



**REVIEW OF THE
TRAFFIC LAWS OF
SAMOA**

**DISCUSSION PAPER
April 2023**

SAMOA LAW REFORM COMMISSION

The Samoa Law Reform Commission (**the Commission**) was established in 2008 by the *Law Reform Commission Act 2008* as an independent body corporate to undertake the review, reform and development of the laws in Samoa. Its purpose is to facilitate law reform in Samoa by providing pragmatic recommendations based on high quality research, analysis and effective consultation.

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This Discussion Paper is also available on the Commission's website:
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Submissions or comments (formal or informal) on this Issues Paper should be received by the Commission no later than close of business on _____ (date to be advised).

Emailed submissions should be sent to:

commission@samoalawreform.gov.ws

Written submissions should be addressed and sent to:

**Executive Director
Samoa Law Reform Commission
Level 1, FMFM II Building
Eleele-Fou, Apia, Samoa**

Oral Submissions should be voiced at our Public Consultations:

Dates, Time and Venues for public consultations will be announced on television, radio stations and newspapers for the public's information.

The Commission seeks your views, comments and feedback on the questions set out in this Issues Paper.

The submitters are advised to focus on any of the questions provided therein. It is definitely not expected that you will answer every question.

A Final Report and Recommendations to Government will be published in due course [date to be advised]

1. INTRODUCTION

A. BACKGROUND

- 1.1 This review stems from a number of concerns around the increase of traffic related incidents over the years, specifically bus related accidents and the questions as to how traffic related matters may be better regulated. A preliminary legislative review by the Commission submitted to the former Honourable Prime Minister highlighted the dire need for Samoa to collate, consolidate, review, update and reform all of Samoa's scattered, overlapping, duplicated and outdated traffic laws.
- 1.2 The list of where traffic laws are found is lengthy. It comprises of:
 - a) Traffic legislation (e.g. Road Traffic Ordinance 1960; Road Traffic Payment of Fines Act 2009 etc.);
 - b) Road Traffic Regulations;
 - c) Road Traffic Orders;
 - d) Road Rules;
 - e) National Road Codes; and
 - f) Road Traffic Notices.
- 1.3 The provisions further overlap on the categories of vehicle. For instance, some provisions apply to motor vehicles only, some to buses only, some to all public service transport only etc. There are complicated and confusing duplications.
- 1.4 The current legislative framework on traffic matters, offences and penalties are all over the place; are duplicated and found in (too) many forms and content. Samoa's traffic laws therefore need to be updated, revised and expressed in simple terms in form and in structure and publicised for the general public to understand and follow.

B. TERMS OF REFERENCE

- 1.5 Informed by its preliminary legislative review, the Commission proposed a Terms of Reference for a full review of the Traffic Laws of Samoa. This was approved by the former Honourable Prime Minister on 29 July 2019.
- 1.6 The Terms of Reference required the Commission to:
 - a) collect and collate all traffic laws of Samoa;
 - b) carry out research and review those laws against the current systems, practices and context of Samoa, and against overseas best practices; and
 - c) make recommendations on updated traffic laws of Samoa, in form and in content, taking into account the current circumstances of Samoa.

C. LAW REFORM PROCESS

Preliminary Research and Consultations

- 1.7 As with the review of any law, it is important to first identify and understand the traffic laws as they stand. The Commission's preliminary research and consultations found the following three main traffic laws in Samoa:
 - (I) Road Traffic Ordinance 1960;
 - (II) Road Transport Reform Act 2008; and
 - (III) Road Traffic (Payment of Fines) Act 2009.¹

¹ **NB:** The Land Transport Authority Act 2007 is excluded from this list as it regulates matters in relation to the planning, developing, operating and maintaining of a safe, efficient and effective national road system for Samoa.

1.8 The Commission therefore firstly carried out preliminary research reviewing and examining the three main principal traffic laws and their journeys, their respective amendments since enactment, how the courts have applied these laws (as far as the cases available to the Commission provide) and comparable jurisdictional analysis.

1.9 In September 2019, the Commission commenced discussions with the key Government Offices overseeing the road traffic matters in the country for the purposes of:

- (a) understanding these Offices' experiences in the implementation of the traffic laws; and
- (b) collecting information such as relevant traffic laws, Court records and any other material in their possession on motor vehicles or the regulation of the same to guide this Review.

1.10 The Offices consulted were:

	Stakeholders	Preliminary Consultations	TOR 1 - collection of traffic laws / data
1.	Ministry of Works, Transport and Infrastructure (MWTI)	13 September 2019	Nil
2.	Ministry of Police (MOP) <i>prior merge with SPCS</i>	16 September 2019	Received 24 September 2019
3.	Land Transport Authority (LTA)	17 September 2019	Received 1 October 2019
4.	Office of the Attorney General (OAG)	17 September 2019	Received 18 September 2019
5.	Ministry of Justice and Courts Administration (MJCA)	19 September 2019 23 December 2022 <i>(further request for case laws)</i>	Nil
6.	Samoa Prisons and Correction Services (SPCS) <i>prior merge with MoP</i>	20 September 2019	Received 30 September 2019

Issues highlighted from preliminary consultations

1.11 The preliminary consultations with the above key stakeholders highlighted a number of issues and related matters necessary for the Commission to understand and consider in this Review. These further guided the direction of the Commission's preliminary research within the scope of its approved TOR. A summary of these consultations is provided below.

Ministry of Police (*prior merge with SPCS*)

1.12 During the preliminary consultations with the MoP, the then Acting Police Commissioner and police representatives raised some issues faced by the MoP in enforcing the traffic laws, in particular the Road Traffic Ordinance 1960 and the Road Traffic Payment of Fines Act 2009.² One of the main issues is the outdatedness of the existing traffic laws, specifically the pre-

² Examples include provisions on: the issuing of traffic offence notices (tons); restriction on prosecutions; impounding vehicles; unauthorized LED lights.

independent RTO 1960 and its subsidiary laws. There was also the issue of uncertainty as to administrator of these laws evident through the transferral of the 'traffic portfolio' between the MoP and the LTA multiple times, with the latest transfer occurring in 2022 back to LTA.

- 1.13 The MoP raised that this Review is an opportunity to revisit the traffic legal framework for needed reforms and assured their full support for this review.

Land Transport Authority

- 1.14 The LTA raised some similar concerns to MoP in regards the transferral of the traffic portfolio between the LTA and MoP. It was explained that the Transport Control Board (initially under the MWTI and later moved under MoP), was removed from MoP on the basis that the MoP should not carry all the three roles to regulate, implement and also enforce the traffic matters. As such, it may be more practical that MoP focuses only on the enforcement aspect, while the LTA retains the licensing and registration role.
- 1.15 The LTA also indicated their full support of the review and confirmed their willingness to share traffic related records and information to assist the Commission in this Review.

Ministry of Justice and Courts Administration

- 1.16 The MJCA confirmed in preliminary consultations the rise in road traffic matters brought before the Court in the past years. Apart from the more serious traffic offences like negligent driving causing death which are heard in the Supreme Court, majority of the traffic cases are heard in the District Court or by a Fa'amasino Fesoasoani.
- 1.17 The MJCA noted that in most traffic cases, the Courts would order the defendants to pay a fine.
- 1.18 They further confirmed their role in assisting the defendants of traffic matters by arranging the suitable rehabilitation programs for the defendants, depending on the Court decisions (e.g. for cases of driving under the influence of alcohol, an alcohol related course would be the relevant program). The MJCA also prepares pre-sentencing reports on traffic matters to assist the Courts in their respective decisions.

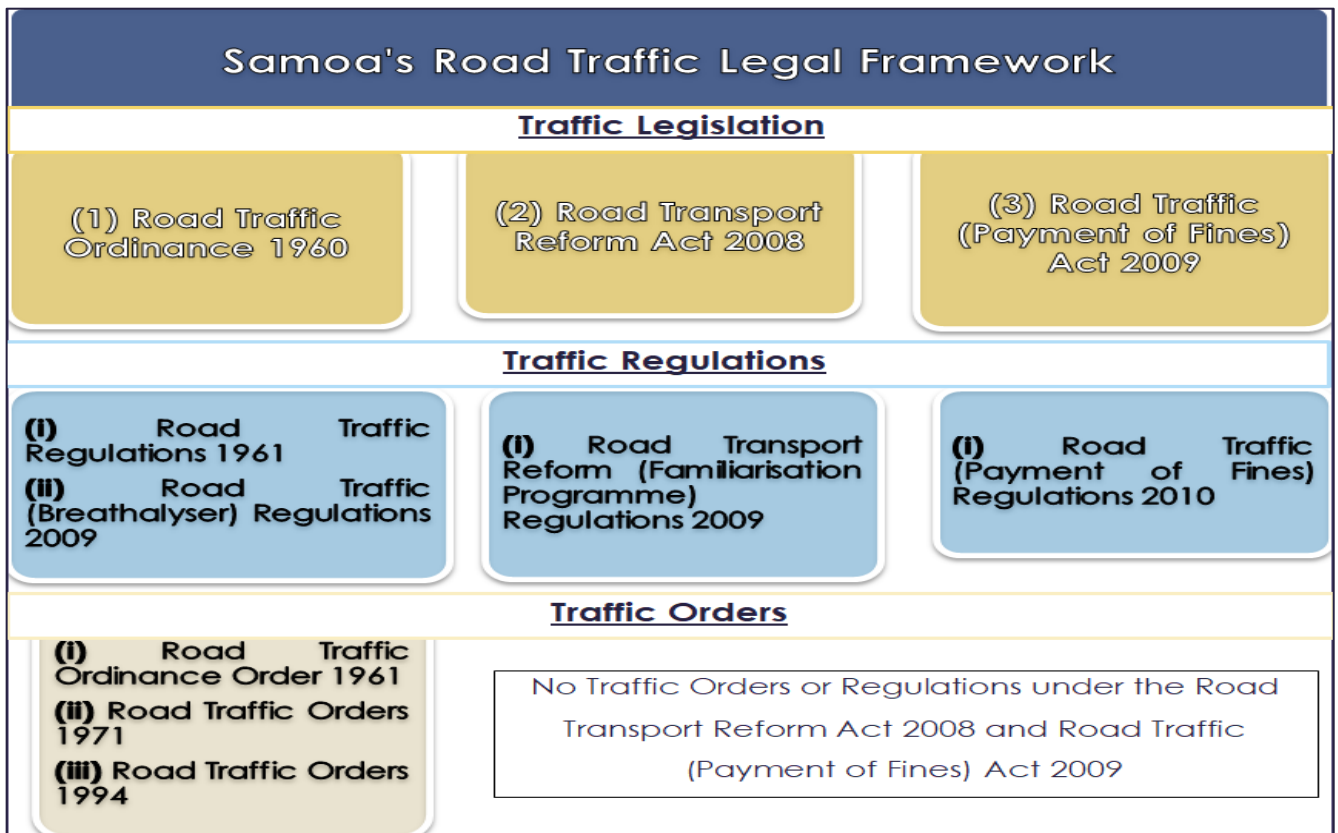
Samoa Prisons and Correctional Services

- 1.19 The statistics received from the Samoa Prisons and Correction Services (now merged with the MoP) during preliminary consultations highlighted an increase in citizens committed to prison (over a 10 year span from 2008 – 2018) as a result of traffic related matters.
- 1.20 The most prevalent offences include negligent driving causing death (33), dangerous driving (19) and negligent driving causing injury (13). The observations from members of the Prisons Services indicated that for the serious traffic offences listed, the imprisonment terms imposed to traffic offenders are often at the lower range.
- 1.21 The views and input from these key stakeholders provided some guidance for the Commission as it compiled its findings to formulate this Discussion Paper.
- 1.22 Towards the end of 2019, before the Commission could complete the development of its Discussion Paper, an urgent directive was received from Cabinet for a Special Project to be carried out in collaboration with other Government Offices (Office of the Attorney General and MJCA). Due to the capacity of the Commission compared to the extent of the Special Project and its urgent timelines, the development of the Discussion Paper for this Review was put on hold (together with other earlier Projects of the Commission, such as the Review of the Family Laws of Samoa).

