically referred to the Traffic Division of the Ministry of Police, furthermore, it is specified that at the commencement of the Act, such employees will be treated as a sworn members or non-sworn members of the Police Service.

The Minister for the (MWTI) was concerned that the employees were not given the freedom to choose and decide whether to be transferred or otherwise, given the differences in salary scale between the Land Transport Officers (Traffic Division) and the Ministry of Police - (a difference of \$4,000 was noted by the Members). The Minister suggested that if the salary cannot be met, the LTA should provide redundant packages to cover the loss which these employees will face.

The CEO acknowledged the Members for their comments and noted the concerns which were raised by the Minister of Works then concluded his presentation.

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