



REPORT TO THE LEGISLATIVE ASSEMBLY OF SAMOA

“Acts Interpretation Bill 2015”

Justice, Police and Prisons, Land and Titles Committee

1. RECOMMENDATION

The Justice, Police and Prisons, Land and Titles Committee recommends that the Assembly takes note of its Report.

2. BILL CONSIDERED.

(Referred 20/3/2015)

Acts Interpretation Bill 2015

The Justice, Police and Prisons, Land and Titles Committee¹ considered the Acts Interpretation Bill 2015 in accordance with instructions from the Assembly on the 20th March 2015.

3. PROCEEDINGS

The Committee called for submissions pertaining to the Bill through televised announcements on the Samoa Qualifications Broadcasting TV 1 and radio 2AP on the 25th March 2015. However, no submissions were made on the Bill.

The Committee also called on the following for assistance during its deliberation.

ASSISTANCE (S.O.156)

Office of the Attorney General:

Tuatagaloa Aumua Ming C Leung Wai	-	<i>Attorney General</i>
Rupeni Nawaqakuta	-	<i>Drafting Advisor</i>
Meiapo Faasau	-	<i>Principal - Drafter</i>

Office of the Legislative Assembly:

Teleiai Lalotoa Mulitalo	-	<i>Parliamentary Counsel</i>
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Samoa Law Society:

Savalenoa Mareva Betham-Annandale	-	<i>President</i>
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¹ **Standing Order 173**, TUISA Tasi Patea, AFOAFOUVALE John Moors, LAFAITELE Patrick Leiataualesa, LENATAI Victor Faafoi Tamapua, PAPALII Li’o Taeu Faavaivaiomanu Masipau, LEFAU Harry Schuster and TAPUAI Toese Ah Sam.

4. FINDINGS:

The Committee called upon the Office of the Attorney General during its deliberation on the Bill. The Office elaborated on various parts of the Bill especially on the purpose of the Bill and the background for the drafting of the Bill. The Committee noted that the Bill will repeal the current principal Act which was enforced in 1974.² As noted this Act has been in existence for more than 41 years, and this Bill (2015) is the first time the Act has been amended. The Office noted that this is an effective move by the Government. This is also supported by the Committee as noting that there have been numerous bills submitted and passed by Parliament, yet the Act still remains unchanged. The Committee noted the importance of this Bill, stating that the Bill is another important pillar aside from the Constitution which supports the legal system.

One of the important parts of this bill, it will provide explanation for the usage of common words in Acts in order to avoid repetitive interpretations. The Office stated some of the common confusions and misinterpretations that arise during court proceedings result in a single interpretation due to ambiguity in an Act. However, this Bill will assist any person in interpreting the use and purpose of a word or phrase that is given in any Government Act. It will also clarify the context of a phrase or word which includes singular, plurals and genders.

During Committee deliberation it noted that some parts of the Bill were not consistent. This is referring to Clause 5³ and Clause 42(2)⁴ of the act. The Committee queried the Office regarding this matter, and stated that consideration

² Acts Interpretation Act 1974.

³ **Clause 5: Gender, number and grammatical forms** – In an Act:

- (a) a word in singular includes plural, and plural includes singular; and
- (b) a word that denotes masculine gender to male includes female; and
- (c) a word that denotes feminine gender to female includes male; and
- (d) a defined word or expression includes parts of speech, the grammatical forms or cognate or related expressions for the word or expression.

⁴ **Clause 42(2): Power not affected by vacancy or irregularity** –

(2) The meeting of a body corporate or unincorporated is not invalidated by:

- (a) the presence or participation of a person not entitled to be present at or to participate in the meeting; or
- (b) an irregularity in the appointment, nomination or election of a member; or
- (c) a minor irregularity in the convening or conduct of a meeting.

should be given to this matter in order to clarify and standardize the Act for consistency. The Office agreed to this and stated that there will be a likely chance for inconsistency in these provisions and that further consideration must be given.

