

DISCLAIMER

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TUESDAY 20th OCTOBER 2015

TIME: 9:10am

I. GOVERNMENT ORDERS OF THE DAY

1. ACTS INTERPRETATION BILL 2015 – consideration in detail.

The Hon Chairman for the Justice Committee and Member for Sagaga le Falefa, **TUISA Tasi Patea** moved a motion for the Assembly to adopt the Committee's report on the Acts Interpretation Bill; the motion was approved.

Clause 2 approved.

Clause 3:

- i. **LEALAILEPULE Rimoni Aiafi**, member for Faleata West, queried the definition of "adult"; whether this included persons 21 years of age and older.
- ii. The **Hon Chairman** replied that the Bill clarifies the age considered as "adult".
- iii. The **Hon PRIME MINISTER** clarified that an adult is one which is over the age of 21, whereas a child includes those under the age of 21. He noted that 'adult' is defined in such a way as to permits the adoption of those 21 and under, granting them the opportunity for a better standard of living overseas.

- iv. **Hon PALUSALUE Faapo II**, leader of the Opposition and Member for Safata, stated that other jurisdictions do not include females who have become mothers under the definition of "child". He stated that once a female has had children, she is an adult, whether she is under the age of 21 or not.
- v. The **Hon PRIME MINISTER** noted that the Bill is a reflection of issues that we are currently facing in society.
- vi. The Hon Deputy Speaker and Member for Palauli I Sisifo, **AGAFILI Patisela Eteuati Tolovaa** spoke in support of the Hon PRIME MINISTER'S comments.
- vii. **Hon PALUSALUE Faapo II** did not agree with the clarification offered by the Hon PRIME MINISTER. He noted that in reality, those who have already been married and have had children, are not capable of being adopted, despite being 21 years of age.

Clause 3 - approved as amended.

Clauses 4 - 6 approved.

Clause 7 approved as amended.

Clauses 8 - 10 approved.

Clause 11:

- i. Member for Aana Alofi No.3 **TOEOLESULUSULU Cedric Pose Salesa Schuster** queried at which drafting stage do the words "draft" in the Bill refer to. He also queried the Committee amendment as to the use of the original draft, at which point in time, does a draft need to be in Samoan for this amendment to be invoked?
- ii. The Hon Chairman **TUISA Tasi Patea** replied that both languages are important but that the English text is the authoritative text. If there is a discrepancy between the English and Samoan text of an Act - the English version will prevail.
- iii. **TOEOLESULUSULU Cedric Pose Salesa Schuster** stated that this needs to be clarified properly. It should be clear which stage in the drafting process this particular amendment refers to. He then queried at which particular stage of law reform is a Samoan version drafted?

iv. The **Hon Chairman** stated that the decision regarding the above was reached due to a Court decision involving legislation originally drafted in the Samoan language.

v. Member for Faleata East, **AVEAU Tuala Lepale Nikotemo Palamo** also recommended that this particular clause be clarified properly.

vi. The **Hon PRIME MINISTER** referred to a Court case where the Judge questioned the difference between the English and Samoan texts of a particular Act. He then noted that there will always be a discrepancy due to many words in the Samoan language possessing more than one meaning.

Clause 11 - approved as amended.

Clause 12 approved.

Clause 12 - approved as amended.

Clauses 14 - 18 approved.

Clauses 19 - 25 approved.

Clause 26 approved as amended.

Clauses 27- 32 approved.

Clause 33:

i. **LEALILEPULE Rimoni Aiafi** queried whether Associate Ministers will be afforded the same authority as provided to Ministers for in Clause 33.

ii. The **Hon Chairman** responded that ultimately, it is the Minister who is responsible which is why the authority is granted to him under the Act.

Clauses 33 - 37 approved.

Clauses 38 approved as amended.

Clause 39 approved.

Clause 40 approved as amended.

Clause 41 approved as amended.

Clause 42 approved as amended.