- 1.23 In July 2022, the Commission officially re-commenced this Review, starting with updating its research findings to update this Discussion Paper, following the completion of the Special Project and other prior Project of the Commission as abovementioned.
- 1.24 This Discussion Paper aims to provide the public and stakeholders with a record of the Commission's preliminary research findings and analysis to date, as well as questions formulated to assist and guide the public in their submissions and input on this Review.
- 1.25 This Discussion Paper is divided into the following parts:
- Part A:** The Current Road Traffic Laws of Samoa;
 - Part B:** Case law research and analysis;
 - Part C:** Other Jurisdictions;
 - Part D:** Conclusion; and
 - Part E:** Discussion Questions.

2. PART A: THE CURRENT ROAD TRAFFIC LAWS OF SAMOA

- 2.1 This Review focuses on Samoa's three (3) main pieces of legislation regulating traffic related matters and the use of motor vehicles in Samoa.
- (A) Road Traffic Ordinance 1960;
 - (B) Road Transport Reform Act 2008; and
 - (C) Road Traffic (Payment of Fines) Act 2009.
- 2.2 In the chart below is an attempt to capture a glimpse of the overall road traffic legal framework for Samoa, based on the above key principal laws.



- 2.3 The Commission will discuss the principal traffic laws under the following headings:
- A) **Background**
 - B) **Amendments** (*to date, as available*)
 - C) **The 'Act' in detail** (*as per the OAG's consolidation of laws up to December 2022*)
 - D) **Subsidiary Laws under the 'Act'** (*as recorded and as available*)

A. ROAD TRAFFIC ORDINANCE 1960 (RTO 1960)

Background

- 2.4 The Road Traffic Ordinance 1960 (RT Ordinance 1960) is an Ordinance to consolidate and amend certain enactments relating to road traffic and the use of motor vehicles and other

vehicles on the roads. It is a pre-independence enactment and it commenced on 24 November 1960.

2.5 As of December 2022, this Ordinance is now 63 years old. It comprises of 5 Parts, 80 sections and 1 Schedule.

Amendments to the 'RT Ordinance 1960'

2.6 The Office of the Clerk of the Legislative Assembly's 'Tables of Acts and Ordinances & Statutory Regulations' (as at 31 December 2022) records that since the enactment of the RT Ordinance 1960, it has been **amended 24 times** in the following manner:

No.	Year	Amended by	Amendment made
1	1961	Enactments Amendment and Repeal Ordinance 1961	- Inserted new sections 39A and 55A
2	1964	Road Traffic Amendment Act 1964	- Inserted a new section 53A.
3	1969	Magistrates' Courts Act 1969	- Deleted the definition of "Court" and substituted with a new definition
4	1975	Reprint of Statues (Miscellaneous Provisions) Act 1975	- Omitted subsection (3) of section 3, subsection (1) of section 51, subsection (1) of section 56 - Substitute the words "Superintendent of Police" with the words "Commissioner of Police".
5	1978	Ministry of Transport Act 1978 (consolidation omitted during previous Consolidations)	- Repealed definition of "Board" and inserted definitions for new terms - Repealed and substituted section 3(1); Inserted section 5 before section 6; In sections 27(5), 49(6), 50(1) and 72B - Inserted "traffic officer" wherever the words "police officer" occurs; - Omitted "Director of Works" in section 49(6) - Substituted with "Assistant Secretary Road Transport"; Empowered provision of First schedule inserted.
6	1980	Road Traffic Amendment Act 1980	- Repealed the First Schedule of the Principal Ordinance and substituting with a new First Schedule.
7	1986	Omnibus Charges and Fees Amendment Act 1986	- Omitted from subsection (1) of section 30 the reference to "\$6" and substituting with "\$12".
8	1988	Omnibus Fees and Charges	- Omitted from paragraph (b) of subsection (1) of section 30 the words "not exceeding as may be prescribed and

		Amendments Act 1988	<p>substituting with “as set out in the First Schedule to this Ordinance”;</p> <ul style="list-style-type: none"> - Repealed the First Schedule in the Principal Ordinance and substituting with a new First Schedule.
9	1989	Road Traffic Ordinance Amendment Act 1989	<ul style="list-style-type: none"> - Repealed subsection (2) of section 58A and substituting with a new subsection (2).
10	1990	Road Transport and Traffic Control Act 1990	<ul style="list-style-type: none"> - Amended section 2 by inserting the definition of “Board” - Repealed section 3 and substituted with a new section 3 - Repealed the definitions of “Assistant Secretary Road Transport”, “Certifying Officer”, “Examining Officer” and “Traffic Officer” in section 2 - Repealed section 5A - Amended section 27(5) by omitting the words “traffic officer” wherever they occur - Amended section 49(6) by omitting the words “Assistant Secretary Road Transport” and substituting with the words “Director Works” - Amended 50(1) and 72B by omitting the words “traffic officer” wherever they occur - Omitted all references to the word “Licence Controller” in the Principal Act and substitute with the word “Principal Licensing Authority” - Omitted all references to the word “Assistant Licence Controller” in the Principal Act and substitute with the word “Licensing Authority” and the pronoun “his” to be read as the pronoun “its” - Omitted all references to the word “Assistant Secretary Road Traffic” in the Principal Act and substitute with the word “Board” and the pronoun “his” to be read as the pronoun “its”.
11	1998	Miscellaneous Fees Amendment Act 1998	<ul style="list-style-type: none"> - The First Schedule is repealed and substituted with a new First Schedule (fees).
12	2001	Membership of Statutory Boards and Authorities Act 2001	<ul style="list-style-type: none"> - Amended section 51 by repealing subsections (1) and (2) and substituting with new subsections (1) and (2).
13	2002	Road Traffic Ordinance Amendment Act 2002	<ul style="list-style-type: none"> - The First Schedule is repealed and substituted with a new First Schedule (fees).

14	2003	Road Traffic Amendment Act 2003	<ul style="list-style-type: none"> - Amended section 51 of the Principal Act by inserting a new subsection (4) - Amended section 53 by inserting the expression “(1) before the words “The Board shall” and insert a new paragraph (d) - Amended section 73(1) by inserting a new paragraph (l).
15	2004	Road Traffic (Driving Licenses) Amendment Act 2004	<ul style="list-style-type: none"> - Amended section 27 by deleting subsections (3) and (4) and substituting with new subsections (3) and (4) - A new section 27A inserted; Section 31 was deleted and substituted by a new section 31.
16	2007	Land Transport Authority Act 2007 (consolidation omitted in 2008 - 2009)	<ul style="list-style-type: none"> - Inserted words inserted at the end of sections 11 and 19(2).
27	2008	Road Traffic Amendment Act 2008	<ul style="list-style-type: none"> - Repealed First Schedule by new section 80 inserted - Part II amended - Inserted a new section 80; - Amended sections 12(2), 28(1), 29(1), 32(2), 35(5), 17(6), 19(1), 32(1), 68, 60(2), 66(2), 31(1)(b), 13(1), 13(4) and 59(d)
18	2009	Road Traffic (Breathalyser) Amendment Act 2009	<ul style="list-style-type: none"> - New words inserted and defined in section 2; Inserted new sections in Part II, Division 4.
19	2011	Land Transport Authority (Licence Fees and Other Charges) Regulations 2011	<ul style="list-style-type: none"> - First Schedule repealed.
20	2013	Road Traffic Amendment Act 2013	<ul style="list-style-type: none"> - Substituted section 40(3) - Repealed section 40D and section 40E(1)(b) repealed - Amended section 40K(3)
21	2013	Audit Act 2013	<ul style="list-style-type: none"> - Section 53 amended.
22	2015	Road Traffic Amendment Act 2015	<ul style="list-style-type: none"> - Amended sections 2, 3, 27, 36 - New sections 72C – 72E inserted - Replaced reference to “Assistant Secretary Road Transport”, “Public Service Act 2004”, “traffic officer” throughout the whole Act.

23	2019	Miscellaneous (Ministerial Assignment) Amendment 2019	Act	<ul style="list-style-type: none"> - Amended sections 2, 3, 5A, 8, 9, 11, 13, 19, 27, 50, 51, 55, 56, 72B, 72C, 72D, 72E - General amendments throughout the whole Act.
24	2020	Road Amendment 2020	Traffic Act	<ul style="list-style-type: none"> - Amended sections 2, 37, 39A, 42 and 45 - A new section 38C was inserted.

