

MEDIA COUNCIL BILL 2014

SAMOA

Explanatory Memorandum

Introduction

The Bill establishes the Media Council and the Journalists Association of Samoa (JAWS) to provide for the development, application and enforcement of a code of practice relating to the news media, and to promote professional journalism, and for related purposes.

Clauses:

PART 1 PRELIMINARY

- Clause 1:** - states that when enacted, this Act will be called the Media Council Act 2014, and will commence on the date of assent by the Head of State.
- Clause 2:** - provides for the definition of terms used within the Bill.
- Clause 3:** - states that this Act binds the Government.
- Clause 4:** - provides for the purpose of the Bill, which is to promote professionalism and integrity in news media. This clause further states that the Bill must be applied, implemented and enforced in a manner which fully respects Samoan tradition, culture and community values.
- Clause 5:** - provides that the Bill operates in addition to other laws, such as any requirement or code of practice applying under the Broadcasting Act 2010. This clause further states that the Bill prevails over any other enactment should any inconsistency arises, and that nothing in the Bill affects the Film Control Act 1978 or the powers of the Film Control Board provided for under that Act.

PART 2 MEDIA COUNCIL

- Clause 6:** - establishes and provides for the composition of the Media Council, appointment of representatives, and appointment of Deputy Chairperson.

This clause further provides for the powers of the Executive Committee in relation to the appointment of the members of the Council.

- Clause 7:** - provides for terms of office and remuneration of members of the Council.
- Clause 8:** - provides that any member of the Council must disclose any interests in any matter to be considered by the Council. Any person who contravenes this clause may be terminated by the Council and will not be eligible for re-appointment.
- Clause 9:** - provides that all determination and documents of the Council are required to be in writing, and must be signed by any person or persons acting under general or specific directions of the Council.
- Clause 10:** - empowers the Executive Committee to appoint committees to discharge the Council's functions, and in making the appointment, the Committee may delegate powers of the Council to the committees.

PART 3 ADMINISTRATION AND FINANCE

- Clause 11:** - provides for the staff of the Council and obligates the Association to ensure that the Council is adequately resourced.
- Clause 12:** - provides for the funds of the Association, including money appropriated by the Government.

PART 4 CODE OF PRACTICE

- Clause 13:** - provides that the Association may develop, approve, apply and enforce the Code of Practice that may cover matters relevant to broadcasting, publishing, reporting or presenting items through the media.
- Clause 14:** - provides for the application of the Act and the Code of Practice to all members of the media.
- Clause 15:** - empowers the Association to issue directives to supplement or clarify any issue relating to the Code of Practice.

**PART 5
COMPLAINT PROCEDURES**

Division 1 - Making of Complaints

- Clause 16:** - provides for definition of terms used for Part 5.
- Clause 17:** - provides for those who may make a complaint for breach of the Code of Practice.
- Clause 18:** - provides for the process of dealing with the complaints by the members of the media who is subject of the complaint.
- Clause 19:** - provides for complaints to be referred to the Council.
- Clause 20:** - provides for the requirements for making complaints.

Division 2 - Complaints Procedure

- Clause 21:** - provides for the dealing with complaints by the Council, including appointment of a committee to investigate a complaint received. It also provides for the procedures for the Council when determining a complaint.
- Clause 22:** - provides for the notification and the processing of complaints.
- Clause 23:** - requires the Council to encourage and assist in conciliation between the complainant and respondent unless the Chairperson considers that conciliation would be unproductive.
- Clause 24:** - sets out the grounds for dismissing complaints.
- Clause 25:** - provides for determinations of complaints by the Council without hearing.
- Clause 26:** - provides for the hearing of complaints, including the rights of the respondent to be heard.

Division 3 - Decisions and Orders

- Clause 27:** - provides for the decision of the Council to be in writing and provided to the complainant and the respondent and to be made available to the public.
- Clause 28:** - provides for the orders that the Council may make if a respondent is found to have breached the Code of Practice.

- Clause 29:** - provides that there is no right of appeal from a decision of the Council, but does not affect the power of the Supreme Court to judicial review a decision of the Council.

**PART 6
JOURNALISTS ASSOCIATION OF SAMOA**

Division 1 - Association

- Clause 30:** - establishes the Journalist Association of Samoa.
- Clause 31:** - provides for the functions and powers of Association.
- Clause 32:** - provides for the membership of the Association.
- Clause 33:** - provides for the entitlements of the members of the Association.
- Clause 34:** - provides for those who can be accredited by the Association, including their entitlements, to be determined by the Executive Committee.
- Clause 35:** - provides for the rules that apply to annual general meetings of the Association.

Division 2 - Executive Committee

- Clause 36:** - establishes the Executive Committee, and the terms of office of the members.
- Clause 37:** - provides for the powers and functions of the Executive Committee.

**PART 7
MISCELLANEOUS**

- Clause 38:** - states that if the Council is unable to carry out its functions effectively, an interim Council may be appointed by the Head of State, acting on the advice of the Cabinet, to carry out the functions of the Council.
- Clause 39:** - empowers the Head of State, acting on the advice of the Cabinet, to make regulations for the purpose of giving effect to this Act.

- Clause 40:** - protects a person who carries out a function, power or duty under this Act from personal liability for carrying out the function, power or duty in good faith.
- Clause 41:** - provides for consequential amendment.
- Clause 42:** - provides for transitional and saving provisions.

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(Hon TUILAEPA Fatialofa Lupesoliai Aiono Neioti Sailele Malielegaoi)

PRIME MINISTER AND MINISTER FOR THE
MINISTRY OF THE PRIME MINISTER AND CABINET