One purpose of the Bill is that it will provide provisions for regulations and the commencement of an Act. The Committee noted that part of the Bill will cater directly for such matters. It includes recognition of the English version and the Samoan version of an Act to be equally authoritative as provided in Clause 11⁵. However, concerns were raised by witnesses as the overall Samoan context will change if the Act is to be translated in English. Furthermore, the belief that the Samoan language should be given emphasis and importance in the use of the laws of Samoa. The Committee took note of all the concerns and considered in depth this matter in order to further develop the Bill.

5. CONSIDERATION IN DETAIL OF THE BILL:

During the consideration in detail stage of the Bill, the Committee was satisfied with each clause and the arrangement of each provision except for the following clauses that are stated below:

A. Clause 3:

Replace “*of*” with “*or*” so that the clause reads as follows:

Clause 3

“offence” means an act or omission for which a person can be punished under an Act or law.

B. Clause 7:

⁵ **Clause 11: English and Samoa versions of Acts** – (1) The English and Samoan versions of Acts are equally authoritative.

(2) If there is a difference between the English version and the Samoan version of an Act, the English version prevails.

Replace *“interpretations”* with *“interpretation”* so that the clause heading reads as follows:

Clause 7 - Principles of interpretation

C. Clause 11(2):

Is to insert *“unless the original draft was in the Samoan language”* so that sub-clause (2) reads as follows:

Clause 11(2)

(2) If there is a difference between the English version and the Samoan version of an Act, the English version prevails unless the original draft was in the Samoan language.

D. Clause 13(5):

Replace *“35”* with *“36”* so that sub-clause (5) reads as follows:

Clause 13(5)

(5) The power under an Act to nominate a commencement date does not authorise nominating a retrospective commencement date, and the power must only be exercised once except to correct an error or omission under section 36

E. Clause 26(1):

Add *“(the Act)”* after *“an Act”* in sub-clause (1) to clarify that reference in sub-clause (2).

Clause 26(1)

(1) A reference in an Act (the Act) to a repealed Act or provision is to be construed as referring to a subsequent Act or provision of an Act (the Act) enacted in substitution for the repealed Act or provision.

F. Clause 38:

New sub-clause (2) added:

Clause 38(2)

(2) If an Act provides for an ex-officio member of body corporate or unincorporated established by an Act:

(a) the appointing authority may appoint an alternate for the ex-officio member; or

(b) the ex officio member may, in writing, nominate a person to act when the member is for any reason unable to carry out the member's function.

G. Clause 40 & 41(1):

Add *“established by an Act”* after *“body corporate or unincorporated”*:

Clause 40

A document, statutory instrument or subsidiary legislation that is required to be made by a board or body corporate or unincorporated **established by an Act**, may be signed by the chairperson or deputy or if the both are unable to sign, by a member.

Clause 41(1)

(1) The following rules apply at a meeting of a body corporate or unincorporated **established by an Act**:

H. Clause 42:

To add the following sub-clauses (3) and (4):

(3) Subsection (2)(a) does not apply if the meeting is affected by the number of persons not entitled to be present or participate at the meeting.

(4) Subsection (2)(b) does not apply if the irregularity affects majority of the members present at the meeting.

6. **RESOLUTION:**

At the conclusion of Committee deliberation, the Committee resolved;

That the **Acts Interpretation Bill 2015** progress along with amendments.

COMMITTEE MEMBERS:

Tofa TUISA Tasi Patea
CHAIRPERSON

Susuga PAPALII Lio F T Masipau
MEMBER

Afioga AFOAFOUVALE John Moors
DEPUTY CHAIRPERSON

Tofa TAPUAI Toese Ah Sam
MEMBER

Tofa LENATAI Victor Faafoi Tamapua
MEMBER

Tofa LEFAU Harry Schuster
MEMBER

Afioga LAFAITELE Patrick Leiauaalesa
MEMBER