Clause 43:

- i. **LEALAILEPULE Rimoni Aiafi** sought clarification on the powers delegated to a Minister under this Clause compared to other clauses whereby the Minister's authority is limited.
- ii. The **Hon Chairman** replied that the Bill can be viewed as a double edged sword, in that it attempts to address various issues at the same time.
- iii. **The Hon PRIME MINISTER** clarified that the *Parliamentary Under-Secretaries Act 1988* clarifies the authority of Associate Members.
- iv. **LEALAILEPULE Rimoni Aiafi** stated that the Hon Chairperson does not seem to understand his query despite being a lawyer.
- v. The **Hon PRIME MINISTER** again noted that a Minister has the discretion to delegate tasks to his or her Associate Minister under the *Parliamentary Under Secretaries Act 1988*.

Clauses 43 - 44 approved.

Clauses 45 - 48 approved.

Clauses 49 - 52 approved.

Clauses 53 - 56 approved.

Clauses 57 - 61 approved.

Clauses 62 - 65 approved.

Clauses 66 - 68 approved.

Clause 1 and Short Title approved; the Bill progressed as amended.

2. VALUE ADDED GOODS AND SERVICES TAX BILL 2015 – consideration in detail.

The Hon Chairperson for the Foreign Affairs Committee and Member for Gagaifomauga No.2 **SOOALO Mene** moved a motion for the Assembly to adopt the Committee's report; the motion was approved.

Clause 2 - approved.

Clause 4:

- i. **LEVAOPOLO Talatou**, Member for Gagaemauga 2 stated that in other jurisdictions, businesses have copyrighted their local goods. He queried whether similar measures have been developed in Samoa, and whether an assessment of the local situation has been undertaken as well as restrictions put in place to limit such illegal acts.
- ii. The **Hon Chairperson** stated that there are other Acts which deal directly with the issue of copyright, whereas this Bill focuses on goods which are sold locally.

Clauses 2 - 6 approved.

Clauses 7 - 10 approved.

Clauses 14 - 20 approved.

Clause 21:

- i. **LEALAILEPULE Rimoni Aiafi** queried whether second hand goods should be taxed.
- ii. The **Hon Chairperson** replied that there are relevant provisions within the Bill which deal with second hand goods.

Clause 21 approved.

Clauses 22 - 23 approved.

Clauses 24 - 27 approved.

Clauses 28 - 31 approved.

Clause 30:

- i. The Leader of the Opposition, **Hon PALUSALUE Faapo II** noted the existence of the taxable threshold on income and queried whether farmers were included.
- ii. **AVEAU Tuala Lepale Nikotemo Palamo** queried whether this clause satisfied WTO requirements.
- iii. The **Hon Chairperson** stated that the Bill raises the threshold from 70,000 to 130,000 and confirmed that farmers will not be affected by this amendment. He stated that the Committee were provided with records which also confirmed that farmers are not taxed. He also noted that farmers who export goods internationally are exempt from tax, including income tax. They are however, required to pay tax for local goods.
- iv. **Hon PALUSALUE Faapo II** stated that if a farmer's income reaches or exceeds \$130,000 he or she will be required to pay tax.
- v. The **Hon PRIME MINISTER** accused the Leader of the Opposition of creating mindless drama every time General Elections draw near.
- vi. The **Leader of the Opposition** stated that these types of incentives should encourage farming.
- vii. To this, the **Hon PRIME MINISTER** noted that the Government has subsidised farmers for their exports since 1957.
- viii. The **Leader of the Opposition** then stated that exports have declined since HRPP have been in power.
- ix. Member for Gagaemauga No.1 **Hon SALA Fata Lisati Pinati** noted his own personal experience as an exporter and stated that his income from taro exports has never exceeded \$130,000. He stated that his exports did not exceed more than \$50,000. Furthermore, he did not pay taxes.
- x. The **Hon PRIME MINISTER** stated that the WTO encourages free trade; however this was not beneficial to local farmers who protested to their Governments as a result. There was resistance to the idea of overseas suppliers setting up business locally, which affected their ability to sell their

local goods. He stated that the "thresholds" have been put in place to protect local farmers from cheaper quality goods being imported. This is one of the main purposes of the Bill.

