



2017-2018



ANNUAL REPORT

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GOVERNMENT OF SAMOA

The Honourable Speaker
The Legislative Assembly of Samoa

In accordance with section 9 (2) of the *Law Reform Commission Act 2008*, I lay before you copies of the 9th Annual Report for the Samoa Law Reform Commission for the period of July 2017 to June 2018 for tabling before the Legislative Assembly of Samoa. This report documents activities implemented by the Commission within this period, in accordance with the Act.

Honourable Tuilaepa Fatialofa Lupesoliai Aiono Neioti Dr. Sailele Malielegaoi
PRIME MINISTER AND MINISTER OF THE SAMOA LAW REFORM COMMISSION



GOVERNMENT OF SAMOA

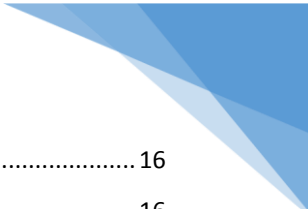
Honourable Tuilaepa Fatialofa Lupesoliai Aiono Neioti Dr. Sailele Malielegaoi
PRIME MINISTER AND MINISTER FOR THE SAMOA LAW REFORM COMMISSION

In accordance with section 9 (2) of the *Law Reform Commission Act 2008*, I have the pleasure to present you with copies of the 9th Annual Report for the Samoa Law Reform Commission for the period of July 2017 - June 2018, for tabling before the Legislative Assembly of Samoa. This report documents activities implemented by the Commission within this period, in accordance with the Act.

Telei'ai Dr. Lalotoa Mulitalo
EXECUTIVE DIRECTOR
SAMOA LAW REFORM COMMISSION

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FOREWORD – PRIME MINISTER

I am pleased to present this 9th Annual Report of the activities, achievements and challenges of the Samoa Law Reform Commission for the Financial Year July 2017 – June 2018.

The law reform process aims to review, research and update existing law in a manner which allows broad community participation. This leads to promoting justice, good governance and accountability. Given a lot of Samoa's laws are very old, the SLRC performs the important function of ensuring that Samoa laws are continually reviewed and updated taking into consideration the current developments. In performing this role, the SLRC also ensures that the law reflects and maintains Samoans custom and traditions.

Consultations carried out by the Commission, provides the public yet an avenue to participate in the development of laws of Samoa. This is an opportunity given to the public to voice their views on our Laws and I encourage the public to attend consultations held by the Commission from time to time to voice their views.

The review, reform and development of laws by the Commission contribute significantly to the priorities of Government. It results in updated laws which serve the needs of Samoa, based on research and analysis, submissions from the public, and consultations with relevant persons, groups and public.

One of the highlights of this year and a milestone for not only the Commission but the whole of Government was completing the Review of the Fabric of Laws of Samoa "*Toe timata le upega o Tulafono o Samoa*". This initiative will be a periodical project, to allow our country to continue to operate on current and up to date laws. Such will provide benefits at the national level, as it will inform the Judiciary in its duty of applying the laws, the Executive in policy making and the Parliament in its Constitutional law making function. Both an informed Government and public will result in meaningful, effective and better law making. I look forward to future projects that will build off this Project.

I am pleased to present the ninth Annual Report of the Samoa Law Reform Commission since its establishment in 2008.



Honourable Tuilaepa Fatialofa Lupesoliai Aiono Neioti Dr. Sailele Malielegaoi

PRIME MINISTER AND MINISTER OF THE SAMOA LAW REFORM COMMISSION

EXECUTIVE DIRECTORS NOTE

The 9th year of existence for the Samoa Law Reform Commission (SLRC) has seen the SLRC experience new challenges, and the SLRC continues to respond as best it can to the same. Some significant developments on the projects the subject of the SLRC's Key Performance Indicators for Financial Year 2017/2018 include the following.

Law Reform Projects

The Final Report for the Freedom of Information Project is on time for submission by December 2018. For the Foreign Investment Law Project, in the first half of 2018, it was confirmed with the Ministry of Commerce, Industry and Labour (MCIL), that MCIL was also undertaking a review of the same having engaged an overseas technical person. Work on this Project then ceased for the Commission and the Commission stood by to assist MCIL where required. The Discussion Paper for the Review of the Law Reform Commission Act was submitted for Cabinet approval following the Hon Prime Minister's (Commission's Minister) approval. It is envisaged the Final Report will be submitted by December 2018 for Cabinet approval.

Other References

Within this financial year the Commission also worked on a number of ad hoc references.

To assist the public, and in particular the Government Ministries understand the existing laws of Samoa, one of the major projects completed by the SLRC in December 2017 and its Final Report approved by Cabinet in January 2018 is the Review of the Fabric of Laws of Samoa, or more appropriately entitled - Toe Timata le Upega - O Tulafono a Samoa. The findings from this project has led to the recommendation for several outdated laws to be removed from the list of laws of Samoa. This is proposed in a draft Fabric of Laws Miscellaneous Repeal Bill prepared by the Commission should the recommendations be endorsed. In the attempts to gain broader awareness, in June 2018, upon endorsement by the SLRC's Minister the Hon Prime Minister, the SLRC carried out a series of Fabric of Laws Awareness Sessions with the Judiciary, the Samoa Law Society, the National University of Samoa, the Public Sector, and a special presentation was also made on the TV1 'E Te Silafia Programme'. The SLRC hopes this will become a periodic review to ensure Samoa operates and develops on updated, suitable and relevant laws.

The SLRC continues to be thankful and acknowledge the support of our Minister, the Prime Minister, Honourable Tuilaepa Dr. Sailele Malielegaoi. The SLRC is grateful for the support from the stakeholders and partners that have contributed to the Commission's work through the provision of data and information, and making submissions providing valuable input to inform law reform projects. To the staff of the SLRC, malo lava le galulue.

