

DISCLAIMER

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DAY 4
9:30am**Wednesday 4th 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 his wife, the Judiciary and Samoa in her honorific salutations as well as respective denominations in Samoa.

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 pursuant to S.O178. He also noted that received the response from the Members, pursuant to S.O178(2) and S.O181(1), the Speaker is to refer the matter to the Privilege Committee to determine whether it involves a question of privilege. In this regard, he stated that pursuant to S.O 181(2) this matter will be referred to the Privilege Committee as it involves a question of privilege and for the Committee to consider the following:

- (i) Consider whether it breached any privileges in Parliament;
- (ii) Consider whether an Offence was committed;
- (iii) Consider whether it breached any provisions of the Legislative Assembly Powers and Privileges Ordinance 1960;
- (iv) Consider punishment towards a Member that commits an offence in regards to this matter;
- (v) Consider performing legal action accordingly when a Member breaches any privileges in Parliament;
- (vi) To provide an appropriate recommendations on this matter;
- (vii) For the Committee to report back in the next Parliament Sitting.

In addition, pursuant to S.O177, provided below are Members for the Privileges and Ethics Committee:

1. Hon VALASI Luapitofanua Toogamaga Tafito Selesele

2. Hon LAUTAFI Fio Selafi Purcell
3. Hon TUUU Anasii Leota
4. Hon FAIMALOTOA Kika Stowers-Ah Kau
5. Tofa ALE Vena Ale
6. Tofa SEUAMULI Fasi Toma
7. Afioga MAGELE Sekati Fiaui
8. Afioga MASINALUPE Makesi Masinalupe
9. Afioga AGASEATA Valelio Tanuvasa Peto

) **Afioga AUUPAAU Mulipola Aloitafua Mulipola – Chairperson for Parliamentary Commission.**

The Member moved a motion to table the Letter of Complaint from the Member for Gagaemauga 1 and the Written Response Letter from the Members for Lepa and Faleata 3 and also to approve the appointment of the Privileges and Ethics Committee members. Therefore, he stated to set aside S.O 30(2) in order to allow the Parliament to reconvene on Tuesday 17th May 2022 and for the Privileges and Ethics Committee to report back on this matter.

II. STATE OF EMERGENCY ORDERS

Mr Speaker announced the House that he received a Proclamation on the SOE signed by the Head of State on the advice by the Cabinet - Asserted that the State of Emergency Orders No.78 was in effect on Wednesday 4th May at 12am to Tuesday 17th May 2022 at 11.59pm.

III. Presentation of Parliamentary Committee Report

A Report from the Special Inquiry Committee on the Outcome of the Internal Investigation regarding Issues raised by the Attorney General on the Constitution Amendment Act 2020 & Land and Titles Act 2020 was tabled.

) **Leader of the Opposition- Hon. Tuilaepa Fatialofa Auelua Sailele Malielegaoi – Member for Lepa.**

The Member for Lepa requested for a chance to clarify on the matter and to also note that they were not given a copy of the Letter of Complaint.

❖ **Speaker of the House**

Mr Speaker rejected a chance for them to speak on the matter and clarified that there will be a time for them in Committee to speak and clarified on this matter. The speaker

also clarified on the process in receiving the letter, which his office received the original copy, stamped which is what he has on hand.

The House was in an uproar which resulted to suspend the Member for Vaimauga No.1 Afioga SULAMANAIA Fetaiai Tauiliili Tuivasa for 24 hours on a motion moved by the Hon Prime Minister.

) **Afioga SULAMANAIA Fetaiai Tauiliili Tuivasa, Member for Vaimauga 1**

The Member for Vaimauga 1 relayed his apologies for his actions earlier as it was not intentional and although his suspension is unfair, he will comply.

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

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

(i). **Afioga ALAIASA Moefaaouou Malagatuitutogiai Sepulona Moananu, Member for Anoamaa 1**

The Member greeted the House and expressed how disheartening it was to witness on what had happened in the Chamber earlier especially to those listening in from near far and therefore has no further comments on the Bill; however, he urged the Members to keep the peace.

❖ **Speaker**

The Speaker advised the Member that he already ruled for the matter to not be further discussed.

