

DISCLAIMER

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**DAY 3
9:30am**

Tuesday 3rd May 2022

I. OTHER ANNOUNCEMENTS BY THE SPEAKER

After the Speaker delivered the Morning Prayer, he greeted the Hon Prime Minister, her Cabinet and Members of Parliament. He also acknowledged O Le Ao o le Malo and his good lady, the Council of Deputy and all the denominations of Samoa. He then greeted the Attorney General and CEO of the Ministry of Commerce, Industry and Labour.

Following his greetings, Mr Speaker stated that he announced on Friday 29th April that he received a letter of Complaint from a Member towards certain Members of Parliament with the hope to announce his decision on the matter today however, given that he has yet made a decision on the matter put forth, this matter will be announced in Parliament once his decision is made.

II. MOTION OF THE LEADER OF THE HOUSE

The Hon Leader of the House, FIAME Naomi Mataafa moved a motion that pursuant to Standing Order 47, all Lapsed Orders of Parliament from Session 2021/2022 be carried forward to the current Session 2022/2023 as provided in the Supplementary Order Paper 2022/2023 No.1.

Motion was seconded and approved.

III. GOVERNMENT ORDERS OF THE DAY – Reading of Bill(s)

- **LABOUR AND EMPLOYMENT RELATIONS AMENDMENT BILL 2022 – second reading debates continues.**

(i) **LEALAILEPULE Rimoni Aiafi, Member for Faleata 3**

The Member greeted all Members of the House and Samoa listening in to the Parliament meeting. The Member then commended the Minister for the Bill as it mainly focuses on improving those employed in companies and fostering better relations between employees and the employer. Another significant aspect of the Bill is it provides for business owners to fully understand their entitlements and what they are limited to.

The Member then raised an issue regarding permits and visas where he suggests that visa should be approved first to confirm that they can come in then the permit after in order to do business. The Member then sought clarification on paternal leave entitlement as a de facto spouse and legal wife are not differentiated in the Act.

- ***Hon TUILAIPA Dr Sailele Malielegaoi, Leader of the Opposition***

The Hon Member for Lepa interjected and posed a question towards the Member for Faleata 3 to clarify on the need to differentiate (de facto) spouse from legal wife and why fathers should take paternity leave.

- **Hon Minister for MCIL, LEATINUU Wayne Soialo**

The Hon Minister responded that the question posed by the Member for Lepa is in regards to a query stated by the Member for Faleata 3 but not on the Bill.

❖ **Speaker**

Advised the Members to focus on the Bill and refrain from seeking clarification on the query put forth by the Member for Faleata 3.

LEALAIPEPULU Rimoni Aiafi, Member for Faleata 3 conts

The Member emphasized that he likes to express his views whenever a Bill is tabled in Parliament where he sees fit hence his statement regarding differentiating between de facto and legal spouse.

The Member then asserted that one of the provisions under the clause for 'employment of children' contradicts one another where as one provision states that it permits to employ a child not under 16 years old and the other to permit the employment of a child not less than 13 years of age. He further added that there is another provision which states that no child should be allowed to work under the age of 18 which also contradicts the previous provisions. He then recommended to the Minister to reconsider these provisions and if the permitted age is 16 for children they should standardize it. In addition, the Member urged that we should encourage the children to go to school

and to still have part-timing employments which is beneficial for students finishing college and tertiary education.

In regards to Seasonal Employment, he advised the Hon Minister to not be indecisive on the implementation of such program as it has helped our country. He then asserted that good feedback was received from Australia as it portrays an interdependent relationship where not only it benefits them but also our people which has helped most families and communities. He then emphasized the significance of this programme given that the income is directly received by the family. In this regard, he suggested whether to have a standard contract for successful applicants to sign which will be more helpful especially for our people travelling overseas on work permit – this will monitor on how many times a person can travel for work. He further suggested whether it is possible to have a provision in the Bill to have a health security for the employees and employers when they are affected by Covid or another scheme to secure their safety; for instance, Insurance or the ACC.

(ii) LEAANA Ronnie Posini, Member for Safata 1

The Member for Safata 1 firstly conveyed his condolences to the late former Members of Parliament who have passed away as well as the people who have lost their lives due to COVID19. He then commended the Hon Minister for the Bill and accentuated that he has witnessed all the benefits received by his constituency through the Seasonal Workers Scheme. He asserted that it has not only financially support their children's education but has brought some families out of poverty which was the intention of this programme – to help the unemployed. In addition, he stated that some families have purchased two or three cows to develop their own cattle farm and others have bought three cars.

