

DISCLAIMER

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**Monday 13th November 2017
9:00am**

I. GOVERNMENT ORDERS OF THE DAY

1. Constitution Amendment Bill (No.3) 2017 – first reading

Hon TUILAEP Auelua Fatialofa Lupesoliai Lolofietele Neioti Aiono Galumalemana Dr. Sailele Malielegaoi – PRIME MINISTER, Member for Lepa moved a motion for the Constitution Amendment Bill (No.3) 2017 to be first read; the motion was approved and the Bill was first read.

2. Fire and Emergency Services Amendment Bill 2017 – first reading

The Hon PRIME MINISTER moved a motion for the Fire and Emergency Services Amendment Bill 2017 to be first read; the motion was approved and the Bill was first read.

3. Honours and Awards Amendment Bill 2017 – first reading

The Hon PRIME MINISTER moved a motion for the Honours and Awards Amendment Bill 2017 to be first read; the motion was approved and the Bill was first read.

4. Gaming Control Bill 2017 – first reading

Hon LAUTAFI Fio Selafi Purcell, Minister for Public Enterprises, moved a motion for the Gaming Control Bill 2017 to be first read; the motion was approved and the Bill was first read.

5. Income Tax Amendment Bill (No.2) 2017 – first reading

Hon TIALAVEA Fea Leniu Seigafolava Hunt, Minister for Revenue, moved for the Income Tax Amendment Bill (No.2) 2017 to be first read; the motion was approved and the Bill was first read.

6. Trustee Companies Bill 2017 – first reading

Hon SILI Epa Tuioti, Minister of Finance, moved a motion for the Trustee Companies Bill 2017 to be first read; the motion was approved and the Bill was first read.

7. Foundations Amendment Bill 2017 – first reading

Hon SILI Epa Tuioti moved a motion for the Foundations Amendment Bill 2017 to be first read; the motion was approved and the Bill was first read.

- The Hon PRIME MINISTER moved a motion to set aside Standing Order 101(1) to permit the second reading of introduced Bills; the motion was approved.

8. Constitution Amendment Bill (No.3) 2017 – second reading

Hon TUILAEP Auelua Fatialofa Lupesoliai Lolofietele Neioti Aiono Galumalemana Dr. Sailele Malielegaoi – Hon PRIME MINISTER, Member for Lepa moved a motion for the Bill to be second read and proceeded to provide an explanatory statement as to the Bill's contents and objectives. The Hon PRIME MINISTER stated that the primary objective of the Bill was to amend the term of office of the *O Le Ao o le Malo*. He stated that the HRPP had taken various issues into account in regards to the election of this Office, after the election of the current *O Le Ao o le Malo*. TUILAEP A noted that the provisions of the tabled Bill were supported by 44 Members of the HRPP. In recounting the construction of the 1960 Constitution, the Hon PRIME MINISTER stated its Articles were thoroughly considered by the Constitutional Conventions; input had also been sought from 4 representatives of all the Samoan districts. The final Articles were a result of an agreement by the members of the Convention, and the Articles were clear as to their purpose. The Hon PRIME MINISTER then recounted the history of *O Le Ao o le Malo* Office holders since Independence, beginning from the joint holders Tupua Tamasese Meaole and Malietoa Tanumafili II; Malietoa Tanumafili II, Tupua Tamasese Tupuola Tufuga Efi and now Tuimalealifano Vaaletoa Sualauvi II. TUILAEP A stated that after the passing of the last joint office holder Malietoa Tanumafili II, the

appointment of the *O Le Ao o le Malo* became one of a parliamentary election, which resulted in the two consecutive 5 year terms held by Tupua. After much deliberation, the HRPP agreed that the process of electing *Le Ao o le Malo* created unnecessary tension, for candidates and Members of Parliament. He went on to note that the majority of Samoans have extensive familial connections, which included Members of Parliament. He noted that many Members had familial ties to either the Tui Atua or the Tui Aana families. These considerations lead to the tabling of the amendment before the House. The Hon PRIME MINISTER then noted that the role of the *O Le Ao o le Malo* is different from that of a Prime Minister, Speaker of the House or Cabinet Ministers, in terms of respective work activities.