) **Hon Prime Minister**

The Hon FIAME Naomi Mataafa urged the Member for Anoamaa 1 to let the matter rest as it has now been referred to the Committee for their consideration.

(i) **Afioga Alaiasa Moefaaouou Malagatuitutogi Sepulona Moananu, Member for Anoamaa 1 continues.**

The Member concluded his speech and reiterated the Assembly to keep the peace.

(ii). **Tofa ALE Vena Ale: Faleata 4**

The Member acknowledged the Speaker and all Members of Parliament. He then addressed the CEOs, Judiciary and the HOS as well as our neighboring country

Tutuila and also greeted the clergy members from all denominations. The Member then commended the Minister for the Bill, and also advised the Minister in regards to the Clause that permits the employment of children at 13 years of age. He emphasized that this is concerning matter as this might be used by children to ask for payment whenever they are asked to do normal chores at home. The Member also advised the Ministry to provide paternity leave entitlement for fathers as this is the time that their help is needed at home. The Member then commended on provisions proposed by the Bill where it intends to enhance the conditions of working environment and contracts for the employees. He then concluded his speech by acknowledging his constituency for their support and prayers during this Parliamentary term.

(iii). Afioga AIONO Tile Gafa, Member for Aana Alofi 2

The Member praised our faithful GOD for His guidance and protection over us and for granting us another day to live. He then acknowledged the support of his constituency and then addressed the House and the Office of the Legislative Assembly for their commitment.

The Member then spoke on RSE scheme and expressed his full support on the continuation of the Scheme especially during these uncertain times. He further shared his experience during lockdown where he went to claim his money from his children overseas at a money transfer and happened to overhear a mother's conversation with her child on the phone who he believes is one of the seasonal workers and seemed like they were an impecunious family. He accentuated that this scheme has really helped support and improved families in Samoa. The Member then urged to address issues regarding this Scheme to prevent our any predicaments that may affect the benefits from it. He further stated to not consider mistakes of 2 or more people affect the chances of at least 800 people who are willing to work to develop their own family.

In addition, the Member commended the Hon Minister of Health for allowing medical assistance as broadcasted on the news recently to assist us with fighting Covid-19. The Member then expressed his concern on the employment of the 13 year olds and the effects that could arise from it such as stealing. The Member concluded by wishing all Mothers a Happiest Mother's Day ahead.

(iv). Tofa Hon TUUU Anasii Leota, Member for Siumu

The Member thanked the Lord for His guidance this morning and addressed the House, Members of Parliament, Prime Minister, Cabinet Members, Opposition Leader and their party.

The Member spoke on the advantages and importance of the RSE Scheme but highlighted that there are some problems that have surfaced from it where families have been torn apart given that some workers were unfaithful to their families, marriage and children here in Samoa. Therefore, the Member advised that the guidelines and policies should be well structured in order to avoid these problems. Another concern on the RSE scheme mentioned by the Member was that he perceived that we have knowledgeable workers who are able to use their knowledge to develop our economy and agriculture but are now brain drained to go on this scheme. He then concluded by acknowledging the Minister for the Bill.

Proceedings were set aside at 10:47am and resumed at 11:30am

(v). Susuga MAULOLO Tavita Aмоса, Member for Sagaga 2

The Member for Sagaga 2 acknowledged the refreshments provided by the Office of the Legislative Assembly during the break. He then wishes to raise three matters in regards to the Bill:

(1) The employment of 13 year old children

The Member expressed his concern whether the children at this age are mentally prepared for the work assigned for them. He further stated that at this age, there is a possibility that the child may not have the mentality to make decisions and to decide within the workforce. The Member then stated that the age group who were reported to Court who committed a criminal offence due to stealing is an indication that employment of this age group could be problematic. The Member also reminded the House that there is an Education Act 2009 which requires children to attend school at that age and further emphasised that children will adapt quickly to work to get money and will eventually lead to a lot of drop outs from school hence the importance to keep our children in school.