The Member then emphasized that the 1 million Project is incomparable to the RSE Scheme given that it mainly helps our unemployed youth but also gives an indirect benefit to families overseas saving them from having to send money to their respective families in Samoa all the time.

- ***Masinalupe Makesi Masinalupe – Member for Lefaga & Faleaseela***

The Member interjected and clarified that the main intention of ceasing the RSE scheme was to reevaluate the conditions and the whole process but was never intended to close it.

- ***Hon Minister for MCIL, LEATINUU Wayne Sosialo***

The Hon Minister emphasized and clarified that the main reason of this scheme was to help with the unemployed people; however, this is not the case anymore as there are some employed people who have applied and were elected to go. He

further accentuated that the scheme was ceased in order to review its conditions and rectify others matters accordingly but it is never their intention to revoke the whole programme.

- **SULAMANAIA Fetaiai Tuuilili Tuivasa, Member for Vaimauga 1**

The Member for Vaimauga 1 interrupted and expressed concern on the fact that an Associate Minister of another ministry can clarify on matters raised other than the responsible Minister whom the Bill belongs to. He also sought clarification from the Minister whether it's in their policy to allow an Associate Minister of another Ministry to clarify and respond on matters raised by respective Members.

LEAANA Ronnie Posini, Member for Safata 1 cont'

The Member continued by commending the work of Government through these schemes which have benefitted Samoa and our community. He then suggested that the Minister should consider finding ways to address issues from our overseas workers in order to remain our eligibility to apply in this type of work.

He then urged that the Ministry should put emphasis on sexual harassment provision in the Bill in order to address the issue and further accentuated that the Parliament plays a big role in addressing this issue.

In addition, the Member also spoke on the importance of having contracts where it would not only clarify on the terms and conditions to prevent any misunderstanding and disagreement between the employee and employer but it would also identify how and why a person's contract has been terminated to avoid any dispute.

(iii) Furthermore, the Member reiterated on the contradiction posed in the Bill regarding conditions to employ children and advised the Ministry to reconsider it. It was the member's concern that the word "light work" to which children under 13 years can be employed in can be interpreted wrongly by the children. For example, cooking and picking up the rubbish are chores for their learning experience yet can be interpreted by them as chores by which they need to be paid for.

(iii) PESETA Vaifou Tevagaena- Member for Faasaleleaga 5

The Member firstly showed gratitude and acknowledged our neighboring countries and UN for their assistance during these uncertain times with Covid19 and also their help to enhance developments for our country.

The Member then expressed his concern on the employee's salary and suggested that the Government should consider offering hazard salary as he believes that other

countries are already offering it. In this regard, he clarified that this will only apply to those affected and are employed at hazardous environment such as the military. He then accentuated that the hazard salary is different from overtime pay, it is more of an additional pay for peoples working under hazardous circumstances

- ***Hon Minister for MOH, VALASI Luapitofanua Toogamaga Tafito Selesele***

The Hon Minister stood on a point of order to state that the allegations from the Member for Faasaleleaga 5 are perceived to be rumors and advised the Member to only state facts in the House The Minister further added, that he may ask the Member for Faasaleleaga 5 to provide evidence of his statement if this goes to a greater extent. He then clarified that our country offers risk allowance which is similar to hazard salary suggested by the Member.

- ***SULAMANAIA Fetaiai Tauiiili Tuivasa, Member for Vaimauga 1***

The Member interjected to express his concern regarding words used by the Hon Minister in his response.

❖ **Speaker's Ruling**

The Speaker advised members to be cautious with the words they use in the Chamber.

PESETA Vaifou Tevagaena- Member for Faasaleleaga 5 cont'

The Member clarified that his statements are in reference to an issue raised by the President of Nurses in her interview that was aired on TV last week stating that some hospital vehicles had no petrol.

- ***Hon Minister for MOH, VALASI Luapitofanua Toogamaga Tafito Selesele***

The Hon Minister responded that he has done site visits to Savaii. He then clarified that all complaints are referred to him as the responsible Minister.

PESETA Vaifou Tevagaena- Member for Faasaleleaga 5 continues

The Member was apologetic for his comments earlier to the Hon Minister and then reiterated that the hazard salary will not be a continuous payment but only effective during hazardous situations which may cause death to an employee such as times like these for our frontliners.