The Road Traffic Ordinance 1960 (in Detail)

The Road Traffic Ordinance 1960 - in Detail	
<u>Section</u>	<u>Summary of provisions</u>
PART 1 – PRELIMINARY PROVISIONS	
Section 1	Short title: Road Traffic Ordinance 1960
Section 2	Interpretation: defines the terms used throughout the Act
Section 3	Appointment of officers: provides for the power of the Service, the Principal Licensing Authority and the Commissioner of Police to make appointments of officers for the purposes of this Ordinance.
Section 4	Register of vehicles: provides for the duty of the Principal Licensing Authority to keep or to cause to keep a Register of vehicles registered under this Ordinance.
Section 5	Application of Ordinance: provides the scope of application and the exemptions from application of this Ordinance.
PART 2 – REGULATING LICENSING AND REGISTRATION OF VEHICLES	
Division 1 – General	
Section 5A	Licensing Areas: provides for the power to designate areas as licensing areas for the purpose of this Act and the power to appoint an Assistance License controller for a licensing area.
Section 6	Prohibition of vehicles not complying with regulations as to construction: provides for vehicles to comply with regulations (as to construction, weight and equipment) that is applicable to such vehicles and makes it an offence to use such vehicle on a road in contravention of this section.
Division 2 – Licensing and Registration of Motor Vehicles	
Section 7	Vehicles to be licensed: provides that subject to section 8, it is an offence to drive, or permit another person to drive a vehicle that is unlicensed or unregistered.
Section 8	Exemptions: provides for exempted circumstances under which a person may drive a motor vehicle that is unlicensed or unregistered. (e.g. when taking a vehicle to a licensing authority for registration or licensing, or to police officer for examination).

Section 9	Application for annual vehicle license: provides for the requirements and the procedure by which a motor vehicle license may be obtained.
Section 10	Fee payable where motor vehicle belongs to 2 or more classes, etc.: provides for fees payable for motor vehicles belonging to 2 or more classes set out in the First schedule, and creates offences for the use, or permission to use such vehicles for which a lower license fee was paid.
Section 11	Period of license: provides for the period of a motor vehicle license.
Section 12	License Label: provides for license labels, their issuance, the requirements that it be affixed to a vehicle and prescribes related offences.
Section 13	Registration: provides for the registration, certain related duties and powers of licensing authority in relation to assigning registration number and plates, and creates an offence for the usage of motor vehicle on any road without an assigned registration plate affixed.
Section 14	Alteration of vehicle: provides that motor vehicle license will be void if the related motor vehicle has been altered to the effect that it requires a higher license fee or to be licensed in a different class.
Section 15	Owner to notify destruction or removal of vehicle: provides for certain duties of a registered owner of a motor vehicles to certain in relation to his or her motor vehicle that has been destroyed, rendered permanently unserviceable or is removed from Samoa.
Section 16	License not transferable: provides that except as provided in section 17, a motor vehicle is not transferrable.
Section 17	Change of possession: provides for the lawful requirements for changing the possession of a motor vehicle.
Section 18	Motor vehicle to include trailer: provides for all references to motor vehicle from sections 8 (Exemptions) to 17 (Change of possession) to include trailers.
Section 19	Dealer's licenses: provides for the requirements for issuing a dealer's license which may be prescribed for a person who conducts business as a dealer, or repairer of motor vehicles.
Section 20	International certificates issued elsewhere than in Samoa: : provides for the exemption of a person, with an international certificate issued overseas, from the requirements to hold a license in Samoa in respect of such motor vehicle.
Division 3 – Driving Licenses and Permits	
Sections 21-26	<i>Repealed</i>
Section 27	Licensing of drivers: provides for the offences pertaining to driving without a valid driving license and exemptions thereto, the powers of the Principal Licensing for related purposes, the power of police officers to require a person on the road to provide his or her driver's license, and circumstances under which person may be disqualified from obtaining a driving license.
Section 27A	Amendment to the First Schedule: provides for the power of the Minister to make amendments to the First Schedule, the obligation of the Minister to publish such notice in the Savali and another newspaper, and for holders of international driving permits or certificate to pay prescribed for driving in Samoa.
Section 28	Learners: provides for the learner's permit, the power to grant such permit, the duration of such permit and offences that may arise from failure to comply with conditions of the granting of such permit.
Section 29	Grant and refusal of driving licenses: provides that subject to this section, the licensing authority may grant a driving license to an applicant who has made a declaration as stipulated under this section.

Section 30	Test of Competence: provides for the regulation making power of the Head of state, acting on the advice of Cabinet with respect to the nature of tests of competence to drive any classes of vehicle for the purposes of this Part, the appointments of examining officers and to certain matters stipulated under this section.
Section 31	Classification of vehicles: provides the Principal Licensing Authority certain powers in relation to the classification of vehicles and the publication of a Notice for such purposes.
Section 32	Driving licenses, renewals, and replacements: provides for the renewal and duplication of driving licenses, and the related conditions and requirements to such process.
Section 33	Disqualification for offences and endorsement of convictions: provides the power of the Court to make certain disqualification and related orders to withhold a person, who has been convicted of a driving offence, from holding or obtaining a driving license.
Section 33A	Court may order driving test: provides the Court power, following a disqualification order made under section 33, to continue the disqualification or suspension of a driving license until such person has completed a test competence the Court determines.
Section 34	Provisions as to disqualifications and suspensions: provides for the effect of a disqualification order on a driving license, the process/procedure for an application to remove a disqualification order and related offences.
Section 35	Provisions as to endorsements: provides for the effect of an endorsement order on a driving license, the obligations of such person to produce their licenses for the purpose of endorsement order and related offences.
Division 4 - Provisions as to Driving and Offences in connection therewith	
Section 36	Restriction on driving by young persons, etc.: provides for the prohibition of certain persons, by reason of their age, from driving certain classes of vehicles and related offences.
Section 37	Speed limit: provides that save as exempted under this section, it is an offence to drive at a greater speed than the limits prescribed by regulation.
Section 38	Careless driving: provides that it is an offence to drive without due care and attention with regards to other persons using the road.
Section 38A	Dangerous riding on, or overcrowding of, vehicles: Provides that it is offence for a person who rides, or a driver who permits another to ride on, or in a vehicle that may risk injury to such person, or another person.
Section 38B	Unsafe vehicles: provides that it is an offence operating a vehicle in a condition, or in a manner, or so loaded that is unsafe or insecure that it may cause injury to a person.
Section 38C	Street racing or loss of traction: provides that it is an offence for a person to operate a vehicle in a race or in an unnecessary exhibition of speed or acceleration or in a manner that causes the vehicle to sustain loss of traction.
Section 39	Reckless or dangerous driving: provides for offences pertaining to a person driving recklessly, or at a speed that is dangerous having regard to the circumstances stipulated under this section.
Section 39A	Negligent driving causing bodily injury or death: provides that it is an offence for recklessly, or negligently driving, or riding a vehicle that causes bodily injury to or death of a person.

Section 40	Contravention of specified breath alcohol and blood alcohol limits and drugs: provides for offences relating to driving, or attempting to drive while the proportion of alcohol in the person's breath or blood exceeds the prescribed limit.
Section 40A	Who must undergo a breath screening test: provides for the power of the police officer to require certain persons (listed under this section) to undergo a breath screening test, and other requirements for such persons in compliance to a direction of a police officer under this section, for the purposes of carrying out the screening test under this section.
Section 40B	Who must undergo an evidential breath test: provides that a police officer may require a person, under the circumstances stipulated, to accompany him or her to a place where such person is likely to undergo an evidential breath test, or a blood test when required to do so.
Section 40C	Person may be required to undergo further evidential breath test if initial test fails to produce result: provides for the power of a police officer to either require a person who has undergone an evidential breath test under section 40B, but for a reason such test failed to produce a result, to undergo a further evidential breath test, or proceed as if section 40E(1)(c) applies.
Section 40 D	Repealed
Section 40E	Who must give blood specimen at places other than hospital or surgery: provides for the power of the police officer to require a person to allow medical practitioner or medical officer to take a blood specimen from them according to the provisions of this section, and the power of a police officer to arrest a person without warrant for a person who fails to accompany a police officer to a place, or having accompanied that police officer, fails or refuses to remain at that place when required to do so for the purposes of this section.
Section 40 F	Who must give blood specimen in hospital or surgery: provides for lawful requirements for the taking of a blood specimen, from person who is under examination, care or treatment in a hospital or surgery for the purposes of this section.
Section 40G	Procedure for dealing with blood specimens: provides for the procedure by which the 2 parts of the blood specimens are to be divided and treated before they are sent to an approved analyst for analysis, and how the same is to be treated after the date the specimen was sent over for analysis.
Section 40H	Certificates in blood alcohol proceedings: provides that the production of a certificate to which this section applies to, in proceedings for an offence against driving while intoxicated, is sufficient evidence unless there is evidence otherwise, that the matters stated therein, and of the sufficiency of the authority and qualifications of the person that made the certificate.
Section 40I	Certificates of compliance for evidential breath testing devices: Provides for certificate of compliance which must support an evidential breath testing device for the purposes of this section, the requirement for the requirement of the production of such in any trial or defended hearing for an offence stipulated under this section.
Section 40J	Presumptions relating to blood specimens: Provides that in proceedings for an offence against this Act, and in the absence of proof to the contrary, the presumptions relating to the blood specimens apply in relation to the matters set out under this section.
Section 40K	Presumptions relating to alcohol testing: Provides that in proceedings for an offence against this Act, and in the absence of proof to the contrary, the presumptions relating to the alcohol testing apply in relation to the matters set out under this section.

Section 40L	Circumstances in which certificate not admissible in proceedings: provides for situations in which a certificate so referred to in section 40H(2), (3) or (4) becomes inadmissible in evidence in proceedings for an offence against this Act.
Section 40M	Failure or refusal to remain at specified place or to accompany police officer: Provides for related offences, and penalties a person may commit for failure, or refusal to remain at a certain place, or to accompany a police officer as required to do so.
Section 40N	Failure or refusal to permit blood specimen to be taken: provides for offences and consequent penalties for a person who fails, or refuses to permit their blood specimen to be taken.
Section 40O	Drivers and other road users to comply directions of police officers, etc.: Provides that a person to whom sections 40A – 40F apply to must comply with requirements of the section, all lawful requirements, directions, and requests made by either a police officer or a medical practitioner or officer, and any failure to do so amounts to an offence.
Section 40P	Defences: provides for a situation which may amount to a defence to proceedings for an offence against section 40N, and situations which may not equate to a defence to proceedings for an offence under 40A – 40I, 40K and 40N and other provisions stipulated under this section.
Section 40Q	Arrest of persons for alcohol or drug-related offences or on police officer: provides for the power of a police officer to arrest without warrant a person the officer has good cause to suspect that he or she has carried any of the actions stipulated under this section.
Section 41	Taking motor vehicle without the owner's consent: provides that it is an offence to take a motor vehicle without any lawful consent of the owner.
Section 42	Restriction on prosecutions under the preceding sections: provides for requirements that must be undertaken before a person, being prosecuted under this Part in relation to the maximum speed for driving, may be convicted.
Section 43	Limitation of time for which drivers of certain vehicles may remain continuously on duty: provides that it is unlawful in cases of certain vehicles for a person to drive, or cause an employee, or a person subject to his or her orders to drive in contravention of the stipulations of this section.
Section 44	Duties of drivers in cases of accidents: provides for certain duties of drivers of motor vehicles in cases of accident either arising directly, or indirectly from the use of the motor vehicle.
Section 44A	Driving imprisonment courses: provides for the power of the Court, to order a person convicted of an offence against this Part to undertake a driving improvement course, and offences for failure to attend a driving improvement course.
Section 45	Regulations: provides for the regulation making power of the Head of State, to prescribe anything which may be prescribed under this Act and generally in relation to the use of vehicles on roads, their construction and equipment and the conditions under which they may be so used and otherwise for the purpose of carrying this Part into effect.
Section 46	Exemptions: provides that the Head of State may declare, by Order in Council, an exemption of a motor vehicle, or class of motor vehicle to be exempted from the provisions of this Part of this Ordinance, and may in like manner revoke any such Order.
PART 3 - ROAD, BRIDGES, AND TRAFFIC SIGNS	
Section 47	Power of Director of Works temporarily to prohibit or restrict traffic on roads: provides for certain powers of the Director of Works to restrict, or prohibit the use