(2) Seasonal Employment Scheme

The Member asserted that many of our people were returned due to a breach of their contracts. He then commended Falealili and Safotu districts for their effective bylaws on selecting their applicants for the scheme and urged other districts to have a similar guideline in order to maintain our status on this scheme which has helped our families abundantly. The Member accentuated that in reference to the issue of our people travelling overseas for work, he believes that it should not be a problem, as they will eventually return after their contracts and contribute to our own economy by owning a Taxi to provide a service to the communities, or owning a retail shop. He also asserted that with their knowledge garnered from agricultural work overseas, they could help develop their own farms and develop their families.

(3) Words and Phrases in the Samoan language (Vaogagana ma gagana i totou o tulafono)

The Member then showed concern with the Language used for our official records as we may neglect the meaning regardlessly. He then mentioned that the Samoan Language Commission usually refers to the terms translated and used in Parliament for their translation which is why he urged to make sure that the terms used is in line with the English translation. The Member directed his remarks to the Samoan translation of the words 'sexual harassment' which does not reflect the actual meaning of the words and therefore advised to use directive language to simplify the meaning.

Tofa Hon. LEATINUU Wayne Socialo, Minister of Commerce, Industry, and Labour

The Hon Minister assured all Members who spoke on the Bill that all their recommendations, queries and comments have been noted. He also reminded the Members that there is a responsible Committee to deliberate on the Bill and will consider the questions put forth by the 15 members who spoke on the Bill. He then emphasised that this is an old Bill that was in the pipeline to go through Parliament; however, it did not happen due to unforeseen circumstances. Therefore, this is the best time to consider the Bill given that it's applicable to Private companies. In this regard, the Hon Minister urged that it is important to set aside discussions regarding the PSC. The Hon Minister then stated that he will provide an overall response for all the queries, recommendations, and comments put forth by the Members who spoke on the Bill.

The Minister briefly mentioned an important topic which a lot of Members has raised regarding RSE stating that he will go in detail later on. The Minister also reassured that the income from RSE for the period 2020-2021 December was \$6million which includes remittances from our diaspora communities living overseas. This amount of money was a great help to our economy considering that only 8000 of our people went overseas for Seasonal work; therefore, he emphasized that the government was not trying to stop the Scheme but rather try to review its current conditions and processes.

The Minister further mentioned that the *Labour and Employment Relations Act 2013* still followed the guidelines which were mentioned in the *Labour and Employment Relations Act (LERA) 1972* with appropriate amendments to meet the requirements of the ILO which is an important international organisation in this Act. The Hon Minister then mentioned the following amendments made in 2013: prioritizing human rights; establishment of organizations; public holiday for mothers, fathers etc; and enforced banning discrimination within workplaces. The LERA Act also established the Samoan Tripartite Forum and considered the importance of the Act to the employees and employers. The Public Service Act 2014 guided the working conditions for the Public Sector employees but LERA posed no effect on the terms and conditions of employment for public sector that we are currently discussing.

The Minister then advised that the Committee should look into the Language by using the right Samoan term that is relevant to this Bill so that it is accurately translated. The Minister further mentioned the ILO policies and guidelines and accentuated that it is up to our

country whether we want to adapt to them or not but it will be referred to the responsible Committee to consider it whether they are appropriate and applicable. The consultations for this amendment started from 2018 so it has been given time to draft this amendment. The Minister also clarified that Clauses 4 & 5 were amended so that the process will be simplified for organisations and companies to nominate their members hence the delegation of power to endorse membership in the organisation from Head of State to Cabinet; however, there are matters that are still endorsed by the Head of State such as; the minimum wage. The member also stressed that this is a vital issue thus having all the advice by other Members and will be referred to the Committee who will provide the final recommendation.

In reference to the RSE scheme the Hon Minister highlighted that the Government is not stopping the Scheme; however, following consultations with the Australian and NZ high Commissioner they are just reviewing the speed of the initiative. This was due to the average number of flights per month taking seasonal workers overseas is 3 times a month. The Minister then highlighted that there will be 390 returned RSE employees as their contract has come to an end. He also clarified that the Ministry ensures that the applicants are thoroughly evaluated in order to select the right person to go. He further clarified that the successful applicants are on working permit therefore they should not be able to abuse the opportunity to roam around overseas.