- ***Hon Minister for MCIL, LEATINUU Wayne Soialo***

The Hon Minister posed a question whether his suggestions on hazard salary would include truck drivers and heavy machinery drivers

PESETA Vaifou Tevagaena- Member for Faasaleleaga 5 cont'

The Member asserted that the hazard is similar to risk which includes all employees who are working at a risky environment but clarified that the hazard pay is different from overtime pay but an additional pay posed on their normal pay given that their life are at risk in their respective jobs.

- *Hon Minister for MOH, VALASI Luapitofanua Toogamaga Tafito Selesele*

The Hon Minister responded to clarify that the risk allowance which is the term used in our country is the same as hazard salary as suggested by the Member.

(iii) PESETA Vaifou Tevagaena- Member for Faasaleleaga 5 continues

The Member urged to use both terms and further accentuated on the importance of posing this allowance to those working in hazardous workforce.

**Proceedings were set aside at 10:48am
and resumed at 11:32am.**

❖ Speaker

Mr Speaker reminded the House on the provisions of S.O 82 'Interruptions' by seeking his approval first when a Member wishes to interject.

(iv) AUAPAAU Mulipola Aloitafua, Member for Aiga-i-le-Tai

Afioga AUAPAAU Mulipola Aloitafua firstly greeted the Members of Parliament and then acknowledged his constituency in its honorific salutations.

The Member then commended the Ministry for the Bill and expressed his support towards the clause that proposes to employ a child at 13 year old under light work for instance, to work in their parents own shop. In this regard he believes that it will hone the skills of a child to learn by weighing flour, sugar and etc. He further stated another example is where a 13 year old child can apply his learning from school to help his/her parents with their sewing shop. He then accentuated that these can be considered as light work for a 13 year old to do; therefore, reiterated his support on this provision as it gives a practical learning to the children.

The Member then spoke on the matter regarding risk and hazard allowance, and asserted that there is an allowance namely 'high duty allowance' which is similar to risk

allowance; urged the Ministry to look into it as it is also an essential part of entitlement for hazardous work. He further clarified that the high duty allowance is paid to those workers who implement the work assigned to their colleagues that are at a higher position than them.

(v) FUAAVA Suluimalo Amataga, Member for Aleipata Itupa i Luga

The Member for Aleipata Itupa i Luga supported that the amendments are to be aligned with our current situation and should also reflect a better development in the future. He then emphasised that women now hold the highest percentage in CEO level which is an achievement for Samoa and it is an encouragement to provide education for our children. However, the Member stated that there were some families who were not prepared and unable to adapt to lockdown restrictions such as some families in his constituency who did not have TV or internet access for virtual learning.

In reference to the RSE Scheme, the Member stated that it has helped developed family out of poverty and urged the Minister to find ways to address the issues raised in order to maintain the programme given that it plays a role for the development of our country.

The Member then spoke on the clause to permit a 13 year old to do light work implies that they should be paid. However, the interpretations for light work are basically normal chores that all children are accustomed to. In this regard, he urged the responsible Ministry to clarify on this matter when formulating regulations in order to avoid any misunderstanding. He further advised to formulate effective regulations and to have inspectors oversee the practise of such light work employment permitted to children not less than 13 years old. In addition, the Member queried whether the amendment to employing a 13 year old would cause a misinterpretation to the child given that they would expect to get paid from doing their daily chores at home.

Afioga FUAAVA Suluimalo Amataga then spoke on the employment permits for non-citizen; for instance, when a non-citizen is on a working visa in our country whilst doing extra work for another employer, the Member suggested that the employer should also pay for a second working visa for this non-citizen – this can contribute in generating revenue for our country.

The Member also queried the changes made to the Tripartite Forum which previously required the O Le Ao o le Malo to officiate its members; however, this power has been delegated to the Cabinet alone. He then recommended for the Ministry to reconsider this and let the O Le Ao ole Malo to officiate and endorse the membership.

The Member then suggests on adopting the pro rata system of leave in the occasion that an employee just commenced work but applies for annual leave. He then suggested to place an additional 4 weeks on Maternity Leave entitlement to work remotely from home whilst looking after the baby and an additional week for paternity leave.

Afioga FUAAVA Suluimalo Amataga also commented on the new section 27A provided under Clause 7 whereby an employer must not impose a fine on an employee as a penalty for misconduct or serious misconduct. The Member then urged the Ministry to reconsider this as in some situations where an employee takes a company vehicle for personal use and gets in a car accident; he believes the employee should pay for causing such misconduct.

The Member concluded his views on the application of double pay (T2) on Sunday, whether it's possible to categorise the Seventh - day Adventist Church people working on Saturday as double pay (T2).