Tatou faalagolago pea i le fesoasoani sili mai le Alii.



Tele'ai Dr. Lalotoa Mulitalo

EXECUTIVE DIRECTOR, SAMOA LAW REFORM COMMISSION

BACKGROUND

- The Samoa Law Reform Commission (Commission) was established in 2008 under the Law Reform Commission Act 2008. The Commission's functions are:
 - a) Recommend programmes for reform;
 - b) Pursuant to Terms of References from the Prime Minister, Cabinet or the Attorney General research and analyse areas of law as directed and report its recommendations to the Prime Minister and the Attorney General;
 - c) Advise government Ministries and agencies on their reviews; and
 - d) Consult with and advise the public about its work.

- In FY2017/2018, the Commission is led by Executive Director, Telei'ai Dr. Lalotoa Mulitalo with 16 staff members. The Executive Director is the administrative head of the Commission and directs, supervises and oversees all Projects.

- The Commission is divided into two Divisions; the Legal Division and the Corporate Services Unit.

LEGAL DIVISION

- The Legal Division carries out the work required under the specific functions, i.e. research, review, consult, advise, analyse, and recommend in a report.
- The Legal Division is managed by the Assistant Executive Director, Ulupale Fuimaono who supervises 8 Legal staff;
 - o 2 Executive Legal Officers;
 - o 2 Principal Legal Analysts;
 - o 2 Senior Legal Analysts; and
 - o 2 Legal Analysts

CORPORATE SERVICE UNIT

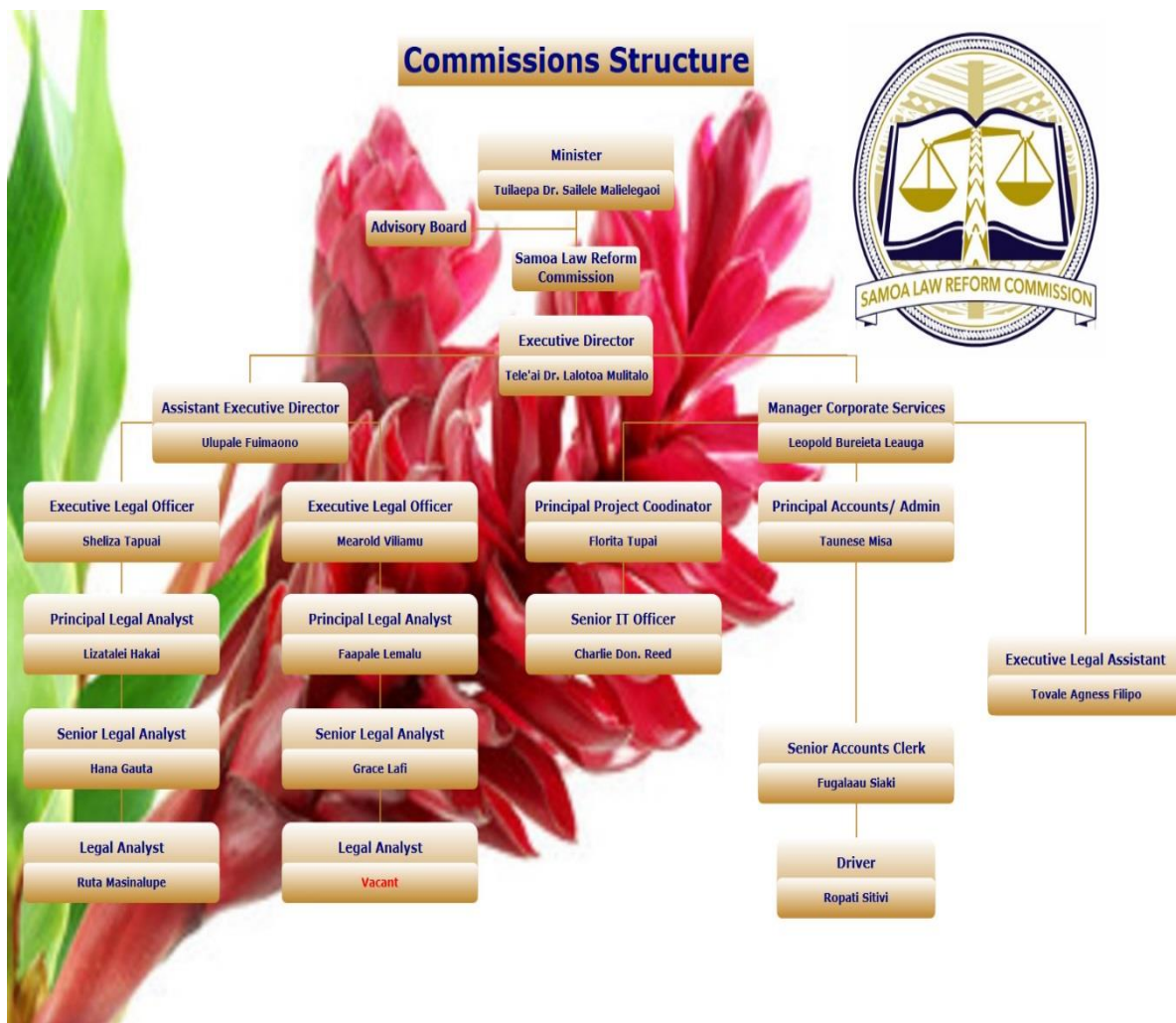
- The Corporate Service Unit provides finance, administration, human resource, and information technology support service to the Office of the Samoa Law Reform Commission. The CSU also assists with editing and translation of reports as well as assisting with planning and implementing Public Consultations for Projects.