Clause 30 - approved.

Clauses 31 - 35 approved.

Clauses 36 - 39 approved.

Clauses 40 - 43 approved.

Clauses 44 - 47 approved.

Clauses 48 - 52 approved.

Schedules - approved as amended.

- i. **LEALAILEPULE Rimoni Aiafi** queried why Australian currency still appeared in the Schedules. He asked further questions regarding cigarettes and alcohol; and noted that there were recent changes made to related laws which are not reflected in the Bill.
- ii. Member for Faasaleleaga No.2 **PAPALII Lio Faavaivaiomanu Taeu Masepau** raised a concern over the exempt supplies list not including "electricity".
- iii. The **Hon PRIME MINISTER** noted his disappointment at the Member for Faasaleleaga No.2 for querying the amendments when he is a Committee member.

Proceedings were suspended at 10:45am for Morning Tea.
Proceedings resumed at 11:25am.

- iv. **PAPALII Lio Faavaivaiomanu Taeu Masepau** continued by stating that the Hansard records will show the recommendation he put forth. He also sought to clarify that despite residing in Savaii, he attends Committee meetings.

- v. **LEALAILEPULE Rimoni Aiafi** asked three questions of the Chair, regarding the difference between zero-rated supplies and exempt supplies.
- vi. **Hon MANUALESAGALALA Mati Tuigamala Enokati Posala**, Minister for Works and Member for Safata noted that the Government has set the current threshold which is affordable, particularly in terms of electricity charges.
- vii. The **Hon PRIME MINISTER** stated that 'zero-rated' in Samoan means the same thing as 'exempt'. He then stated that the Government's intention is that by the year 2017, diesel will no longer be imported. Therefore, there will be fewer fluctuations in the prices of fuel. He stated that Samoa will attempt to utilise its own natural resources for energy, for example solar and hydro energy as these are free of charge. They are in fact, God's gift to Samoa.

Schedules - approved.

- i. **LEALAILEPULE Rimoni Aiafi** noted that his previous questions have yet to be addressed.
- ii. **Hon SPEAKER: Point of Order:** Mr Speaker stated that a clause may not be discussed when amendments to it have already been approved by the Assembly.

Clause 1 and Short Title - approved.

The Bill progressed as amended.

3. CONSTITUTION AMENDMENT (No.2) BILL 2015 – consideration in detail.

The Hon Chairperson for the Primary Production Committee, **LEAUPEPE Toleafoa Faafisi** moved a motion that the Assembly approve the Committee's report; the motion was approved.

Clause 2:

- i. **LEAVAPOLO Talatonu** noted that he supported the Bill; however, he stated that the report notes a concern regarding the lack of pre-consultations

on the Bill. He stated that for a Bill as important as this one, there should have been an attempt to hold extensive pre-consultations.

- ii. **Hon LEAUPEPE Toleafoa Faafisi**, Member for Aana Alofi No.1 stated that there were several public announcements inviting submissions on the Bill to which people responded. He therefore feels that there was sufficient public consultation.
- iii. The **Hon PRIME MINISTER** noted that there are other avenues whereby the public may submit their opinions on Bills. For example, through their relevant Member of Parliament and public submissions when a Bill is referred to a Committee. He also noted that there are times when Committees make rural visits whereby people in those regions are permitted to attend public hearings. He further stated that the amendment before the House is a simple one; its purpose is to remove oversight of national prosecutions from the Attorney General and transfer this duty onto the Public Prosecutor. In no way will there be a conflict with the Attorney General's advisory role to the Executive.