(i) TAEFU Lemi - Member for Falelatai and Samatau

TAEFU noted that the proposed amendment was important as Samoa was a nation whose roles had already been assigned ("*o le nuu ua uma ona tofi*"). The Member then noted his support for the Bill, stating that genuine support for the *Tama-a-Aiga* has not changed; however, the proposed changes would promote national peace when the Office becomes vacant. TAEFU commented that there some members of the public mistakenly believed that these appointments were politically influenced; however, he stated that the proposed amendment would address these issues and would not hinder members of the *Tama-a-Aiga* from to the Office of the *O Le Ao o le Malo* in the future.

(ii) Hon AEAU Peniamina Leavaiseeta - Member for Falealupo

Hon AEAU acknowledged the efforts of the Hon PRIME MINISTER and his Cabinet in addressing this very sensitive issue.

(iii) OLO Fiti Vaai – Member for Salega

The Member for Salega requested clarification of the words "*...acting on the advice of Parliament*", asserting that these decisions were in fact made by the Government, and not Parliament as the Constitution requires.

▪ **Hon PRIME MINISTER**

The Hon PRIME MINISTER stated that the Member was confused in asserting that the process for the appointment of the current *O Le Ao o le Malo* took place outside of the Parliamentary Chamber. TUILAEPa continued by stating that when approached by the media to comment on this issue, he

clearly stated that an appointment had not been made at the time. The appointment was not made until a motion was moved in Parliament for an appointment to become effective. He then went on to say that when the media called a press conference after Tuimalealiifano's appointment, he again reiterated the fact that the appointment had been made in the Chamber. Until the motion relevant had been moved, Members were still free to decide or change their respective votes.

▪ **OLO Fiti Vaai – Member for Salega East**

The Member for Salega stated that despite the Hon PRIME MINISTER'S claims, the decision as to the election of the current *O Le Ao le Malo* had been made outside of the Chamber.

▪ **Hon Speaker**

Point of Clarification – The Hon Speaker stated that when a matter has been clarified by a Minister, the enquiring Member should move on from the issue.

▪ **OLO Fiti Vaai – Member for Salega East**

The Member stated that Salega did not support the tabled amendment.

▪ **Hon PRIME MINISTER**

The Hon PRIME MINISTER clarified that there are ample opportunities for the public to voice their opinions on legislation brought before the House. He then reminded the House that as Members, they were elected as representatives of their constituents; therefore, Samoa is fully represented in the House by each Member of Parliament.

▪ **Hon Speaker**

The Hon Speaker referred to the provisions of the Standing Orders, stating that Members are permitted to present their views in the House; however, there are limitations. For example, Members should present their individual opinions and not those of others. Furthermore, the Government is permitted to correct Member statements if the circumstances call for it.

▪ **OLO Fiti Vaai – Member for Salega East**

OLO stated that the proposed amendment would be a costly change for the country. The Member for Salega elaborated this statement by stating that the *O Le Ao o le Malo's* silhouette is placed on

national currency, therefore constant changes would be expensive. He also stated that the *O Le Ao o le Malo* is not permitted to act without the advice of the Government of the day. He further stated that even if the *O Le Ao o le Malo* were to refuse his or her assent to a Bill, the Government is permitted to enact the Bill within a 7 day timeframe, *sans* a signature. The Member for Salega then sought clarification as to the actual duties of Members of the Council of Deputies, querying whether they had a function, or whether the Office was merely designed as a retirement position for former Government leaders.

(iv) PESETA Vaifou Tevagaena - Member for Faasaleleaga No.4

The Member noted his support for the proposed amendment stating that presently Parliament was responsible for the election of various Offices; namely, the *O Le Ao o le Malo* and Members of the Council of Deputies. PESETA then suggested that to cut back on expenses, the Government could elect one person to fulfil these various duties—by implementing a new governing system, such as the United State’s presidential system.