- The Corporate Service Unit is led by a Corporate Manager, and consists of 6 staff members;
 - o Principal Legal Project Coordinator;
 - o Principal Accounts and Administration Officer;

- Senior ICT Officer;
- Executive Legal Assistant;
- Senior Accounts and Administration Clerk; and the
- Driver

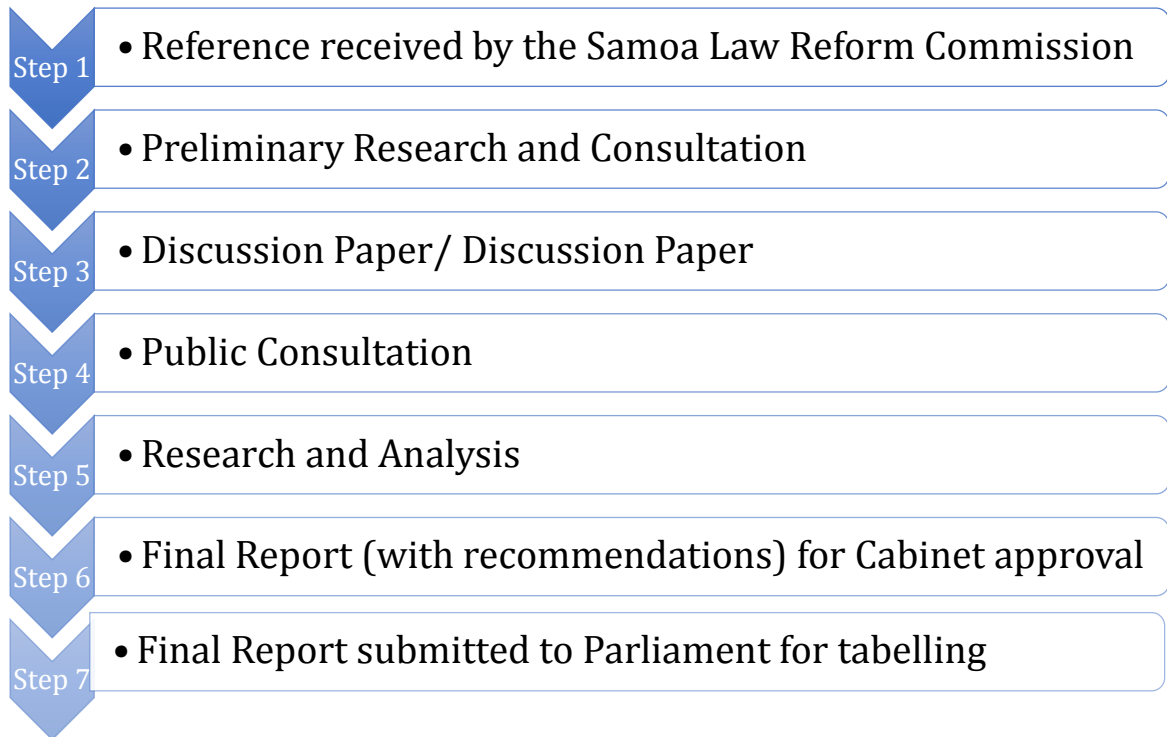
ORGANISATIONAL STRUCTURE

As of June 2018, the Commission's organisational structure is as follows;



THE LAW REFORM PROCESS

- The Commission follows a 7 Step process:



STEP 1 – REFERENCE RECEIVED BY THE SAMOA LAW REFORM COMMISSION

- The Commission is given a reference from either the Attorney-General and/or Prime Minister and/or Cabinet. The terms of the Reference sets out the scope of the review. The Commission works within the parameters set by this framework, but may also advise on related issues not specifically identified in the Reference.

STEP 2 – PRELIMINARY RESEARCH AND CONSULTATIONS

- The Commission carries out preliminary research on all issues identified in the Reference to prepare a Discussion Paper. This involves legal and doctrinal, and social and cultural research where appropriate. In addition, the Commission carries out a cross jurisdictional analysis of similar legal frameworks relevant to the review. At this stage also, the Commission may see it fit to conduct preliminary consultations with stakeholders such as Government Ministries and agencies, the Private Sector as well as the public.



STEP 3 – DISCUSSION PAPER

- The Commission prepares and publishes a Discussion Paper, which highlights problems and includes a series of questions about the main issues under consideration. Sometimes suggested options are included in the Discussion Paper and further submissions will be invited from affected individuals and groups. The Discussion Paper is intended to stimulate discussion and to encourage interested persons to provide feedback. The Commission submits the Discussion Paper for Cabinet approval.

STEP 4 – PUBLIC CONSULTATION

- Following Cabinet approval, the Commission identifies all groups and individuals that may be affected by any potential reforms. The Commission invites consultations with the Public, Ministries, interest groups and individuals as well as the public to hear their views about the issues raised in the Discussion Paper and any potential reforms. Relevant experts may also be consulted about a particular issue.

Public consultations may take place in a central location to allow all members of the Public to attend. Where the office budget allows, the Commission may travel to specific locations in the attempt to cover all areas possible. The Commission also publishes public notices on the availability of the Discussion Paper (with the Commission) for viewing and seeking public input on the reviews.

The Commission calls for submissions on the issues identified in the Discussion Paper. All submissions are considered by the Commission.

STEP 5 – RESEARCH AND ANALYSIS

The Commission combines the submissions received from the research undertaken, from stakeholders and public consultations and analyses the information and data received. Where the information and data now received requires further research and review, the Commission undertakes such further research for a more comprehensive and informed analysis and development of informed recommendations.