	of a road for the circumstances stipulated under this section, and for an offence for a person using or permitting the use of a vehicle in contravention of a restriction or prohibition imposed by this section.
Section 48	Restriction on the use of bridges: provides that the Director of Works may by a conspicuous notice limit posted in the manner prescribed by this section, limit the use of the bridge to vehicles of specified gross weight, and to vehicles proceeding at not more than a specified speed.
Section 49	Traffic Signs: provides for specifications for traffic signs to be prescribed by regulations made under this ordinance, for certain duties of the Minister and the Authority in relation to such signs, and related offences under this section.
Section 50	Drivers and pedestrians to comply with traffic directions and signs: provides for road users to comply with a direction of either a police officer so specified in this section, or as directed by a traffic sign as provided for under this section, and any failure to comply is an offence under this section.
PART 4- TRANSPORT CONTROL	
Section 51	Transport Control Board: provides for the composition of the members of the Board, the Minister's power to appoint the Chairperson and general duties of the Board to the Minister under this Ordinance.
Section 52	Quorum and proceedings of the Board: provides that the quorum for a meeting of the Board is not less than 3, and sets out the procedure that governs the manner in which Board meetings are to be made.
Section 53	Functions of the Board: provides for the functions of the Board, the duty of the Minister to table the Annual Report and the requirement for auditing the accounts of the Board annually.
Section 53A	Remuneration and allowances of Board members: provides for the remuneration and allowances of the Board members to be paid from money appropriate by the Legislative Assembly for that purpose, for members of the Board who are not salaried employees of the government.
Section 54	Secretary: provides for the Secretary of the Board who, except as exempted under this section, shall public servant approved by the Minister.
Section 55	Certificate of fitness of public service vehicles: provides that no motor vehicle may be used to carry passengers for the purposes unless a Certificate of fitness has been issued by a police officer, and related offences.
Section 55A.	Plying public service vehicles in dangerous condition: provides for offences for owners of public service vehicles for knowingly allowing such vehicle to ply for hire in dangerous condition.
Section 56	<i>Repealed</i>
Section 57	Notice to be given of failure in, damage to, or alteration of vehicle: Provides an obligation for holder of a certificate of fitness, report as soon as possible to an authorized officer the happening to the vehicle, any failure or damage that may affect the safety of the passengers, or those using the road.
Division 1 – Road Service Licences	
Section 58	Road service licences: provides for a prohibition against using or permitting a motor vehicle to be used to carry passengers for the purposes stipulated in this section except pursuant to a road service license.
Section 58A	Offence to carry passengers for reward on goods or pick-up vehicles: provides that it is an offence to use, or permit a goods or pick up vehicle to be used to carry passengers for hire or reward unless exempted by this section.

Section 59	Application for road service licences: provides for the form and content, and the procedure by which a person may make an application for a road service licence.
Section 60	Grant or refusal of road service licences: provides for the responsibility of the Board in relation to granting or refusal of an application for, or an application for renewal, transfer, or amendment of a road service licence.
Section 61	Matters to be considered before determining application for licence: provides for matters the Board must consider in exercising its discretion to grant or refuse a road service licence for a route in Samoa.
Section 62	Conditions of licences: provides that the Board may attach to a road service licence, conditions it thinks fit and those particular to the conditions stipulated under this section for the securing of safety and security of the public.
Section 63	Power to revoke or suspend licences for non-compliance with conditions: provides for save as exempted under this section. The Board may revoke, or suspend a road service licence on the ground that any condition subject to which the licence was granted has not been complied with pursuant to this section.
Section 64	Duration of licences: provides that unless sooner revoked, shall expire on a date specified by the Board on the licence.
Section 65	Renewal of licences: provides for an application to renewal of a licence to be made in the form and time prescribed under this section.
Section 66	Transfer of licences: provides that a road service licence maybe transferred to any person in accordance to this section.
Section 67	Amendment of licences: provides that the Board may, during the currency of the road service licence may amend such licence or revoking its terms or adding new terms according to the provisions of this section.
Section 68	Temporary road service licences: provides for the power of the Board to grant a temporary road service licence, for a specified period, or for any specified occasion.
Section 69	Appeals to Minister: provides for a process of appeal for a person aggrieved by the decision of the Board
Section 70	Regulations: provides for the Regulation making power of the Head of State to make regulations for any purpose for which regulations may be made under this Part but without prejudice, regulations with respect to the matters set out under this section.
PART 5 – MISCELLANEOUS	
Section 71	Forgery, etc., of licences and certificates: provides for offences relating to deception and forgery in relation to any licence, certificate, or warrant under any Part.
Section 72	Duty to give information: provides for the owner of the vehicle to provide on the demand of a police officer, information as stipulated under this provision concerning the driver of such vehicle, who is alleged to have committed an offence under this Ordinance, or any offence involving dishonesty towards a passenger, or with respect to any goods or freight carried on the vehicle.
Section 72A	Offences and general penalties: provides for the offences and penalties under this Ordinance, the penalties for offences (either under this Ordinance, or any regulation, or any rule or traffic order) made thereunder by which no special penalty is provided.
Section 72B	Powers of police officers: provides for the powers of police officers or authorized officers to enforce the provisions of the Ordinance and any regulations or rules in force under the Ordinance.
Section 72C	Information and inspection: empowers an authorised officer to carry out the powers under section 72B(1).
Section 72D	Impounding of vehicles: provides for matters relating to impounded vehicles.
Section 72E	Sale of impounded vehicles: provide for matters relating to the sale of impounded vehicles.

Section 73	Board may control traffic: provides for the power of the Board, with the consent of the Minister to make traffic orders.
Section 74	Board may require removal of obstructions to vision: provides for the power of the Board to write by way of notice requiring the persons having the control or possession of any obstruction on or near a highway, to remove it within such time as may be specified in the notice.
Section 75	Non-liability of Government: provides for non-liability of Government for any injury, damage or loss which may occur to any person or property through the failure of any road to sustain the weight of any motor vehicle or trailer.
Section 76	Avoidance of contracts with restrictive liability: provides for matters relating to avoidance of contracts with restrictive liability.
Section 77	Saving of rights: provides that Nothing in this Ordinance affects the right of the Government or a person to recover compensation from the owner or driver of any vehicle for any injury, damage, or loss which may be sustained by the Government or by such person by reason of the use of such vehicle.
Section 78	Nuisances: provides that nothing in this Ordinance affects the right of the Government or a person to recover compensation from the owner or driver of any vehicle for any injury, damage, or loss which may be sustained by the Government or by such person by reason of the use of such vehicle.
Section 79	Repeal and savings: provides in the Second Schedule, the enactments that have been repealed.
Section 80	Repeal of the First Schedule: provides for repeal of the First Schedule upon the commencement of regulations made under the Land Transport Authority Act 2007.

Subsidiary Laws under the 'Road Traffic Ordinance 1960'

2.7 The Commission's preliminary research found that there are two (2) main Regulations and four (4) standalone Orders³ made under the RT Ordinance 1960 according to the Legislative Assembly's 'Red Book' as at 31 December 2022. Some brief overview of these subsidiary laws are provided below.

The Regulations

(i) Road Traffic Regulations 1961

- The Road Traffic Regulations 1961 provides for the competency certificates and drivers licences, vehicle registration number plates (labels), specification of vehicles for registration, use of motor vehicles, special provisions relating to the use of public service vehicles, equipment of bicycles and rules of the road.
- To date, it has been amended **9 times** – 3 times in 1961, once in 1988, twice in 2003, once in 2008, once in 2009 and once also in 2018.
- Of the 71 regulations, regulation 21 (*Steering Column*) is the most amended regulation to date having been amended four (4) times (twice in 2003 and twice in 2008 during the switch from driving on the right to the left hand side of the road).
- For the purpose of this review, the Commission consolidated the principal Regulations of 1961 together with its amendments up to 2018. A summary of

³ Legislative Assembly Updated list of 'Tables of Samoa Acts and Ordinances & Statutory Regulations as at 31st December 2022 (2022), 77-78. See (i) Road Traffic Orders 1971, (ii) Road Traffic Orders January 1989, (iii) Road Traffic Orders 1992 and (iv) Road Traffic Orders 1994.

the Commission's unofficial consolidation of the RT Regulations 1961 is attached as **Schedule 1**

(ii) Road Traffic (Breathalyser) Regulations 2009.

- The RT (Breathalyser) Regulations 2009 provides the interpretation of certain terms for the purposes of Part II of the Road Traffic Ordinance 1960.
- These terms are '*approved analyst*' and '*approved laboratory*'.

The Orders

The Legislative Assembly's Red Book provides that altogether, there are four (4) standalone Orders made pursuant to section 73 of the RT Ordinance 1960 as follows.

(i) Road Traffic Orders 1971

- Set out orders of the Transport Control Board in relation to speed limit; specified one way streets; public taxi stands; bus terminus and town area bus stops; goods vehicles; pedestrian crossings; prohibition of parking or turning in specified places; and the prohibition of touting and sound signals in specified areas (i.e hospital area, churches during services, Court or where a session of the Legislative Assembly is held) except in cases of emergency; and
- Repealed the Traffic Orders 1962;

(ii) Road Traffic Orders January 1989

- These orders provided the scale of maximum fares to be charged in respect of journeys in taxis licensed to carry passengers for Hire in Upolu; and
- Refers to and repeals the Road Traffic Orders November 1984 (*unlisted in the Red Book*).