(v) LEALAILPULE RIMONI AIAFI – Member for Faleata West

The Member noted his support for the proposed amendment, stating that when laws are obviously outdated, they should be reviewed. He stated that for present purposes, there is a need to consolidate the terms for the “Head of State”. LEALAILPULE noted that there is no Article in the Constitution limiting the eligibility of candidates for the Office of *O Le Ao o le Malo* to members of the *Tama-a-Aiga*. The Member further stated that the Council of Deputies should be limited to 1 Member, as opposed to the current practice of appointing two members.

**Parliament suspended its proceedings for its usual morning recess at 10:45am.
Proceedings reconvened at 11:27am.**

(i) **PESETA Vaifou Tevagaena - Member for Faasaleleaga No.4**

PESETA concurred with the opinion of the Member for Faleata West, noting that after 55 years, the laws regarding the appointment of the *O Le Ao o le Malo* should be reviewed. The Member for then commended the Hon Prime Minister's courage in addressing such sensitive issues, as it will clarify the exact timeframe of service for future Heads of State. He then noted his delight in the Hon Prime Minister's recovery, and congratulated the Government on the arrival of Samoa's new aeroplane; requesting that fares be kept at reasonable prices.

▪ **Hon PRIME MINISTER**

The Hon PRIME MINISTER thanked the Member for Salega East for his valuable input, and noted that at times the three arms of Government do not always work cohesively. He then noted that it was the Government's responsibility to intervene if a Member makes inaccurate statements, as the public are privy to all proceedings in the House. For this reason, information dealt with in the House should be accurate at all times.

In response to suggestions raised by the Member for Faasaleleaga No.4 regarding the adoption of a presidential system, TUILAEPA stated that there is a time and place for everything; however, this was not the right time to discuss drastic changes to Samoa's governmental system. In response to the Member for Salega West's assertion that the amendment would raise Government costs; the Hon PRIME MINISTER stated that this was a narrow view. He further stated that the Office of the *O Le Ao o le Malo* has authority, independent of the Government and is not completely subject to its decisions as implied by the Member for Salega. In response to the Member for Faleata West's remarks as to candidate's eligibility for the Office of *O Le Ao o le Malo*, the Hon PRIME MINISTER stated that he was correct; however, the issue before the House at present was the timeframe for one to hold office, not the criteria for eligible candidates.

- The Constitution Amendment Bill (No.3) 2017 was read a second time and referred to the Standing Orders, Electoral, Petitions and Constitutional Offices Committee, who is to report back to the Assembly within 90 days.

9. Fire and Emergency Services Amendment Bill 2017 - second reading

The Hon PRIME MINISTER moved a motion for the Fire and Emergency Services Amendment Bill 2017 to be read a second time, and spoke to clarify the provisions of the Bill. TUILAEPa stated that the Bill was drafted to address the issue of unauthorised private businesses welding oil tanks, after the 2016 wharf explosion. The amendment was stated as necessary to ensure that permits are issued before any relevant work is carried out, and that such permits are only issued to suitably qualified persons.

▪ LEALAILEPULe Rimoni Aiafi – Member for Faleata West

The Member for Faleata West sought clarification of the term “hot works”, stating that its meaning was too broad. He suggested that perhaps it should be clarified that specific welding work required the prior approval of the FESA, as opposed to suggesting the provision applied to any type of welding work.

- The Hon PRIME MINISTER clarified that the term was intentionally drafted broadly, so as to avoid incidents such as the 2016 oil tank explosion.
- The Bill was read a second time and was referred to the Finance and Expenditure Committee, who is to report back to the Assembly within 90 days.

10. Honours and Awards Amendment Bill 2017 - second reading

The Hon PRIME MINISTER moved a motion for the second reading of the Honours and Awards Amendment Bill 2017, and then spoke to clarify its contents and objectives. The Hon PRIME MINISTER stated that the existing Act was outdated, and that an amendment was necessary to recognise high performers in specialised fields, such as sports or charitable organisations. In regards to the bestowment of titles to Samoans living abroad, TUILAEPa stated that oftentimes chiefly titles were bestowed to recognise people’s achievements which have benefitted Samoa in some way. He noted the example of the bestowment of a chiefly title to the former Prime Minister of New Zealand, Bill English. TUILAEPa further stated that the amendment is a sign of respect for those whose efforts in various areas have contributed significantly to the Samoan people.