STAGE 6 – FINAL REPORT (WITH RECOMMENDATIONS) FOR CABINET APPROVAL

The Commission prepares and publishes a Final Report following its extensive research and consultations. The Final Report sets out the whole background, the result of the research and consultations undertaken, and recommendations on any proposed reforms. The Final Report is submitted to the Prime Minister, Attorney General and Cabinet for approval before being referred to Parliament.

STEP 7 – FINAL REPORT SUBMITTED TO PARLIAMENT

- As the Final Report must be tabled in Parliament, to comply with Constitutional requirements, it is first translated into the Samoan language. A translator is usually engaged for this purpose. The Samoan version of the Final Report is then checked and edited by the Commission against the English version. The Final Report in both versions is then referred to a printing service for the printing of 80 copies for Parliament. This final part of the process is often very time consuming and may extend the timeframe in which a project is completed, due to the inherent complexities of confirming that the correct nuances and meanings in the English version is appropriately portrayed in the Samoan version.

Sometimes, though vary rarely, the Commission would receive Terms of Reference which would need to have two stages merged into one due to circumstances for example, the urgency of a review. At times also, a Terms of Reference would be received and the Commission, upon research would advise the existing laws do sufficiently respond to concerns raised in the Terms of Reference. This would put an end to this requested review. Furthermore, a Review may cease when the relevant Ministry advises they are undertaking their own internal Reviews with or without a Technical Assistant (sometimes approved by Cabinet. Whatever the case, all advises and recommendations of the Commission are based on extensive legal and doctrinal research, and analysis of that research.

For the first time since its establishment in 2008, due to the nature of the review project, the Commission trialed an 8th possible Step to the Law Reform process. The Review on the Fabric of the Laws of Samoa, in the informed opinion of the Commission, required Awareness Sessions after the Final Report was approved by Cabinet. The purpose of the

Awareness Sessions was to go out again to the Government Ministries and agencies, the Judiciary and the public, to inform of the findings of this Review. It also provided an opportunity for the Commission to thank all stakeholders involved for their invaluable contribution.

LAW REFORM PROJECTS

Key Performance Indicators for Financial Year July 2017 to June 2018

- A. **FREEDOM OF INFORMATION** - Discussion Paper (Step 2) submitted to the Attorney General by February 2018.
1. Proposed by the Samoa Law Reform Commission (SLRC) and approved by Office of the Attorney General on 5 May 2017, this review examines existing 'information exchange' mechanisms in Samoa in the public sector. Initially, a Freedom of Information framework was explored but this option was re-assessed given Samoa's available resources and priorities of Government. Consequently, the Terms of Reference (TOR) was narrowed down to focus on the following:
 - i. to consider and assess issues on 'exchange of information' in Ministries and Corporations;
 - ii. to consider laws and policies in place on exchange of information' in Ministries and Corporations;
 - iii. to consider similar laws and policies in other countries on exchange of information in Government; and
 - iv. to provide suitable options for Samoa.
 2. During the preliminary consultations, research and analysis, the Project was renamed to the 'Exchange of Information Review' to accurately reflect the revised Terms of Reference.
 3. Preliminary Research and Preliminary Consultations with various stakeholders affected by the review/reform completed. The comments and views collected during the preliminary research and consultation informed the Discussion Paper (Step 2).
 4. The Discussion Paper was developed and submitted to Cabinet, Cabinet approved this on the 30th May 2018.

B. **FREEDOM OF INFORMATION** - Public Consultations (Step 3) conducted by July 2018.

1. Completed on the 18th and 19th September 2018 due to competing priorities.

C. **FREEDOM OF INFORMATION** - Final Report (Step 5) submitted to Attorney General by December 2018

1. Development of the Final Report is in progress.

D. **FOREIGN INVESTMENT LAW** - Discussion Paper (Step 2) submitted to the Attorney General by July 2018.

1. This project is a self-initiated project under Section 6(a) of the Law Reform Commission Act 2008 and was approved by the Office of the Attorney General in May 2017. This review assesses laws relating to foreign investment in Samoa.
2. Preliminary consultations were held with the administrative Ministry, the Ministry of Commerce, Industry and Labour (MCIL) in January 2018. During the preliminary consultation, MCIL advised that a Technical Assistance (TA) for investment laws was endorsed by Government. It was then agreed that MCIL will conduct this review with the TA.
3. In the course of MCIL's review, the TA and MCIL officers consulted with the Commission, not as a stakeholder but as the Commission. The Commission's input was therefore limited to the laws of Samoa relevant to this review e.g. Immigration laws regarding work permits, and Revenue laws relating to business licences. The Commission also advised the TA and MCIL that the context of Samoa must be taken into account in this review, like every law review for Samoa. Samoa invests mainly on people and not in financial institutions or on individual property. The current systems in Samoa in place to support any revised legal framework (in MCIL and MOR) must be taken into account.
4. To avoid duplication, the Review is now with MCIL and is being carried out by the TA. MCIL will revert to the SLRC for any assistance required on this Review.

E. **FOREIGN INVESTMENT** - Public Consultations (Step 3) conducted by December 2018.

1. Project with MCIL. Refer to “D” above.

F. **FOREIGN INVESTMENT** - Final Report (Stage 4) submitted to Attorney General by October 2018.

1. Project with MCIL. Refer to “D” above.

G. **REVIEW OF THE LAW REFORM COMMISSION ACT 2008** - October 2018.

- This year marks the 10th anniversary of the SLRC since its establishment in October 2008. To mark this milestone, the Samoa Law Reform Commission (SLRC) is reviewing its developments and the work of the Commission to date. On 16 March 2018, a Terms of Reference (TOR) on the Review of the Law Reform Commission Act 2008 (Act) was approved by the Commission’s Minister, the Honourable Prime Minister. The Office of the Attorney General (OAG) endorsed the same on 20 March 2018. The SLRC is working closely with the OAG as required by the directives under the Terms of Reference. The Terms of Reference are:

- a) To review the LRC Act 2008 to ensure it is kept in a modern state to suit the current context of Samoa.
- b) To research and review best practices of law reform processes that suit Samoa’s context and have the same available in a Law Reform Project Handbook.
- c) To, together with OAG, provide recommendations on a suitable framework for a new updated legislation and a Law Reform Project Handbook.