(iii) Road Traffic Orders 1992 – contains a list of passengers fares for omnibuses (buses)

(iv) Road Traffic Orders 1994

- Repealed the Road Traffic Order 1992 and the Road Traffic Order 1993;
- These orders contained similar matters as those covered in the Road Traffic Orders 1971, but updated and more detailed;
- Some new matters in these Orders include provisions on use of car radios (*in a loud manner that is offensive or a nuisance to any member of the public or to a police officer*); Traffic Lights; Lines; Lanes; Arrows; a requirement to wear Seatbelts; carriage of children in motor vehicles; wearing of motorcycle helmets. Also only available in the 1994 Orders is an Offence and Penalty provision, reverting to the Road Traffic Ordinance 1960 to clarify penalty for matters which are not provided.
- According to the Office of the Legislative Assembly's Red Book, the RT Orders 1994 have been amended ten (10) times.⁴ In all these amendments, Order 15 (Prohibiting Specified Roads) has been the most amended Order, having being amended four (4) times in 1995, 2003, 2004 and 2007; and

⁴In the process of the carrying/completing the consolidation of orders, the Road Traffic Order 1994 (RTO 1994) has been amended **nine (9) times**: See (i) *Road Traffic Amendment Order 1995*, (ii) *Road Traffic Amendment Order 1997*, (iii) *Road Traffic Amendment Order 1997 (No. 2)*, (iv) *Road Traffic Amendment Order 1997 (No.3)*, (v) *Road Traffic Amendment Order 2003*, (vi) *Road Traffic Amendment Order 2004*, (viii) *Road Traffic Amendment Order 2005*, (vii) *Road Traffic Amendment Order 2007*, and (viii) *Road Traffic Amendment Order 2009*.

- For the purpose of this review, the Commission consolidated the principal Road Traffic Orders of 1994 together with its amendments up to 2009 and a summary of the Commission's unofficial consolidation of the said RT Order 1994 is attached as **Schedule 2**.

Analysis

2.8 The Commission's preliminary research findings above allow for some analysis below.

Outdatedness

2.9 Since the enactment of the RT Ordinance 1960, the amendments made have all been carried out in piecemeal form. There has not been a full review of the RT Ordinance 1960 and its provisions in totality.

2.10 The provisions of the Ordinance in its current form, are lengthy and at times archaic. The use of outdated language and terminologies such as 'Ordinance', 'motor omnibus', 'motor tractor', 'public service vehicle', 'plying public service vehicle' are evident throughout the legislation. This review may be the opportunity for these terms to be substituted with plain and modern terminology. In addition, due consideration may also be extended to redefining the existing terms and definitions in the current Ordinance. These approaches may result in laws which are clear for the purpose of enforcement and implementation, and also relevant to and responds to the needs and context of Samoa.

Traffic offences and penalties

(a) Duplication:

2.11 The current law on traffic matters, offences and penalties are all scattered; are duplicated and found in too many forms and contents, and may require update and consolidation through this Review.

For example, matters on speed limit are found in five (5) different places

- *Road Traffic Ordinance 1960* (section 37);
- *Road Traffic Regulations 1961* (Regulation 109);
- *Road Traffic Order 1994* (Order 3);
- *Road Transport Reform Act 2008* (section 12); and
- *Road Transport Reform (Familiarisation Programme) Regulations 2009* (Regulation 4).

2.12 The application of certain provisions of the traffic laws also overlap on the categories of vehicles. For instance some provisions apply to motor vehicles only, some to buses only, some to all public service transport only and so forth. There are complicated and confusing duplications in the subsidiary laws which also need to be updated and consolidated.

(b) Leniency and inconsistency of road traffic offences and penalties:

2.13 The current road traffic laws have also been consistently criticised in Parliament and on the media for its alleged leniency, and inconsistency in penalties and punishment set for crimes committed.⁵ During Parliament debate of the *Road Traffic Amendment Act 2020*, a Member of Parliament raised concerns over the low range of penalties imposed on those who commit traffic infringements.⁶

⁵Joyetter Feagaimaali'i, 'The Penalty for Traffic Infringements are a Joke – PM', *Samoan Observer* (online at 20 March 2019) <<https://www.samoaoobserver.ws/category/article/38801>>.

⁶Parliament Hansard; 18 March 2020, pg 1035.

- 2.14 For comparative purposes, prior to the passing of the Road Traffic Amendment Act 2020, the RTO 1960 provided that a person found guilty of *negligent driving causing death* under section 39A, is subject to the penalty of a fine not exceeding 20 penalty units (\$2,000) or a term of imprisonment no longer than five (5) years. The *Road Traffic Amendment Act 2020* increased the penalty for this offence to a fine not exceeding 250 penalty units (\$25,000) and imprisonment for a term not exceeding ten (10) years.⁷ It is timely that all other road traffic offences and penalties be reviewed for reform similar to those in the *Road Traffic Amendment Act 2020*.
- 2.15 In 2009, the *Road Traffic (Breathalyzer) Amendment Act 2009* amended the RT Ordinance 1960 to address matters relating to ‘driving under the influence of alcohol’. The amendments included a further break down of the ‘driving when drunk or drugged’ offence (the repealed section 40 of the Ordinance) to include a ‘specified breath alcohol and blood alcohol limits and drugs’ under the new section 40 (*Contravention of specified breath alcohol and blood alcohol limits and drugs*) and to increase the penalties for the same offence. In addition, there were new provisions inserted (*sections 40A-40Q*) clarifying the process of implementation and enforcement of the specified alcohol and drugs limits in a person’s breath and blood. Unfortunately, from the Commission’s preliminary findings, there seems to still be a rise in the number of traffic related incidents involving alcohol in recent years, despite the efforts to increase the penalties for such offence.⁸ Perhaps this review is another opportunity to revisit and strengthen any surrounding factors in addition to increased penalties for these types of road traffic offences to further highlight the seriousness of these offences.

Traffic Regulations and Orders

- 2.16 Similar to the principal Act (RT Ordinance 1960), the Regulations and Orders enacted to date also require reforms to use simple and modern terminology and consolidation into one set of subsidiary laws. There is also a disparity as well as a low range of penalties, given the circumstances of today and the magnitude and seriousness of traffic incidents occurring on our roads.
- 2.17 In addition, throughout the subsidiary laws there are references to certain matters which no longer exist and are considered redundant. For example, there are designated areas, roads and places which no longer exist today and do not reflect the current street addresses following the recent Street and Residential Address Naming Project⁹. For instance, the areas and places referenced under Order 4 (One Way Street), Order 5 (Public and Private Taxi Stands), Order 6 (Central Bus Terminus and Town Area Bus Stops) either no longer exist today or have been renamed. These are matters requiring revisiting for proper update for accuracy.

B. ROAD TRANSPORT REFORM ACT 2008

Background

- 2.18 The Road Transport Reform Act 2008 (**RT Reform Act 2008**) was enacted in 2008 to provide for the transition and change of motor vehicles in Samoa from ‘left hand drive’ to

⁷*Road Traffic Amendment Act 2020* (Samoa) s.5 (*Section 39A amended*).

⁸ Samoa Global News, ‘Arrests for driving under the influence still too high for Samoa’ (accessed online on 9 January 2021) <https://samoaglobalnews.com/driving-under-influence-sgn/>

⁹ Samoa Tourism Authority, ‘Samoa launches Street and Residential Address Project’ (accessed online on 21 April 2021) <https://www.samoatourism.org/articles/257/samoa-launches-street-and-residential-address-project>

'right hand drive' and consequential changes to the required position of all vehicles on the roadway from the right side of the road to the left side, and for related purposes. This Act consists of 4 Parts, a total of 14 sections and 1 Schedule.

2.19 Samoa made headlines worldwide by becoming one of the first countries in decades to require its citizens to drive on the left side of the road. The bold road switch was initially a controversial issue because of concerns that it would increase the road accident rate. This was evident when the Members of the Committee of People Against Switching Sides of the Road sued the Government in the case of *Jackson v Attorney General* [2009].¹⁰ Despite the opposing views, the Government remained firm that the reason behind the road switch was economic; Samoans will have access to cheaper, imported right-hand drive cars from its nearest economically developed neighbours, New Zealand and Australia.

Amendments to the Road Transport Reform Act 2008

2.20 The Commission's preliminary research found that to date, no amendments have been made to this Act. This may be due to the nature and purpose for which this Act was enacted, to provide for the transition and change of motor vehicles in Samoa (from left hand drive to right hand drive).

The Road Transport Reform Act 2008 (in Detail)

ROAD TRANSPORT REFORM ACT 2008 – in Detail	
Sections	Summary of provisions
PART 1 - PRELIMINARY	
Section 1	Short title: Road Transport Reform Act 2008
Section 2	Interpretation: defines the terms used throughout the Act
Section 3	Act binds Government: provides that the Act binds the Government.
PART 2 - TRAFFIC TO BE ON THE LEFT HAND SIDE	
Section 4	Vehicles to be driven on the left hand side: provides for vehicles to be driven and parked on the left of the center point of the roadway.
PART 3 - CONSEQUENTIAL AMENDMENTS	
Section 5	Amendments to Road Traffic Regulations: provides for amendments to the Road Traffic Regulations as consistent with section 4.
Section 6	Amendments to Road Traffic Orders: provides for amendments substitute into the Road Traffic Orders 1994 and Road Traffic Amendment Order 1997
Section 7	Amendment to Road Traffic Regulations concerning steering columns: provides for the amendment substituting regulation 21 of the Road Traffic Regulations 1961.
Section 8	Subsequent amendments to Regulations, Orders and Notices: provides that nothing in this Act prevents any of these as amended by this Act from being amended according to the powers and procedures by which they are amended.
PART 4 – MISCELLANEOUS	
Section 9	Transition: provides for all left hand drive vehicles in Samoa to continue being used despite the commencement of this Act.

¹⁰ *Jackson v Attorney General* [2009] WSSC 122 (28 August 2009).

Section 10	Transitional enforcement of Act: provides for the Commissioner of Police to issue instructions under this section to only issue a warning to a person who breached a traffic law within 3 months following the commencement of section 4 from formal prosecution.
Section 11	Non-liability of Government: provides circumstances by which Government is not liable by reason of any provision of this Act.
Section 12	Speed limits: provides the power of the Land Transport Authority to vary the speed limits imposed in the Road Traffic Regulations 1961 and to issue notice to that effect.
Section 13	Act prevails: provides for the prevalence of the provisions of this Act in the terms of application where there are inconsistencies with other related laws that relate to similar matters.
Section 14	Regulations: provides the regulation power of the Head of State to prescribe matters necessary or convenient to give effect to this Act.
Schedule	Provides for the amendments made to certain regulations of the Road Traffic Regulations 1961.