(vi) NIUAVA Eti L Malolo, Member for Vaisigano 1

The Member for Vaisigano 1 greeted all the Members of Parliament and Samoa in her honorific salutation. He also acknowledged his constituency and conveyed his heartfelt condolences to the late Member of Parliament, Afioga VAELE Paiaaua Iona Paiaaua Sekuini.

The Member then commended the Minister for the tabled Bill as it includes labour unions which reflect the significance of our Public Service Association (PSA). He further emphasised that the Bill builds an understanding relationship between the employer and employees. He believes that this amendment will help prevent any cases where an employee sues their employer after they have been terminated without reason. Therefore, it is vital for both the employer and employee to fully understand their entitlements and rights within the workplace. He further emphasized that the employees should also know their eligibility to allowances whenever they are at risk.

In regards to translation from English to Samoan, he expressed his concerns and emphasized that the English terms are straightforward and understandable but in our language it seems controversial and hard to understand. He further highlighted the inconsistency of the translations of light work, employment, and sexual harassment into the Samoan Language.

(vii) LUPEMATASILA Galumalemana Tologata Togia Tile Leia, Member for Falelatai & Samatau.

The Member for Falelatai & Samatau asserted that the Bill seeks to clarify terms and conditions for Businesses and employees. However, he raised concerns regarding the differences between wage and salary and urged to clarify this in the Bill. He further suggested to clarify on which employees are entitle to have overtime.

The Member then asserted that Shift work requires a person to work during the day and rest at night or vice versa but emphasised that a person doing a night shift and weekends should be paid more given the hours. He then suggested for the Ministry to consider looking into this area as he believes that shift workers should have more entitlements given their graveyard shifts.

- ***Hon Minister for MCIL, LEATINUU Wayne Soialo***

The Hon Minister stood on a point of clarification to state that the Bill does not apply to Ministries and agencies under PSC and emphasised it is only applicable to those working in private sector. However, all matters raised by the Member should be referred directly to PSC.

(vii) LUPEMATASILA Galumalemana Tologata Togia Tile Leia, Member for Falelatai & Samatau continues.

The Member then highlighted that PSC works in accordance to the Acts that guides respective Ministries. He then commended the Minister for the provision to amend the delegated responsibilities of the Minister to the CEO; however, he emphasized that there is an inconsistency with the power delegations between the CEO and the Minister. In this regard, he urged the Minister to consider selecting only one person whether it is the CEO or the Minister to process the authority who workers can report to. The Member believes that this will prevent any misunderstanding within the workplace. He further accentuated that this would also prevent any court cases but rather have a mediator for mediation that an employee can refer their matters to.

In addition, the Member commended the Bill as it reflects on gender equality which is recognised internationally and suggested for the Minister to look at the equality of salary for men and women. His only concern was that some work cannot be done by both genders; therefore it is necessary to consider equity over equality. He reiterated on the importance of equality but ensure that it is applicable.

The Member also expressed his support on the idea of delegating the authority to agents responsible for selecting people who can go on seasonal work and queried whether it is more appropriate for the PSC to handle all employees including seasonal workers instead of MCIL who are responsible for the RSE scheme. Furthermore, he recommended that the PSC should be Independent from the Cabinet in order to avoid any political oversight when appointing employees.

He then concluded by suggesting to remain the powers of the O Le Ao o le Malo and should also be independent with a lawyer and etc.

- ***Hon Minister for MCIL, LEATINUU Wayne Soialo***

The Hon Minister responded that the matter regarding the independence of the O Le Ao o le Malo (Head of State) is not related to the Bill; however, he acknowledged the Member for bringing it forth.

(viii) ALAIASA Moefaaouo Malagaitutogi Sepulona Moananu, Member for Anoamaa 1

The Member firstly commended the Ministry for the Bill as it provides an empowerment for both employer and employees. He also acknowledged the authority given to inspectors and the AG to inspect workplaces from time to time thus advising these responsibilities to be conducted with honesty and unprejudiced.

In reference to wage salaries, the Member stated that the Ministry should look into balancing wage earners and permanent workers to ensure that other businesses owners does not get affected as well as other businesses. He further commended the Minister providing conditions for those working on Sundays as they are essential services such as the hospital which must operate on Sundays.

The Member then spoke on sexual harassment where some people will take advantage of such provision to make money.

Proceedings were adjourned at 1:06pm and to reconvene at 9:30am on Wednesday, 4th May 2022.