Given the Terms of Reference, the research for this review was divided into 3 categories:


- 1. Where we are (history, current law, current status);
 2. Where we want to be (options given overseas jurisdictional analysis); and
 3. How do we get there? (including options for a revised framework)
- Where we are – involves research on the history as the record shows, i.e. from 1997; and the early days and influences on the Commission’s establishment; the current 2008 Act; the Law Reform Projects of the SLRC in the first 10 years; the statutory functions, composition, law reform process and the challenges faced by the same and how the SLRC responded to those; the budget and staff turnover.

- Where we want to be – requires research on for example the available literature on law reform commissions of the Pacific Islands and other commonwealth countries, a jurisdictional comparative analysis of law reform commissions in the Pacific region and elsewhere in terms of LRCs’ functions, composition and processes.
- How do we get there – will be substantially informed by an analysis of both (a) and (b). A Law Reform Handbook setting out an updated ‘law reform process’ of the SLRC will also inform how we envisage to "get there". From this review, the SLRC and the OAG hope to provide a framework that will continue to improve the services of the SLRC, to ensure that the SLRC continues to strive towards meeting its mandate, i.e. for Samoa’s laws to meet the needs of our country.

OTHER REFERENCES

H. FABRIC OF LAWS OF SAMOA

- Given the need to understand the fabric of the existing laws in force in Samoa to allow for effective law reform reviews, in August 2017, the Samoa Law Reform Commission (SLRC) initiated the review of the Fabric of Laws of Samoa Project. This initiative was driven by the belief that an overall background knowledge of the fabric of laws of Samoa is necessary for effective law making. This effort is the first of its kind. It is envisaged (and hoped) it will not be the last and that it will be a periodical project, to allow Samoa continue to operate on current and updated laws. Such will provide benefits at national level, as it will inform the Judiciary in its duty of applying the laws, the Executive in policy making and the Parliament in its Constitutional law making function. Both an informed Government and public will result in meaningful, effective and better law making.
- The approved Terms of Reference is as follows:
 - i) To identify the current fabric of laws (all 285 existing Acts of Parliament) of Samoa;
 - ii) To identify which Ministries, State Owned Enterprises (SOEs), or Constitutional Offices (COs) are responsible for which laws (legal authority); and
 - iii) To identify and confirm from Ministries/SOEs/COs any outdated laws under their administration and recommend removal, updating or replacing.




Having followed all the first 6 stages of the law reform process (Terms of Reference received; Preliminary research and consultations; Discussion Paper; Consultations; Analysis of Research and Consultation information; and Development of the Final Report for Cabinet approval (approved 18th January 2018)), the Final Report was tabled in Parliament on Friday 5 October 2018. The Commission now awaits the Parliamentary Committee summons to present on and answer to any queries on the Final Report.

I. REVIEW OF THE MINISTRY OF AGRICULTURE AND FISHERIES (MAF) LAWS DIRECTIVE

- On the 29th November 2017, the Commission received a directive from the Prime Minister to carry out a review of MAF's laws the directive required the Commission to review the laws of MAF to bring them up to date with the modern context of Samoa and in particular to include the power to prohibit the export of certain primary products of Samoa and to see that Samoa's laws are receptive of the principles contained in the International Fisheries Conventions.
- The Commission, after comprehensive research provided an extensively researched and informed advice to the Minister of Agriculture and Fisheries on 9 January 2018. Upon further consultations with MAF, it was highlighted that MAF was also carrying out a review of MAF laws. Any further concerns raised by the Hon Minister would therefore be included in this MAF review. The Commission stands by for any further assistance or advice required by MAF.

J. INFANTS ORDINANCE 1960

- In September 2017, the SLRC received a TOR from the Office of the Attorney General to review the Infants Ordinance 1960. The Terms of Reference is as follows:
 - 1) To conduct research and analysis of the Infants Ordinance 1960 ("the Ordinance") in particular the provisions on 'overseas adoption', to confirm whether it conforms with existing international conventions, treaties, agreements and best practices in matters to do with local and overseas adoption; and
 - 2) To provide recommendations for reform of the same to ensure that before overseas adoptions are granted, no other suitable arrangements can be accommodated for the infant here in Samoa.

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- Under the same Terms of Reference, the Hon Prime Minister also raised a query on the Infants Ordinance 1960.
 - Preliminary legal and doctrinal and international law research was undertaken. The Commission's findings was that Samoa was in compliance with international conventions on inter-country adoptions. The query from the Prime Minister was also research and responded to. All these findings were presented in a collated and comprehensive advice to both to the Attorney General and the Hon Prime Minister on the 8th November 2017 and 17 November 2017 respectively.

K. IMMIGRATION ACT 2004 REVIEW

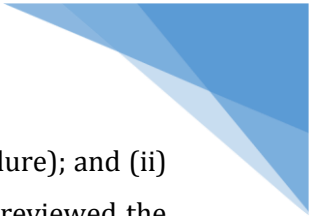
- Led by the Ministry of Prime Minister and Cabinet (MPMC) through its Immigration Division (Immigration), the Review of the Immigration Act 2004 (Review) was conducted in 2 phases. A Review Team comprised of the Samoa Law Reform Commission, the Office of the Attorney General and Immigration assisted with Stakeholder Consultations for Phase 1 of this review that were held from 19 February to 23 February 2018. Following these consultations, the next phase (Phase 2) is to draft amending provisions based on legislative drafting instructions developed in Phase 1. The Technical Assistant engaged by the MPMC is now working on Phase 2.