Subsidiary Laws under the 'Road Traffic Reform Act 2008'

2.21 The Commission's research found that to date, only one (1) Regulation was made under this Act, which is the *Road Transport Reform (Familiarisation Programme) Regulations 2009*. The Regulations were subsequently made to complement the smooth road switch under the *Road Transport Reform Act 2008*.

The Regulations

(i) Road Transport Reform (Familiarisation Programme) Regulations 2009

- The *Road Transport Reform (Familiarisation Programme) Regulations 2009* were made pursuant to section 14 of the Road Transport Reform Act 2008 and the provisions of the Road Traffic Ordinance 1960;
- These Regulations supplement the transition and change of motor vehicles in Samoa from left hand drive to right hand drive; and
- A summary of the *Road Transport Reform (Familiarisation Programme) Regulations 2009* is attached as **Schedule 3**.

The Orders – There are no Orders made under this Act since enactment.

Analysis

2.22 As earlier discussed, Samoa became the first nation since the 1970's to change from driving on the right-hand side of the road to the left-hand side.¹¹ While criticized for the initial costs of the transition, it became cheaper to import cars from left-side-driving nations, rather than from right-side driving countries such as the US.¹²

Redundant legislation

2.23 The RT Reform Act 2008 is a very brief legislation enacted by the Parliament to give effect to the road switch which occurred in 2008. The Commission notes that it has been 15 years now since the objective of this legal framework has been fulfilled. Perhaps it is fitting under

¹¹ BBC News, Samoa switches to driving on left, 2009 (accessed via BBC online website - <http://news.bbc.co.uk/2/hi/asia-pacific/8243110.stm>)

¹² above note 12.

this review for the Commission to confirm from the relevant administrator of this legislation, the significance of retaining this law as a standalone legislation (current status quo), or incorporating it into another or a new traffic legislative framework, or to repeal.

C. ROAD TRAFFIC (PAYMENT OF FINES) ACT 2009

Background

2.24 The *Road Traffic (Payment of Fines) Act 2009* (RT(PoF) Act 2009) was enacted to provide persons who have committed certain road traffic offences with the right to elect to pay a pecuniary penalty as a substitute to court conviction. It consists of 12 sections and 1 Schedule.

2.25 This Act sets out the procedure for the payment of fines for traffic offences as an alternative form of punishment to a court conviction. The police officers are empowered to exercise the procedures set out in the Act when serving a Traffic Offence Notice on a person who has committed an offence under the Act. The Schedule lists out specific traffic offences under the *Road Traffic Ordinance 1960*, *Road Traffic Regulations 1961*, *Road Traffic Order 1994* and the equivalent fine in penalty units for each offence.

Amendments

2.26 According to the Office of the Attorney General's Revision Notes in the consolidated RT (PoF) Act 2009 as at 31 December 2022, this Act has been amended twice since enactment in the following manner:

No.	Year	Amendment by	Amendment made
1	2014	Road Traffic (Payment of Fines) Regulations 2014	- Amended the First Schedule to insert new offences
2	2019	Miscellaneous (Ministerial Assignment) Amendment Act 2019	- Amended sections 2, 4, 5, 8 and 9 of the Act

Road Traffic (Payment of Fines) Act 2009 (in Detail)

ROAD TRAFFIC (PAYMENT OF FINES) ACT 2009	
<u>Sections</u>	<u>Summary of provisions</u>
Section 1	Short title: Road Traffic (Payment of Fines) Act 1960
Section 2	Interpretation: defines important terms used throughout the Act
Section 3	Application: provides for what the Act applies to.
Section 4	Traffic Offence Notice: provides for the duty of police officers to effect the service of a Traffic Offence Notice (TON) and the form a TON issued under this section must be in.
Section 5	Procedure: provides for the procedure by which a person, having been served a TON, may pay a fine stated in the Notice.

Section 6	Effect of payment of fine: provides the implications/effect on possible prosecution against a person who has paid a fine under section 5.
Section 7	Amount of fine: provides that a TON issued under this Act must specify a fine and how the amount of such fine may be determined.
Section 8	Powers may be exercised by a Police Officer: provides the police officers to exercise the powers and procedures provided for under this Act, and for the form a TON issued under this Act must comply with.
Section 9	Offences: provides for offences a person, or a police officer may be liable to under this Act pertaining to Traffic Offence Notices.
Section 10	Limitation: provides that a prosecution for an offence this Act applies to is barred after 12 months from the date of the TON.
Section 11	Amendment: provides an amendment of section 73(4) of the Road Traffic Ordinance 1960.
Section 12	Regulations: provides for the regulation making power of the Head of State to prescribe matters in relation to the Act within the confines of this section.
SCHEDULE (sections 3 and 7)	Provides for fines in penalty units for certain offences under the Road Traffic Ordinance 1960, Road Traffic Regulations 1961, Road Traffic Orders 1994 and road Traffic Orders not listed.

Subsidiary Laws under the Road Traffic (Payment of Fines) Act 2009

2.27 The Commission's research found one (1) Regulation made under this Act.

The Regulations

(i) Road Traffic (Payment of Fines) Regulation 2010

- The Principal Regulations made under the RTPOF Act 2009 is the *Road Traffic Payment of Fines Regulations 2010*. It has 3 regulations and has never been amended since commencement. A summary of the Regulations is attached as **Schedule 7**.

The Orders - There are no Orders made under this Act since enactment

Analysis:

2.28 The RT (PoF) Act 2009 targets traffic offences at the lower end of the scale such as unlicensed drivers, unregistered vehicles, and vehicles that are not roadworthy but are still operating on the roads.¹³

Effectiveness of this legislation

2.29 As the long title of the Act states, 'it is an Act to provide persons who have committed certain road traffic offences with the right to elect to pay a pecuniary penalty as a substitute to court conviction'. It would be beneficial for this review, to learn of the success rate of this legislation since enactment from the implementers of the law, whether it is still relevant and useful.

Administrator of this legislation

¹³ Overseas Security Advisory Council, *Samoa 2012 Crime and Safety Report* (Report, 31 March 2012) <<https://www.osac.gov/Country/Samoa/Content/Detail/Report/1a867249-14ae-4625-bd7a-15f4ad1f2fac>>.

2.30 According to the final note of the OAG's Consolidation of Laws up to December 2022, this Act is administered by the Land Transport Authority. However, the implementation of the provisions of the Act is carried out by police officers. The correct and appropriate administrator of this legislation must be determined and confirmed under this review.

Disparity of traffic penalties and fines

2.31 One of the main issues identified from the review of the RT (PoF) Act 2009 and preliminary findings, is the disparity of the amount of traffic fines issued under the traffic laws.

For example – some offences and penalties upon conviction as provided in the following laws:

Offences	Penalties (Road Traffic Ordinance 1960)	Penalties Road Traffic (Payment of Fines) Act 2009 Section 7 (Amount of fine) - each notice issued under this Act shall specify a fine, the amount of which is specified in the Schedule
Dangerous riding on, or overcrowding of, vehicle	Section 38A: i. Fine not exceeding \$1,000.00 ; or ii. Imprisonment for term not exceeding 12 months	Schedule provides that: Fine for offences under s.38A is: iii. 0.5 penalty unit for driver (\$50.00) ; and iv. 0.5 penalty unit for each passenger (\$50.00)
Unsafe vehicles	Section 38B: v. Fine not exceeding 10 penalty units (\$1,000.00) ; or vi. Imprisonment for a term not exceeding 12 months	Schedule provides that: Fine for unsafe vehicle under s.38B is 1 penalty unit (\$100.00)

2.32 A full review of the existing traffic offences and relevant fines and penalties is required to address any other similar inconsistencies in the traffic laws.

3. PART B: CASE LAW RESEARCH AND ANALYSIS

A. CASE LAW – THE COURT OF SAMOA

- 3.1 To understand how the Courts of Samoa have applied the provisions of the relevant traffic laws identified under this review and the extent in which they are used in Court, the Commission carried out research on the available legal database on traffic related case laws.
- 3.2 The court decisions under review are those available from the Pacific Islands Legal Information Institute (Paclii website, paclii.org) and the Samoa Legal Information Institute, Samlii website, (samlii.org). The search on these legal databases available to the Commission produced a total of 71 traffic cases in Samoa invoking the provisions of the relevant traffic laws in this Review from the years 1947 until 2022 (a span of 75 years).
- 3.3 The Commission acknowledges that this number is of course **inconclusive** and is **not reflective** of the actual number of traffic related cases that have gone through proceedings in the Samoan Courts. Nonetheless, this cannot be the basis to restrict analysis from what is available to the Commission for this or any review. The Commission is hopeful that more traffic data, information and court cases may be made available for its research and analysis, during consultations proper, with the Ministry of Justice and Courts Administration and other relevant stakeholders.
- 3.4 The following Table highlights these 71 cases and their summaries (from the most recent to the oldest case found):

TABLE OF CASE LAW – JUDGMENTS BY THE COURTS OF SAMOA	
CASE LAW	SUMMARIES
2 0 2 2	
1. <i>Police Alapati</i> [2022] WSSC 32 (27 July 2022) Supreme Court	<p>The defendant was involved in a traffic accident resulting in the death of 2 females and injuries to 3 other victims, and was charged with 2 charges of negligent driving causing death and 3 charges of negligent driving causing injury.</p> <p>Judge’s commentaries: The increase in penalties¹⁴ are a clear indication of Parliament’s intention to stamp out the increasing number of fatalities and injuries caused by the reckless driving of drivers especially those who have a selfish disregard for the safety of other road users and the public.</p> <p>Held:</p> <ul style="list-style-type: none"> • On the 2 charges of negligent driving causing death, the defendant was convicted of each charge and sentenced to 3 ½ years’ imprisonment; • On the 3 charges of negligent driving causing injuries, the defendant was convicted of each charge and sentenced to 18 months imprisonment; • All 5 sentences to be served concurrently.
2. <i>Police Talamoni</i>	The defendant was charged with 1 count of negligent driving causing death pursuant to s39A(1) and (3) of the Road Traffic Ordinance 1960.

¹⁴ The penalties for traffic offences – to 10 years’ imprisonment or a \$25,000 fine for negligent driving causing death; and 7 years imprisonment or a \$20,000 fine for negligent driving causing injury; and the subsequent transfer of negligent driving causing death cases for determination in the Supreme Court.