Clause 3:

- i. **LEALAILEPULE Rimoni Aiafi** stated that this is a similar issue to one which was raised during second reading debates. There still needs to be clarification as to why the term of the Director is six years non-renewable. This is inconsistent with the CEO for the Central Bank who can re-apply or be re-appointed after the six year period ends.
- ii. The **Hon PRIME MINISTER** stated that for other independent offices such as the Controller and Chief Auditor, the terms of employment should be extended to limit corrupt practices. However, for positions which deal with difficult issues, such as the Director, the conditions should be different; hence the non-renewable term of six years of employment for the DPP.
- iii. **LEALAILEPULE Rimoni Aiafi** stated that he does not oppose the six year term, but rather there is an inconsistency with other Officers of Parliament who are able to have their contracts renewed. He stated that his query is why the office of the DPP is non-renewable after one's six year contract.
- iv. The **Hon PRIME MINISTER** responded that this is the way it is to be.

Clauses 2 - 5 approved.

Clause 1 and Short Title approved.

The Bill progressed without amendments.

4. LANDS, SURVEY AND ENVIRONMENT AMENDMENT BILL 2015 – consideration in detail.

TUSA Misi Tupuola, the Hon Chairperson for the Works, Transport and Environment Committee and Member for Falealili moved a motion for the Assembly to adopt the Committee's report; the motion was approved.

Clauses 2 - 4 approved.

Clause 1 and Short Title - approved.

The Bill progressed without amendment.

5. LAND TITLES REGISTRATION AMENDMENT BILL 2015 – consideration in detail.

The Hon Chairperson, **TUSA Misi Tupuola** moved a motion for the Assembly to adopt the Committee's report; the motion was approved.

Clauses 2 - 4 approved.

Clause 5 - approved as amended.

Clause 1 and Short Title - approved.

The Bill progressed as amended.

6. CITIZENSHIP INVESTMENT BILL 2014 – consideration in detail.

The Hon Chairperson for the Justice Committee, **TUISA Tasi Patea**, moved a motion for the Assembly to adopt the Committee's report; the motion was approved.

Clauses 2 - 5 approved.

Clause 6:

- i. **LEVAOPOLO Talatonu** queried whether there are measures to deal with investors who may invest and reside in Samoa for five years and then decide to withdraw their investments.
- ii. **AVEAU Tuala Lepale Niko Palamo** queried the eligibility of foreign investors to purchase land in Samoa. He suggested that protective measures be put in place to ensure foreign investors are unable to purchase land.
- iii. **TUISA Tasi Patea** replied to comments made by the Member for Gagaemauga No.2 by stating there are no such conditions in place.
- iv. The **Hon Deputy Prime Minister**, clarified that during the second reading debates, the process to obtain citizenship via investment was explained. In regards to the purchase of land, there is a Committee amendment which relates specifically to this query which will be read soon.
- v. **LEAVAPOLO Talatonu** noted that there are foreign business owners in Samoa who invest small amounts of money (as opposed to more elsewhere); this will not be beneficial to Samoa.
- vi. The **Hon Deputy Prime Minister** stated that there are in fact laws in place to monitor such activities, including those which counter money laundering.
- vii. The **Hon PRIME MINISTER** provided further clarification on the Bill and stated that the queries raised by the Members in the House today, are all matters which the Bill caters for.

Clause 6 approved as amended.

Clause 7 approved as amended.

Clause 8:

- i. **LEALAILEPULE Rimoni Aiafi** queried whether there are mechanisms in place to ensure investments made in Samoa will be used to fund employment, and address other issues for the betterment of the locals.
- ii. The Leader of the Opposition, **Hon PALUSALUE Faapo II** stated that the Opposition are still concerned that small businesses such as taxis and buses

will be taken over by foreign investors. This would mean that local small businesses would be unable to survive.

- iii. **LEVAOPOLO Talatonu** asked whether foreign investors would be eligible to loan from the NPF.
- iv. The **Hon Chairperson** stated that there are provisions within the Bill which deal with these queries. In terms of loans from the NPF, **TUISA** stated that there are already NPF policies in place to deal with this. Furthermore, there are businesses which are reserved for local investors only.
- v. The **Hon PRIME MINISTER** stated that it would not be beneficial for a foreign investor to loan for thousands from the NPF, after investing millions of dollars into a Samoan business. It should be noted that foreign investors will not be operating small businesses, but rather large scale businesses such as Yazaki. This will ensure there is no outright competition with local small businesses.
- vi. **LEALAILEPULE Rimoni Aiafi** stated that if a foreign investor invested SAT\$4 million and required a further SAT\$6 million; such a loan would be applied for in Samoa.