L. REVIEW OF THE MINISTERIAL DEPARTMENTAL ARRANGEMENT ACT 2003

- The Discussion Paper for this review was approved by Cabinet on the 12 July 2017 in FK(17) Fa'apitoa 07.
- A Final Report with the Commission's recommendations was developed and approved by the Hon Prime Minister on the 29 November 2017 and approved by Cabinet on the 10th January 2018. Cabinet has since referred the Final Report to a Sub- Committee for further consideration. The Samoa Law Reform Commission stands by for any advice required on the MDAA Review.

M. REVIEW OF SAMOA'S CIVIL PROCEDURE RULES 1980 AND MAGISTRATE COURT RULES 1971

- On 2nd and 5th March 2018, the Commission called a meeting and did meet with the Samoa Law Society (then) Council and the Legislative Drafting Division of the Office of the



Attorney General (OAG) on the (i) Draft Supreme Court Rules (Civil Procedure); and (ii) Draft District Court Rules (Civil Procedure). Beforehand, the Commission reviewed the two sets of Civil Procedure Rules (Supreme and District) and thereafter called the above said parties to meet to take this review to completion. At the end of this financial year, the revised penultimate final two sets of Draft Rules were with the Office of the Attorney General for their Final review.

CHALLENGES

1. Information ascertained from various stakeholders for the different projects carried out by the Commission are inconsistent and incomplete. The Commission has had to carry out time consuming research and analysis due to lack of basic baseline data.
2. The Commission does acknowledge an increase in Public turnout to Public Consultations however feels that there could be a higher level of engagement. The Commission continues to experience the lack of the turnout to Public Consultations from not only the Public but also Ministries and SOEs that are involved. In many cases, perhaps this is due to time constraints and competing priorities of members of the Public, Government Ministries and SOEs.
3. Financial constrictions has limited Public Consultations to 2 – 4 Consultations for each Project (2 Upolu, 2 Savaii). This has also been another contributing factor to Challenge 2 (above). The Consultation phase is crucial as it is the opportunity to hear the Public's opinion and identify issues and challenges at the grassroots level. This in turn will advise Government on suitable reforms to Legislation governing the country. Without ample evidence/ submissions gathered due to the low turnout at Consultations and the lack of submissions made, the recommendations may be limited and not capture the full extent of the issues in reality.
4. Human resource management has changed over the years. There is still substantial turnover rate but not as frequent as previous years. Attracting lawyers/ staff continues to be a challenge to the Commission, especially experienced staff. All vacant positions are advertised at least thrice before a satisfactory pool of applicants is gained. With some positions, the Commission has proceeded to the recruiting and selection process even though there may be one or two applicants. The Commission continues to continue to seek suitable qualified and experienced staff members for the Office.
5. Training and capacity building opportunities for this unique field of the legal profession, law reform, is very hard to come by. The Commission has been very fortunate to have as the Executive Director, Telei'ai Dr. Lalotoa Mulitalo, who has a wealth of knowledge and

experience who conducts monthly trainings for the Legal team as well as coaching and mentoring on a daily basis where possible. In addition, the Assistant Executive Director, Ulupale Fuimaono, has been employed with the Commission since its establishment in 2008 and his institutional knowledge and experience has been invaluable in building the capacity of the junior staff under his supervision.

PARLIAMENTARY SUMMONS

- Due to the nature of its work, the Commission has been summoned by Parliamentary Committees to comment on Bills that are derived from the Commission's Final Reports and also on Bills the Commission had no part in developing. For the latter Bills, the Commission is required to analyse the Draft Bill against legislative drafting principles and styles; and where needed, carry out research on related laws. This is to equip the Commission with responses in contemplation of Parliamentary Committee queries on those Draft Bills.
- The Commission's submissions were mostly done verbally in front of the Committees. In some cases, the Committees requested written responses following a session with the Commission, and the Commission has provided the same as sought. The following is a summary of Parliamentary summons for Financial Year 2017/2018.

BILLS FROM THE COMMISSION'S FINAL REPORT

1. 15 August 2017 - Sex Offenders Register Bill 2017 – This Bill is to implement the Register for Sex Offenders in Samoa and related purposes.

BILLS NOT RESULTING FROM A COMMISSION'S FINAL REPORT

2. 8 August 2017 - Conventional Arms Bill 2017 – This Bill is to implement the Arms Trade Treaty and related purposes.
3. 15 September 2017 - Energy Efficiency Bill 2017 - This Bill is to regulate energy efficiency of energy using products and consumer information on those products, and for related purposes.
4. 11 October 2017 – Police Service Amendment Bill 2017 – This Bill amends the Police Services Act 2009 (Principal Act) and other related purposes.
5. 16 April 2018 - Alienation of Customary Land Amendment Bill 2017 - This Bill provides for amendments to the Alienation of Customary Land Act 1965 with the objectives of:
 - a. Strengthening the provisions relating to leasing and licensing of customary land; and
 - b. Facilitating the mortgaging of leases over customary land.