(i) OLO Fiti Afoa Vaai - Member for Salega East

The Member queried whether individuals from overseas who held matai titles had any rights over lands and titles of the families to which the titles belonged to.

- The Hon Prime Minister stated that this was not part of the proposed amendment. He further stated that there have been cases where matai titles have been bestowed to foreigners with high standing, but who have not understood its significance. The Hon Prime Minister gave the example of a former President of Nauru who was bestowed a matai title, who then went on to use the *ie toga* he was given for his *sua* as a foot rug. For reasons such as this, the Hon PRIME MINISTER stated that there are clear guidelines for the tokenistic bestowal of titles to foreigners.

- **OLO Fiti Afoa Vaai - Member for Salega East**

In regards to foreigners (Europeans) who have been bestowed matai titles, the Member queried whether they were eligible to run for elections.

- **Hon PRIME MINISTER**

The Hon PRIME MINISTER reiterated the fact that these types of bestowments were merely honorary ceremonies, and that there are clear requirements in the Electoral Act which outline one's eligibility to contest at general elections.

- **OLO Fiti Afoa Vaai - Member for Salega East**

The Member stated that it was unclear what the eligibility requirements were for receipt of an Award under the proposed Bill, in addition to the award categories and titles.

- The Bill was read a second time, and was subsequently referred to the Standing Orders, Electoral, Petitions and Constitutional Offices Committee who is to report back to the Assembly within 90 days.

11. Trustee Companies Bill 2017 – second reading

Hon SILI Epa Tuioti, Minister of Finance, moved for that the Trustee Companies Bill 2017 to be read a second time, and spoke to clarify the Bill's contents and objectives. The Hon Minister stated that the Bill is intended to replace the existing 1988 Act, which has been in effect for almost 30 years. He stated that the Bill would introduce new procedures which have been designed to ensure Samoa can develop within the ever changing global financial market.

- The Bill was read a second time and subsequently progressed to the Consideration in Detail stage as it was introduced as an Urgent Bill.

12. Foundations Amendment Bill 2017 - second reading

Hon. SILI Epa Tuioti, Minister of Finance, moved a motion for the second reading of the Foundations Amendment Bill 2017. The Hon Minister stated that the amendment sought to propose changes which included redefining “resident agent” to include the restoration and strike-off process for foundations. Hon SILI further stated that the Bill would provide appropriate monetary sanctions which the Registrar could impose when required. The Hon Minister stated that revenue generated by the Samoa International Finance Association (SIFA) would assist Samoans in the form of sporting sponsorships.

- The Bill was read a second time and subsequently progressed to the Consideration in Detail stage as it was introduced as an Urgent Bill.

13. TRUSTEE COMPANIES BILL 2017 - Consideration in detail

- Clause 2 – approved.
- Clause 3 – approved.
- Clause 4- approved.
- Clause 5- approved.
- Clause 6- approved.
- Clause 7- approved.
- Clause 8- approved.

- Clause 9- approved.
- Clause 10- approved.
- Clause 11- approved.
- Clause 12- approved.
- Clause 13- approved.
- Clause 14- approved.
- Clause 15- approved.
- Clause 16- approved.
- Clause 17- approved.
- Clause 18- approved.
- Clause 19- approved.
- Clause 20- approved.
- Clause 21- approved. Note that ALIIMALEMANU Alofa Tuuau, Member for Alataua West, suggested that the National Revenue Board set the requisite fees and charges, as opposed to the TCSP taking on this responsibility.

(i) MINISTER SILI Epa Tuioti - Minister of Finance, Member for Faasaleleaga No.1 East

The Hon Minister reiterated that the purpose of the Bill was to attract foreign investors. In regards to the suggestion raised by the Member for Alataua West, the Hon Minister stated that the SIFA is independent in its decision making, and that the SIFA Board was responsible for considering fees and charges; however, the process would remain the same in that the Board advises the Minister, who then advises Cabinet for their final decision making.