Clause 8 approved.

Clause 9 approved.

Clause 10 approved as amended.

Clauses 11 - 14 approved.

Clause 15 approved as amended.

Clause 16

Clauses 11 - 14 approved.

Clause 15 approved as amended.

Clause 16:

- i. **LEALAILEPULE Rimoni Aiafi** queried whether an investor is able to bring his or her family to Samoa to reside. This is regarding the definition of "child" in the Bill as being one who is 18 years of age and younger. This conflicts with the *Acts Interpretation Amendment Bill* which states that an adult is one who is 21 years and older.
- ii. **TUISA Tasi Patea** stated that there is no inconsistency; the two Bills refer to two separate matters.
- iii. The **Hon PRIME MINISTER** stated that the main priority is that of national interest; that should be a sufficient explanation for the Member.

Clause 16 approved.

Clause 17:

- i. **AVEAU Tuala Lepale Nikotemo Palamo** queried Clause 17(a) by seeking clarification as to the meaning of the 15 day period of residence for a foreign investor to be eligible to apply for citizenship.
- ii. **LEALAILEPULE Rimoni Aiafi** stated that the intention of the Bill is to encourage foreign investment in Samoa. If the foreign investor truly wants to reside permanently in Samoa, having a 15 day requirement will discourage them to invest.
- iii. **TUISA Tasi Patea** responded by stating that foreign investors do not tend to settle in one place, therefore the 15 day requirement is an incentive for them to stay.
- iv. The **Hon PRIME MINISTER** stated that business people coming into Samoa do not generally have the one business. They operate several businesses in various countries. The 15 day requirement exceeds similar provisions in other countries. A person interested in establishing a business in Samoa may only require 2 to 3 days to assess its profit viability and therefore need for residence. The 15 day requirement was put in place to ensure the promotion of national interests.

- v. **AVEAU Tuala Lepale Nikotemo Palamo** stated that if the 15 day requirement was removed, there would be no investors residing in Samoa. They would prefer to invest and reside elsewhere.
- vi. The **Hon PRIME MINISTER** stated that in his 30 plus years in Parliament, he has been involved in negotiations to realise Samoa's continued economic development. China has a population in excess of 1.3 billion people, due to their "one child" policy. They are now a developed nation with an aging population. Samoa will have a situation similar to China's; women's rights are being prioritised with women being more career focused and less inclined to begin families. The Hon PRIME MINISTER stated that his comments are in response to the Leader of the Opposition's fear that foreign investors will bring with them their families.
- vii. The Leader of the Opposition, **Hon PALUSALUE Faapo II** stated that his concern was that if one investor brings his or her family into the country, this would potentially open the flood gates for all investors to do so.
- viii. The **Hon PRIME MINISTER** stated that the owner of the supermarket chain Frankie's, is married to a Samoan. Amau is Chinese-Samoan. These businesses employ locals and sell good quality products. We therefore need more of these types of investors to come to Samoa; this is what this Bill proposes to do and expects to achieve.
- ix. The Leader of the Opposition, **Hon PALUSALUE Faapo II** stated that he was not referring to investors currently in operation in Samoa.
- x. **LEVAOPOLO Talatonu** stated that the Bill should only provide for a foreign investor's immediate family as it currently reads that the investor and "any" of his or her family are entitled to citizenship.
- xi. **AVEAU Tuala Lepale Nikotemo Palamo** queried whether there are mechanisms in place to address these issues if they were to occur.
- xii. The **Hon PRIME MINISTER** stated that Samoa is not the only country in which such a law is in operation. There are many graduates who return to Samoa

with no employment opportunities. This is another avenue to promote job creation in Samoa; this is why the Government focuses on the big picture when it introduces legislation.

Clause 18 approved as amended.

Clause 19 approved as amended.

Clause 20 approved.

Clauses 21 - 22 approved.