HUMAN RESOURCE MANAGEMENT

As alluded to earlier, the Commission has a total of 17 staffing positions. The following has been movement of incumbents for the Commission staff positions for Financial Year 2017/2018;

(i) RESIGNATIONS

- a. Resignation of Eleanor Fakaua from the Senior ICT Officer position on the 11 August 2017;
- b. Resignation of Tuitapuono Samantha Milford from the Principal Legal Analyst position on the 16 August 2017;
- c. Resignation of Sili Su'a from the Driver position on the 13 October 2017;
- d. Resignation of Darius Shahtahmasebi from the Principal Legal Analyst position on the 22 October 2017;
- e. Resignation of Charles Leicester Dean from the Senior Legal Analyst position on the 22 February 2018;

(ii) NEW APPOINTMENTS

- a. Appointment of Sheliza Tapuai to the Executive Legal Officer position on the 31 July 2017;
- b. Appointment of Ruta Masinalupe as the Legal Analyst on the 31 July 2017;
- c. Appointment of Launiusaelua Paleaae as the Senior ICT Officer on the 18 September 2017;
- d. Appointment of Lizatalei Hakai as the Principal Legal Analyst on the 2 October 2017;
- e. Appointment of Ropati Sitivi as the Driver on the 12 December 2017;
- f. Appointment of Hana Gauta as the Senior Legal Analyst on the 28 May 2018;

(iii) PROMOTIONS

- a. Promotion of Faapale Lemalu to the position of Principal Legal Analyst on the 18 February 2018;
- b. Promotion of Grace Eugene Lafi to the Senior Legal Analyst position on the 1 May 2018;

(iv) **TERMINATION OF SERVICE DUE TO MISCONDUCT/ BREACH OF THE CODE OF CONDUCT**

- a. Termination of Launiusaelua Paleaa's service as the Senior ICT Officer due to misconduct/ Breach of the Code of Conduct on the 25 May 2018;

(v) **PART TIMERS**

- a. The hiring of part time employees is a common practice and is one the Commission also practices in particular when short staffed;
 1. Appointment of Desmond Aofia as part time Driver on the 18 October 2017 to the 17 November 2017;
 2. Resignation of Leotele Iosefo Pelenato from part time Receptionist/ Office Assistant position on the 22 December 2017.

(vi) **INTERNSHIP**

- The SLRC occasionally hosts interns from Universities around the Pacific Region and abroad. It is to not only assist upcoming lawyers from those Institutions who hope to join the legal profession but more importantly allows the Commission to build working relationships/ networks with these Institutions. The following is a list of interns the Commission has accommodated for Financial Year 2017/2018;
 1. Ruth Parsons (Australia National University)
 2. Lanu Faletau (Auckland University)
 3. Tausala Fruean (Otago University)
 4. Adam Connolly (TC Beirne School of Law, University of Queensland).
 5. Kirra Uren (TC Beirne School of Law, University of Queensland).
- All interns have assisted in carrying out research on SLRC's various projects. Their contribution has benefitted the Commission to an extent. The Internship Programme is an excellent learning experience as it assists the interns understand the disparity between their well-resourced jurisdictions and the limited resourced Law Reform Commission of Samoa and other developing countries. It is hoped that as future practitioners in their own countries, they will be able to understand and assist Samoa and developing countries in the future, on the **challenges of law reform faced by plural societies.**

(vii) **VOLUNTEERS-**

- The Commission also bid farewell to its Information & Communications Advisor (Australian Volunteer Program), Irlene Mokaraka – Tu’ulama, who completed her volunteer term on the 22nd February 2018.

INTERNATIONAL CONFERENCES AND FORUMS

The Commission has attended the following international Conferences

Name of International Conference	Sponsor	Dates	Venue	SLRC attended	Designation
2017 Meeting of the Pacific Legislative Drafters Forum	Forum Secretariat, Fiji	23-25 August 2017	Nukualofa, Tonga	Teleiai Dr Lalotoa Mulitalo	Executive Director
Regional International Arbitration Conference- Dawn of International Arbitration in the South Pacific	Asian Development Bank	12 - 13 February 2018	Nadi Fiji	Ulupale Fuimaono	Assistant Executive Director
Law, Custom, Constitutionalism Presented on: 'Customary Land Tenure, Samoa'	Auckland University	13 - 15 February 2018	Fale Pasefika, University of Auckland	Telei'ai Dr Lalotoa Mulitalo	Executive Director

TRAINING AND CAPACITY BUILDING

The Commission has attended the following trainings and workshops.

LEGAL

Training/ Course Title	Provider	Date	Location	SLRC Employee
Legislative Drafting In The Pacific Context' - A Guide	Executive Director - SLRC	September 2017	SLRC Conference Room	SLRC Legal Team, AG Drafting members
Law Reform in the context of Samoa - unique features for relevant and suitable laws for Samoa	Executive Director SLRC	27 October 2017	CBS Conference Room	SLRC Legal Team members, AG Drafting members, CBS Legal Team members, LDD members
State Focused Law Reform Constitutional Offices, Institutions and Agents	Executive Director - SLRC	3 November 2017	CBS Conference Room	SLRC Legal Team, CBS Legal Team, MOF Legal members, LDD members, Law Society members
Why The 'Land and Titles Registration Act 2008' Is Incapable Of Alienating Customary Land	Executive Director - SLRC	23 February 2018	SLRC Conference Room	SLRC Staff, AG Drafting team, Samoa Law Society Members
Statutory Interpretation Training	Executive Director - SLRC	22 March 2018	Attorney General Conference Room	SLRC Legal Team, AG Drafting team, Samoa Law Society Members
Legislative Drafting training on the Illegal Drugs Control Bill 2018	Executive Director SLRC	11 May 2018	SLRC Conference Room	SLRC Legal Team

SLRC Projects-Legislative Drafting Training	Executive Director SLRC	22 June 2018	TATTE Convention Centre	In house counsels, SLRC Legal Team
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CORPORATE UNIT