- Clause 21- approved.
- Clause 22- approved.
- Clause 23- approved.
- Clause 24- approved.
- Clause 25- approved.
- Clause 26- approved.
- Clause 27- approved.
- Clause 28- approved.

- Clause 29- approved.
- Clause 30- approved.
- Clause 31- approved.
- Clause 32- approved.
- Clause 33- approved.
- Clause 34- approved.
- Clause 35- approved.
- Clause 36- approved.
- Clause 37- approved.
- Clause 38- approved.
- Clause 39- approved.
- Clause 40- approved.
- Clause 41- approved.
- Clause 42- approved.
- Clause 43- approved.
- Clause 44- approved.
- Clause 45- approved.
- Clause 46- approved.
- Clause 47- approved.
- Clause 48- approved.
- Clause 49- approved.
- Clause 50- approved.
- Clause 51- approved.
- Clause 52- approved.
- Clause 1 - Name and Short Title- approved.

14. FOUNDATIONS AMENDMENT BILL 2017 - Consideration in detail

- Clause 2- approved.
- Clause 3- approved.
- Clause 4- approved.
- Clause 5- approved.

- Clause 6- approved.
- Clause 7- approved.
- Clause 8- approved.
- Clause 9- approved.
- Clause 10- approved.
- Clause - Name and Short Title – approved.

15. TRUSTEE COMPANIES BILL 2017 - third reading

Hon. SILI Epa Tuioti moved for the Bill to be read a third time; the motion was seconded and approved and the Bill was subsequently passed by the Assembly.

16. FOUNDATIONS AMENDMENT BILL 2017 - third reading

Hon. SILI Epa Tuioti moved for the Bill to be read a third time; the motion was seconded and approved and the Bill was subsequently passed by the Assembly.

17. GAMING CONTROL BILL 2017 - second reading

Hon. LAUTAFI Fio Selafi Purcell moved a motion for the Bill to be second read; the motion was seconded, and the Hon Minister proceeded to clarify the contents and objectives of the Bill. Hon LAUTAFI stated that the Bill would guide the various gambling and gaming activities which have been introduced and practiced in Samoa (for example, Bingo, TV Bingo, Raffles, and telecommunication services introducing 'text to win' promotions). If any adverse situations arise due to any gambling activities, the appropriate measures would already be in place to address them *via* this Bill. The Hon Minister stated that the Bill has 6 primary objectives, which were stated as being the following:

- to prevent the occurrence of any harm, as a result of gaming and gambling activities;
- to promote responsible and fair gaming and gambling activities;
- authorise certain gambling activities and prohibit others;
- limit opportunities for crime and dishonesty in gambling activities/ventures; and

- to ensure that money acquired from gambling is injected back into the community.

The Hon Minister continued by stating that the amendment would afford more power of control to the Chief Executive of the Gambling Control Authority. He stated that permits would be issued by the Authority for prospective gaming/gambling vendors. He also stated that due to the growth in technological advancements, there were now more avenues for people to gamble such as via one's phone, online and so forth. For this reason, he stated that it was necessary to employ an investigator to ensure that "winnings" were disbursed to Charitable organisations, as stated by many gambling providers. The Minister also confirmed that the Bill provides the Office (TAB) the authority to issue permits and licenses for all gaming and gambling activities, and that the Office would also be responsible for monitoring the implementation of these activities within the community.

Other changes to be introduced by the Bill included the enforcement of a minimum age (21 and over), which would include games such as bingo, horse racing betting and so forth. The Hon Minister then stated that the Authority would also be authorised to decline or revoke licences.

(i) Hon GATOLOAIFAANA Amataga Alesana-Gidlow, Member for Faasaleleaga No.1

Hon GATOLOAIFAANA acknowledged the Minister's efforts in proposing the tabled amendments. She then queried the minimum age of 21, and whether this would include phone text competitions; as it would seem difficult to monitor usage. In regards to TV Bingo and similar activities, Hon GATOLOAIFAANA stated that these activities encouraged youths to gamble, and that the Authority should look into ways to limit or stop these activities.