Clause 23:

- i. **LEAVAOPOLO Talatou** queried whether this provision is applicable to communication mediums such as radio and television.
- ii. **TUISA Tasi Patea** responded that the Act may be changed from time to time.

Clause 23 approved as amended.

Clause 24 approved as amended.

Clause 25 approved as amended.

Schedules approved as amended.

Clause 1 and Short Title approved as corrected.

The Bill progressed as amended and corrected.

7. EVIDENCE BILL 2015 – consideration in detail.

The Hon Chairperson for the Finance and Expenditure Committee, **Hon PAPALIITELE Niko Lee Hang** moved a motion that the Assembly adopt the Committee's report; the motion was approved.

Issues raised regarding specific clauses:

Clause 58:

- i. **AVEAU Tuala Lepale Nikotemo Palamo** sought clarification whether specific courts required specific judges. The Hon Chairperson,

PAPALIITELE Niko Lee Hang stated that judges have the discretion in cases where witness has been deemed dishonest.

Clause 71:

- i. **AVEAU Tuala Lepale Nikotemo Palamo** stated that it appeared as if there is too much control on the decisions which a judge may make.
- ii. **Hon PAPALIITELE Niko Lee Hang** stated that the Bill's intention is to replace the *Evidence Ordinance 1961*; it does not dictate a judge's rulings on cases. It only provides for witnesses evidence.

Clause 116:

- i. **AVEAU Tuala Lepale Nikotemo Palamo** queried whether witnesses are able to decide whether or not to be witnesses.
- ii. The **Hon Chairperson** replied that the English Clause is very clear on this point. A person may not be compelled to give evidence in a criminal proceeding in Samoa.

Clauses 2 - 136 approved.

Clause 1 and Short Title approved.

The Bill progressed without amendment.

8. ACTS INTERPRETATION BILL 2015 - third reading.

The **Hon PRIME MINISTER** moved a motion that the Bill be read a third time; the motion was approved.

The Bill was third read and subsequently passed the Assembly, to become law upon assent.

9. VALUE ADDED GOODS AND SERVICES TAX BILL 2015 – third reading.

The Hon Minister for Revenue, **TUILOMA Lameko** moved a motion that the Bill be read a third time; the motion was approved.

The Bill was third read and subsequently passed the Assembly, to become law upon assent.

10. CONSTITUTION AMENDMENT BILL (No.2) 2015 – third reading.

The **Hon PRIME MINISTER** moved a motion that the Bill be read a third time; the motion was approved.

A division was called; 42 votes cast for the amendment of the Constitution. There was no dissenting votes.

The Bill was third read and subsequently passed the Assembly, to become law upon assent.

11. LANDS, SURVEY AND ENVIRONMENT AMENDMENT BILL – third reading.

The Hon Minister for Natural Resources and Environment and Member for Gagaemauga No.3, **FAAMOETAULOA Lealaiauloto Ulaitino Faale Tumaalii** moved a motion for the Bill to be third read; the motion was approved

The Bill was third read and subsequently passed the Assembly, to become law upon assent.

12. LAND TITLES REGISTRATION AMENDMENT BILL 2015 – third reading.

The Hon Minister for Natural Resources and Environment, **FAAMOETAULOA Lealaiauloto Ulaitino Faale Tumaalii** moved a motion for the Bill to be third read; the motion was approved.

The Bill was third read and subsequently passed the Assembly, to become law upon assent.

13. EVIDENCE BILL 2015 – third reading

The **Hon PRIME MINISTER** moved a motion that the Bill be read a third time; the motion was approved.

The Bill was third read and subsequently passed the Assembly, to become law upon assent.

14. CITIZENSHIP INVESTMENT BILL 2014 – third reading.

The **Hon Deputy Prime Minister** moved a motion that the Bill be read a third time; the motion was approved.

The Bill was third read and subsequently passed the Assembly, to become law upon assent.

Proceedings were adjourned at 1:49pm.
Parliamentary proceedings will reconvene on
Tuesday, 17th November 2015 at 9:00 am.