Training/ Course Title	Provider	Duration	Location	SLRC Employee	Employee Designation
Project Management Training	PSC	31 July – 04 August 2017	PSC Conference Room	Fugalaau Siaki Eleanor Fakaua Faapale Lemalu	Senior Acc and Admin Senior IT Officer Senior Legal Analyst
Presentation Skills	PSC	11-14 September 2017	PSC Conference Room	Ruta Masinalupe Grace Lafi	Legal Analyst Legal Analyst
Watch guard Training	CSL	13 – 14 September 2017	SLAC/CSL Conference Room	Leopold Bureieta Lemuelu Leauga	Manager CSU
Public Sector Research	PSC	18-22 September 2017	PSC Conference Room	Charles Leicester Dean	Senior Legal Analyst
Skills to be an effective leader training	PSC	30 October – 3 November 2017	PSC	Sheliza Tapuai	Executive Legal Analyst
Samoa Pre-Mission Workshop on Obligations under the UNCAT	UN	2 October 2017	UN	Lizatalei Hakai	Principal Legal Analyst
National Mechanism on Reporting and Follow up (NMRF) Sadata	MFAT	23 November 2017	Sheraton Hotel	Florita Tupai	Principal Project Coordinator

Training Awareness Program on Occupational Safety and Health	MCIL	6 December 2017	Level 6, DBC Building	Lizatalei Hakai Leopold Bureieta	Principal Legal Analyst Manager CSU
ICT Improvement Of Gov't Capacity & Services	Gov't Of Japan	10 TH January 2018—22 May 2019	Okinawa Japan	Launiusaelua Paleaee	Senior IT Officer
Public Administration & Human Resource Management Seminar	China	7 th May – 23 May 2018	Beijing China	Florida Asonoi Isaraelu	Senior legal Secretary
Clan Lab Training	Development Bank Of Samoa	28 May 2018	DBS Conference	Mearold & Grace	Executive legal officer & Senior Legal
Data Policy Integration	Samoa Bureau Of Statistics	5 TH June – 8 th June 2018	DBS Conference	Fugalaau Siaki	Senior Accts & Admin

FINANCIAL MANAGEMENT

STATEMENT OF MINISTRY RECEIPTS BY REPORTING CATEGORY AND EXPENDITURE BY OUTPUT APPROPRIATION ACCOUNT

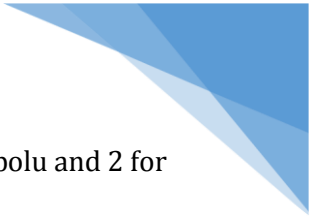
for the financial year ended 30 June 2018

	2018	Original Estimate	Final Estimate	(Over)/Under	2017
	\$	\$	\$	\$	\$
LAW REFORM COMMISSION					
PAYMENTS					
Outputs					
1.0 Legal Research Analysis and Recommendations	1,049,068	1,074,265	1,074,265	25,196	1,029,172
Total Outputs	1,049,068	1,074,265	1,074,265	25,196	1,029,172
Transactions on Behalf of State					
Rent and Lease (Government Building)	167,900	167,900	167,900	0	167,900
VAGST Output Tax	55,432	49,348	49,348	(6,084)	47,928
Total Transactions on Behalf of State	223,332	217,248	217,248	(6,084)	215,828
TOTAL PAYMENTS -LAW REFORM	1,272,401	1,291,513	1,291,513	19,112	1,245,000

Additional Financial Information

	FY2018	FY2017
	\$	\$
1 Schedule 9 - Statement of Fixed Assets		
Confirmed Total Assets Balance	639,889	520,613

- a. Facility Hire (725501): The review of the Narcotics Act project was a significant Project for the Commission that generated interest both in the Public Sector, Private Sector as well as the general Public. The Commission wanted to capitalize on this nationwide interest and decided to hold Public Consultations in both Upolu and Savaii to ensure that everyone with a vested interest in the project had their say. The Commission expected a



huge turnout hence the 4 day Public Consultations, 2 days (2 venues) for Upolu and 2 for Savaii.

- b. Advertisements/Media (758201): A crucial part of law maintenance/reform is Public and Stakeholder input through their opinions and views submitted either verbally during Public Consultations or through written submissions. To be able to have a successful and rewarding Consultation, the Public and those involved must have full awareness and understanding of the Project and its parameters as well as the Samoa Law Reform Commission itself. The Commission advertises in many forms of media; TV, Radio, Newspaper, websites, social media and by word of mouth before every Public Consultation to ensure maximum Public participation. Advertisements on TV and Newspapers are expensive however the Commission feels this is money well spent given the importance of Public Consultation to law reform and assisting the Commission to achieve its Key Performance Indicators and goals.
- c. Printing and Publication (758301): The Commission has to print and bind both the Discussion Paper for Cabinet as well as the Final Report for Parliament. The sizes of these report vary depending on the Project. Some Discussion Paper for other Projects may coincide with Final Reports of other Projects resulting in an increase on publications resulting in an increase in the costs and expenditure for this account. The Civil Procedure Rules itself has a total of 464 pages (both Samoan and English version) and with 80 copies required for Parliament amounts to a hefty bill.
- d. Catering and Refreshments (761101): The Ministry of Finance has placed a cap on Catering and Refreshments at \$6,000.00 per Financial Year. For the past 2 years the Commission has requested leniency in this area as this account is not only used for refreshments for the Commission during trainings, interviews and meetings but most importantly the Public Consultations. The Public Consultations in most cases take up the majority of the day and the participants need nourishment to fuel both mind and body. The Public Consultation numbers fluctuate dependent on the turnout however with Projects such as the review of the Narcotics Act, the turnout expected was high. This coupled with catering for the Advisory Board meetings and the Office activities (Selection Panel for Interview refreshments) lead to the over utilization of this account.