(ii) FAUMUINA Wayne Fong - Member for Urban West

FAUMUINA raised concerns over the communities and organisations which rely heavily on funds acquired from gambling activities, such as Bingo games and raffles. He stated that oftentimes these activities were to raise money for community projects, such as the construction of schools or the renovation of village churches.

(iii)SULAMANAIA Fetaiai Tauiliili Tuivasa - Member for Vaimauga East

SULUMANIA stated that it would be beneficial for communities if licensing costs were kept to a minimum, as most of these efforts were for community building purposes. In terms of safety at gambling activities, the Member suggested that Police officers could possibly avail themselves at such events to ensure public safety. He then requested that existing congregations who organised ongoing Bingo events should not be charged for their operations.

(iv)AUMUA Isaia Lameko - Member for Falealili West

The member noted that gambling is a matter of personal preference; that despite imposing an age restriction, the supervisory role for children and youths was the responsibility of respective parents.

(v) LEALAIPOLE Rimoni Aiafi – Member for Faleata West

The Member for Faleata West stated that there should be an exemption for various gambling events, particularly those which were for community fundraising purposes. He then referred to section 43 - Conduct of Sales promotion schemes - and noted that the Bill clearly stipulated that licenses and permits would be issued based on relevant conditions being met. He then suggested that the Office (TAB) thoroughly assess how to distinguish between gambling and gaming activities for fundraising, and those which were for personal profit.

(vi)LAUTAFI Fio Selafi Purcell - Hon Minister of Public Enterprises, Member for Satupaitea

The Hon. Minister took note of all the concerns raised and stated that issues raised by members were currently addressed in the Bill. He further stated that Members should attempt to read the Bill thoroughly, to further their understanding of its objectives. Hon LAUTAFI stated that in terms of sales promotions, there was an intention to protect the consumer, so that their personal purchasing power was not affected by business promotions or sales.

- The Bill was read a second time and was referred to the Finance and Expenditure Committee, who is to report back to the Assembly within 90 days.

18. INCOME TAX AMENDMENT BILL (No.2) 2017 – second reading

Hon TIALAVEA moved that the Income Tax Amendment Bill (No.2) 2017 be read a second time, and went on to clarify the contents and objectives of the Bill. The Hon Minister stated that the primary objective of the Bill was to extend the expiration date for income tax credit schemes from 30 June 2017 to 1 December 2017.

(i) ALIIMALEMANU Alofa Tuuau – Member for Alataua West

The Member queried the effects of the proposed amendments on the budget which the House had passed for the financial year ending 30 June 2017, in June.

(ii) Hon TIALAVEA Fea Leniu Tionisio Hunt – Minister for Revenue, Member for Vaa o Fonoti

The Hon Minister stated that the Bill's provisions would not be retrospective, but would apply only to tax incurred after the Bill has been enacted.

(iii) SULAMANAIA Fetaiai Tauiliili Tuivasa, Member for Vaimauga East

SULUMANAIA stated that it was his understanding that tax credits had already ceased to exist as local hotels were already benefitting from relevant investments. The Member further stated that he did not support the proposed change in dates for deadlines, as there appeared to be no justifiable reason to extend the period. He stated that it was not appropriate for investors to invest in hotels and receive credit.

- The Hon Minister stated that it was at the request of the Chamber Commerce and the Hotel Association to extend the deadlines.

(i) SULAMANAIA Fetaiai Tauiliili Tuivasa, Member for Vaimauga East

SULUMANAIA queried whether the Minister had personally sighted any investment records, and queried whether new investors would be able to apply for extensions, and the likelihood of such applications being approved.

▪ **Hon PRIME MINISTER**

The Hon PRIME MINISTER stated that it was not feasible for new non-registered investors to meet the deadline, therefore it should not be an issue. He then stated that those who miss the extension would not be considered.

- The Bill was second read and referred to the Economic Sector Committee, who is to report back to the Assembly within 90 days.

Proceedings were adjourned at 1:30pm.

The Assembly will reconvene at 9:00am on 19 December, 2017.