<p>[2022] WSSC 45 (26 July 2022)</p> <p>Supreme Court</p>	<p>Judges commentaries - Until 20 March 2020, cases of negligent driving causing death were dealt with in the District Court. The significant increase in the maximum penalty to 10 years' imprisonment or a fine of \$25,000 for negligent driving causing death; and 7 years' imprisonment or a fine of \$20,000 for negligent driving causing injury is clear evidence of Parliament's intention to stamp out the increasing number of injuries and fatalities resulting from reckless and irresponsible driving without any regard for the safety of road users.</p> <p>But it also highlights the real need for better awareness of safe road use practices by everyone. It is not enough to increase penalties and hope that reckless driving on the roads would be deterred.</p> <p>Simple measures such as drivers reducing speed when approaching a bus dropping off passengers and anticipating the risk of someone crossing; passengers crossing only when the bus leaves and they have a clear and safe view of the road; and parents not allowing young children near or on the road unsupervised.</p> <p>Held:</p> <ul style="list-style-type: none"> • The Court assessed the gravity of the offending to be at the lower end of the scale of offending; • The defendant was ordered to pay court costs of \$1,000 upon payment of the costs, the defendant will be discharged without conviction.
<p>3. Police v Vaamainuu [2022] WSSC 31 (1 July 2022)</p> <p>Supreme Court</p>	<p>The defendant appeared for sentence on one charge of negligent driving causing death and three charges of negligent driving causing injury.</p> <p>Held: On the charge of negligent driving causing death, the defendant was convicted and sentenced to 2 years and 4 months imprisonment (less time remanded in custody); on the charge of negligent driving causing injury, the defendant was convicted and sentenced to 6 months imprisonment. The defendant was also disqualified from holding or obtaining a driver's license for a period of 3 years and 6 months.</p>
<p>4. Police v Sape [2022] WSSC 13 (15 February 2022)</p> <p>Supreme Court</p>	<p>The defendant appeared for sentence on the following charges:</p> <ul style="list-style-type: none"> • negligent driving causing death pursuant to s39A(3) of the RTO 1960; • negligent driving causing injury pursuant to s39A(2) of the RTO 1960; • unlicensed driver pursuant to ss27(1)(a) and 72A(2) of the RTO 1960; • failure to stop and ascertain pursuant to ss44(2)(5) and 72A(s) of the RTO 1960. <p>Judge's commentaries: The offence of negligent driving causing death prior to amendments to the Road Traffic Ordinance 1961 was in the domain of the District Court with a maximum penalty of seven years imprisonment. Since the amendments in 2020, the maximum penalty has increased to 10 years' imprisonment and maximum 7 years for negligent driving causing injury. The offence of negligent driving causing death now falls within the jurisdiction of the Supreme Courts.</p> <p>Before the amendments, there were a couple of major vehicle accidents that were filed and dealt with by the Supreme Court by way of vehicular or motor manslaughter since it was introduced through the Crimes Act 2013.</p>

		<p>Held:</p> <ul style="list-style-type: none"> • For negligent driving causing death – the defendant is convicted and sentenced to 2 years supervision. The defendant is also disqualified from holding a driver’s license for 12 months; • For negligent driving causing injury, the defendant is discharge without conviction. • For failure to stop and ascertain, the defendant is discharged without conviction; • For unlicensed driver, the defendant is convicted and fined \$200 to be paid by 4pm, in default one-week imprisonment
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5. Police Tufuga [2021] WSDC 2 (20 August 2021)	v	<p>The defendant was charged with negligent driving causing injury pursuant to s 39A of the RTO 1960.</p> <p>Judge’s commentaries: In weighing the evidence, the Judge was persuaded that the defendant was not negligent and that the victim ran onto the road jjust before the vehicle hit him.</p>
District Court		<p>Held: The Court found the defendant not guilty of negligent driving causing injury. The charge was dismissed.</p>
6. Police Liao [2021] WSDC 7 (21 July 2021)	v	<p>The defendant is charged with negligent driving causing injury.</p>
District Court		<p>Held: The defendant was found guilty of the offence and was schedule for sentence.</p>
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7. Police Patu [2020] WSDC 3 (4 June 2020)	v	<p>The defendant was charged for the unlawful offering of a warrant sticker, without registration according to section 13 of the Road Traffic Ordinance 1960. The defendant applied for a discharged without conviction.</p>
District Court		<p>Held: The gravity this offending is at the low end. The consequences of a conviction would be out of all proportion to the gravity of the offending; therefore the defendant is discharged without conviction and ordered to pay cost of five hundred tala (\$500) within 14 days from the date of this order.</p>
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8. Police Finau [2019] WSSC 58 (28 August 2019)	v	<p>The defendant in this case was charged with a criminal offence (burglary & theft while driving his taxi vehicle)</p>
Supreme Court		<p>Judge’s commentaries: I wish to briefly address the <i>Road Traffic Ordinance 1960</i>. Section 29(4) of the <i>Road Traffic Ordinance 1960</i> deals with the granting or refusal of driving licenses. Relevantly subsection (4) provides that an application for a license or renewal of a license to drive a public service vehicle which includes a taxi, shall be refused by licensing authority if the licensing authority, by reason of the nature of any conviction of the applicant or for other good causes, is of the opinion that the applicant is not a fit and proper person to drive a public service vehicle.</p>

		<p>Given that the Defendant has prior convictions for violent offending including for which he was imprisoned in 2012, such convictions should disqualify him from being a holder of a license permitting him to drive a taxi on the grounds of character. A robust process should be implemented and applied by licensing authority in terms of the grant of licenses to drive buses and taxis for the protection of the public. Convictions for serious violent offending should raise red flags as to the suitability of any such person to drive buses and taxis and whether they are fit and proper persons to hold such licenses.</p> <p>Held: Given that the offending was in the course of the defendant's role as a taxi driver, Prosecution is directed to deliver a copy of this sentencing decision to the Chief Executive Officer of the LTA within 7 days of the written decision being made available so that the LTA can consider the Judge's comments made and review the defendant's public service vehicle license. A copy should also be made available to the Commissioner of Police for the purposes of the Traffic Division of the Ministry of Police.</p>
9.	<p>Police v Siliato [2019] WSFVC 5 (14 June 2019)</p> <p>Family Violence Court</p>	<p>The defendant appeared for sentencing on three charges: (i) assault; (ii) careless driving; (iii) unlicensed driving.</p> <p>Held: The defendant was convicted and sentenced to 3 months imprisonment for assault; for the charges of careless driving and unlicensed driving, the defendant was convicted and sentenced to 12 months supervision.</p>
10.	<p>Police v Viali [2019] WSDC 8 (6 October 2019)</p> <p>District Court</p>	<p>The accused was charged with driving whilst the proportion of alcohol in his breath was in excess of 40 micrograms per 100 millilitres of breath, as ascertained by an evidential breath test. The charge against the accused was brought under s40(1)(5) of the <i>Road Traffic Ordinance 1960</i>.</p> <p>Held: The charge against the accused was dismissed as the Court was not satisfied that the prosecution has proven the charge against the defendant beyond reasonable doubt.</p>
11.	<p>Police v Fruean [2019] WSDC 5 (14 May 2019)</p> <p>District Court</p>	<p>The Court in this case dealt with the defendant who was charged; (i) negligence causing injury and; (ii) dangerous driving under the <i>Road Traffic Ordinance 1960</i></p> <p>Held: The Court held as follows:</p> <ul style="list-style-type: none"> • for negligently driving causing injury, the defendant was found guilty although the Judge was persuaded that the complainant's speeding contributed also to the severity of the damage to the vehicle and his injuries. • for dangerous driving (alternative charge), charge was dismissed.
12.	<p>Chang v Attorney General [2018]</p>	<p>This was an appeal by the appellant against the decision of the Supreme Court to convict the appellant of negligent driving causing bodily injury. The Attorney General cross appealed for the Supreme Court's dismissal of another charge against the appellant, for failure to stop and ascertain injury.</p>

<p>WSCA 3 (13 April 2018)</p> <p>Court Appeal</p>	<p>Held:</p> <ul style="list-style-type: none"> • The appeal was allowed on the appeal against the conviction for negligent driving causing injury, the appellant was discharged without conviction. • the Attorney General’s appeal on the charge of failing to stop and ascertain injury was dismissed.
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<p>13. Police v Filippo [2018] WSDC 20 (26 November 2018)</p> <p>District Court</p>	<p>The defendant was charged with 3 charges: (i) negligent driving causing injury pursuant to s39A; (ii) fail to stop and ascertain a traffic accident pursuant to s44(1) and (3); (iii) fail to report and accident pursuant to s44(2) and (5) and s72a(2).</p> <p>Held:</p> <ul style="list-style-type: none"> • for the charge of negligent driving causing injury – the defendant was discharged without conviction but ordered to pay \$300; • for the charge of failing to ascertain – the defendant was discharged without conviction but ordered to pay \$500; • for the charge of failing to report – the defendant was discharged without conviction but ordered to pay \$100.
<p>14. Police v Palenapa [2018] WSDC 19 (11 September 2018)</p> <p>District Court</p>	<p>The defendant was charged with 3 charges: (i) negligent driving causing bodily injury to Vinesorek; (ii) negligent driving causing bodily injury to Ane; (iii) fail to stop and ascertain whether she had injured any person.</p> <p>Held:</p> <p>Prosecution were not able to prove beyond reasonable doubt the charge of negligent driving causing injury, however, the defendant was found guilty of the charge of failing to report.</p>
<p>15. Police v Solovi [2018] WSSC 51 (23 February 2018)</p> <p>Supreme Court</p>	<p>The Court dealt with the question regarding the applicable speed limit at the time of traffic incident. This emerged from the Court’s questioning of the prosecution of which of the speed limit created by the Code or prescribed by Regulations, was applicable to the scene of the traffic incident in which the accused was involved in, at Lauli’i. The accused was then charged with motor manslaughter under the <i>Crimes Act 2013</i> and driving without a driver’s license under the <i>Road Traffic Ordinance 1960</i>.</p> <p>Held:</p> <p>The Court held that the requirements of regulation 109 (2) (c) (iii) were not satisfied to trigger the 15 mph speed limit to apply because it was not established that at the time of the incident, the deceased constituted “congregations.... leaving such.... church.”</p>
<p>16. Police v Solovi [2018] WSSC 53 (5 April 2018)</p> <p>Supreme Court</p>	<p>The accused appeared for sentencing on the charge of motor manslaughter under the <i>Crimes Act 2013</i>.</p> <p>Sentence</p> <p>The accused was convicted and sentenced as follows:</p>