The Minister then confirmed that there are about 200 people from the Scheme who will be returned next week due to bad behaviour and not abiding with the conditions. For instance, some went as a single person but returns with a child whilst some had extramarital status while at the scheme works. He further stated that the Cabinet confirmed that there's a Committee to review this matter, such as a member from MCIL, MWSCD, MPMC, MFAT, New Zealand High Commission, International Labour Organization, Australian High Commission, Falealili Trust Fund and Samoa Workers Congress. The Minister also confirmed that there is a Terms of Reference prepared for the Members of the Committee to follow and stated a recommendation was put forth to have a consultant to work on this project but the Minister thought otherwise, saying this project requires common sense.

The Hon Minister then acknowledged the advice by the Member for Vaimauga 1 regarding domestic employees and further clarified that this amendment will be referred to the responsible Committee to consider whether it meets the guidelines provisions and accentuated that the conditions to employ children will be further clarified in the regulation.

) **Tofa LEALAILEPULE Rimoni Aiafi, Member for Faleata 3**

The Member stressed that the Ministry should look in the Samoa Term 'faafaigaluega' especially for the provision to employ children.

) **Susuga Hon TUILAIPA Fatialofa Auelua Dr Sailele Malielegaoi, Member for Lepa**

The Member commended the Hon. Minister for his clarification on the Bill and reiterated that although this amendment is particular for the private sector but it's important to consider other relevant legislation such as those under the PSC to recognise their right as an employee in order to prevent any termination without deliberating and conducting consultation to resolve such issues. The Member also highlighted that everything in the Bill reflecting employees' rights is similar to the guidelines directing employees under PSC in order to recognize and protect all employees both in the private and government sector. The Member then puts emphasis on standardizing the terms on the rights of an employee in relevant legislation which is the role of the Attorney General's Office.

Tofa Hon. LEATINUU Wayne Soialo, Minister of Commerce Industry and Labour continues

The Minister commended the Members' recommendations put forth and emphasized to refrain from comparing our country to overseas scenarios. In regards to employing a non-citizen in our country, this matter is under MCIL and the Minister highlighted that the process is referred to them and is then consulted with the immigration and be referred back to them. In reference to repealing the regulation, he puts emphasis on the fact that whenever a law is passed, a regulation is formulated accordingly.

) **Afioga PESETA Vaifou Tevaga, Member for Faasaleleaga No. 5**

In regards to trade union mentioned in the Bill, the Member stated that it reflects our nation recognising International standards which is why he put forth the idea of hazard/additional pay for those in front liners such as the Health and Police Sector temporarily but not permanently. In this regard, he advised the Hon Minister to consider his intention on bringing such matter forward even though it is not mentioned in the Bill.

) **Tofa LEALAILEPULE Rimoni Aiafi, Member for Faleata 3**

The Member advised that there should be a provision in the Bill that requires the employer to pay the employees especially at this time where we sometimes go on lockdown to cover the employees. He also believes that NPF and ACC should also consider this situation so the employees are to be well secured if this kind of situation arises again, especially during unpredictable situations.

Tofa Hon. LEATINUU Wayne Soialo, Minister of Commerce Industry and Labour continues

The Minister emphasized that he does not have the power as the Minister to insert all suggestion put forth by Members but has noted down all queries and recommendations put forth. He then concluded his response by acknowledging the House, Prime Minister, Leader of the Opposition and all Members of Parliament.

Mr Speaker put forth the question for the Labour and Employment Relations Amendment Bill 2022 to be read a second time. The Bill was subsequently referred to the Economics Sector Committee.

❖ **Speaker**

Mr. Speaker noted that the orders of the day has come to an end and the Special Committee has tabled their report but believes that Members of Parliament should have enough time to read the report therefore, the Assembly will deliberate on this in the next Parliament Sitting.

) **Susuga Hon TUILAEPFA Fatialofa Auelua Dr Sailele Malielegaoi, Leader of Opposition and Member for Lepa.**

The Member for Lepa expressed gratitude to the Speaker of the House for mediating the House and advised him to always stay calm and compose. The Member also commended the Members for remaining calm during the turmoil earlier this morning.

Proceedings were adjourned at 1:00pm and to reconvene on Tuesday 17th May 2022 at 9:30am