		<ul style="list-style-type: none"> • for motor manslaughter, the accused was sentenced to 1 year and 8 months imprisonment less the time he was remanded in custody; and • for unlicensed driving, the accused was convicted and discharged. <p>Also pursuant to section 33 of the <i>Road Traffic Ordinance 1960</i>, the accused was disqualified from holding or obtaining a driver's licence for 4 years. Also section 33A, the accused was further ordered to be disqualified until he has passed the prescribed test of competence to drive vehicle he may seek to drive.</p>
17. Police v Tupou [2018] WSDC 17 (22 June 2018)		<p>The defendant appeared for sentencing following charges against him for driving a vehicle whilst the level of alcohol in his breath was 72 micrograms contrary to s 40 (1) <i>Road Traffic (Breathalyser) Amendment Act 2009</i>. The defendant was also charged with driving without a valid driver's license under the <i>Road Traffic Ordinance 1960</i>.</p> <p>Sentence: The defendant was ordered to pay:</p> <ul style="list-style-type: none"> • Court costs of \$500; and • Prosecution costs of \$100. • Further orders to pay costs totaling \$600 by a certain time and upon receipt of payment, the defendant will be discharged without conviction. A discharge without conviction is an acquittal under s69 (2), <i>Sentencing Act 2016</i>.
18. Police v Levi [2018] WSDC 15 (22 October 2018)		<p>This case dealt with two accused who were charged with and now appears for sentencing for reckless driving pursuant to the <i>Road Traffic Ordinance 1960</i>. Mr Keil in particular was additionally charged with driving an unlicensed vehicle.</p> <p>Sentence The Court discharged one accused without conviction without any further orders whilst the other, Mr Keil was ordered to pay Court costs in the sum of \$200 and upon receipt of payments, the latter accused will be discharged without conviction.</p>
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19. Police v Annandale [2017] WSDC 15 (16 July 2017)		<p>The defendant was charged with careless driving pursuant to s38.</p> <p>Held: The defendant ordered to pay \$50 court costs and \$50 prosecution costs which upon payment will lead to the defendant's discharge without conviction.</p>
20. Police v Keji Li [2017] WSSC 170 (8 November 2017)		<p>The accused appeared for sentencing for the charge brought against him having been the driver of a minivan that collided with a bus. The accused was charged with negligent driving causing death under the <i>Road Traffic Ordinance 1961</i>.</p> <p>Sentence The accused was convicted and sentenced as follows:</p> <ul style="list-style-type: none"> • to pay a reparation order to the wife of the deceased in the sum of ST\$10,000 bringing the sum paid by the accused to \$20,000 being the amount she identified as the approximate costs they have incurred. In default, the accused will receive 6 months imprisonment; and

	<ul style="list-style-type: none"> to carry out 200 hours of community work as directed by the Probation Service.
<p>21. Police v Li [2017] WSSC 136 (15 September 2017)</p> <p>Supreme Court</p>	<p>The accused was charged with motor manslaughter under the provisions of the <i>Crimes Act 2013</i> and an alternative charge of negligent driving causing death, under the <i>Road Traffic Ordinance 1960</i>.</p> <p>Held:</p> <ul style="list-style-type: none"> for motor manslaughter, the charge was dismissed as the prosecution was not able to prove the charge against the accused beyond reasonable doubt. for negligent driving causing death, the charge was proven beyond reasonable doubt as the accused pleaded guilty and the Court was satisfied that the plea was duly entered.
<p>22. Police v Tausagi [2017] WSSC 18 (30 March 2017)</p> <p>Supreme Court</p>	<p>The accused appeared for sentencing in this case following the death of a 29 year old man as a result of a bus accident whilst the deceased was seated near the back of the bus. The accused was charged for motor manslaughter under the <i>Crimes Act 2013</i>, negligent driving causing injury and having no driving license both under the <i>Road Traffic Ordinance 1960</i>.</p> <p>Sentence</p> <p>The Court sentenced the accused as follows:</p> <ul style="list-style-type: none"> for motor manslaughter, the end sentence was 4 years and 3 months imprisonment. for negligent driving causing injury, a 2 year imprisonment term was awarded. for driving without a valid driving licence, the accused was convicted and sentenced to 3 months' imprisonment. He was also disqualified for 8 years from holding or obtaining a driving licence for buses.
<p>23. National Prosecution Office v Chang [2017] WSSC 72 (9 June 2017)</p> <p>Supreme Court</p>	<p>This was an appeal in relation to a District Court decision which dismissed the charges brought against the respondent. The respondent was charged under the <i>Road Traffic Ordinance 1960</i> for: (i) negligent driving causing injury; (ii) dangerous driving (alternative charge); and (iii) failure to stop to ascertain injury.</p> <p>Held:</p> <ul style="list-style-type: none"> for the dismissal of the charge of negligent driving causing injury, the Court upheld the appeal and in pursuant to section 154(b)(iii), <i>Criminal Procedure Act 2016</i>, the respondent was convicted instead. for the dismissal of the charge of failure to stop and ascertain, the Court dismissed the appeal.
<p>24. Police v Nauer [2017] WSSC 161 (18 December 2017)</p> <p>Supreme Court</p>	<p>The defendant appeared for sentencing for the charges of: (i) dangerous driving; (ii) unlicensed driving; and (iii) driving an unregistered vehicle alongside other non- traffic related offences.</p> <p>Sentence</p> <ul style="list-style-type: none"> for dangerous driving, sentenced to 3 months imprisonment; for unlicensed driving and driving an unregistered vehicle, the defendant was convicted and discharged without conviction.

<p>25. Police v Sali [2017] WSDC 29 (8 December 2017)</p> <p>District Court</p>	<p>The defendant appears for hearing of the charge, namely negligent driving causing injury under the <i>Road Traffic Ordinance 1960</i>.</p> <p>Held: The defendant was not guilty of the charge against him.</p>
<p>26. Police v Saimoni [2017] WSDC 16 (28 April 2017)</p> <p>District Court</p>	<p>The accused appeared for sentence on the charge of negligently driving causing injury.</p> <p>Sentence The accused was convicted and sentenced as follows:</p> <ul style="list-style-type: none"> • 12 months imprisonment and; disqualified from holding a driver's license for 2 years.
<p>27. Police v Tusa [2017] WSDC 25 (8 December 2017)</p> <p>District Court</p>	<p>The defendant appeared for sentencing on these charges brought against him under the <i>Road Traffic Ordinance 1960</i>: (i) negligent driving causing death; (ii) driving an unlicensed vehicle; (iii) driving without driver's license; and (iv) for failing to appear in Court.</p> <p>Sentence The defendant was found guilty of all 3 offences and was sentenced as follows:</p> <ul style="list-style-type: none"> • to serve a probation term for 1 year. • to pay \$1200 court fine, \$100 police costs, \$100 probation costs. • forbidden from holding a driver's license for 2 years and to be issued only a driver's license after passing the driving course hosted by Land Transport Authority.
<p>28. Police v Lauina [2017] WSDC 5 (12 May 2017)</p> <p>District Court</p>	<p>The defendant appeared for sentencing for negligent driving causing death under the <i>Road Traffic Ordinance 1960</i>.</p> <p>Sentence The defendant was convicted and ordered to pay as follows:</p> <ul style="list-style-type: none"> • to pay a court fine of \$800, prosecution cost of \$200, \$300 to probation service to assist with youth programmes; and in default of such payment, 3 months' imprisonment.
<p>29. Police v William [2015] WSSC 268 (14 September 2015)</p> <p>Supreme Court</p>	<p>The defendant was charged with negligent driving and to intentional damage.</p> <p>Sentence For the charge of negligent driving, the defendant was fined with \$200; for the charge of intentional damage, the defendant was convicted and sentenced to 12 months supervision.</p>

<p>30. Police v Ti'a [2016] WSDC 1 (5 February 2016)</p>	<p>The defendant faced a charge of negligently driving causing injury to the complainant in traffic incident in which both was involved. He was also charged with driving the same car on the same day while the proportion of alcohol in his breath exceeded 40 micrograms of alcohol per 100 millilitres of breath, more commonly known as driving under the influence of alcohol.</p>
<p>District Court</p>	<p>Held:</p> <ul style="list-style-type: none"> • for negligent driving causing bodily injury, the charge was dismissed the charge as it had not been proven to the requirement standard of proof. • the defendant was found guilty of driving under the influence of alcohol.
<p>31. Police v Lui [2016] WSDC 8 (7 March 2016)</p>	<p>The defendant appeared for hearing for the charges against him following his execution of a dangerous overtaking of a marked Police vehicle as the Police vehicle headed towards Apia from Mulinu'u in the area in front of the Tanoa Tusitala Hotel. On being alerted by the Police siren to pull over, the defendant made a conscious decision to speed off in an attempt to evade Police. On being chased, he refused to pull over and on reaching Tufuiopa where the road was blocked by a Police vehicle to prevent his escape, he rammed that Police vehicle. He then resisted arrest.</p>
<p>District Court</p>	<p>Sentence</p> <p>The defendant was convicted and sentenced as follows:</p> <ul style="list-style-type: none"> • for dangerous driving, 90 hours of community work. • for unlicensed driving, fined for \$200 to be paid by 4.00pm.
<p>32. Police v Agafili [2016] WSDC 3 (7 March 2016)</p>	<p>The defendant was charged with dangerous driving for a traffic incident in which he had on the East Coast Road in a manner that was dangerous to the public having regard to all the circumstances of the case.</p>
<p>District Court</p>	<p>Held:</p> <p>The Court dismissed the charge against the defendant.</p>
<p>33. Police v Foai [2016] WSADC 3 (9 March 2016)</p>	<p>The defendant appeared for a decision of the Court having pleaded guilty to charges of: (i) unlawful conversion of a motor vehicle, namely, a taxi, contrary to s.41 of the <i>Road Traffic Ordinance 1960</i>; (ii) dangerous driving, contrary to s.39 (1) of the Ordinance; (iii) driving a vehicle without a driving licence, contrary to s.27 of the Ordinance; and (iv) assault, contrary to s.123 of the <i>Crimes Act 2013</i>.</p>
<p>Supreme Court</p>	<p>Held:</p> <p>The Court held that having regard the credit that the defendant would get for his early guilty plea, it was satisfied that while a term of 14 months imprisonment would be appropriate for the defendant, as the defendant is a 'substance dependent', he should be given the chance to undertake treatment in the Alcohol and Drugs Court.</p>
<p>34. Police v Inifi [2016] WSDC 9 (14 Mach 2016)</p>	<p>The defendant appeared for sentencing having pleaded guilty to the charges against him, 2 counts of driving whilst the alcohol on his breath exceeded 40 mgs per 100 mgs of breath, driving a motor vehicle without registration plates with such vehicle not being registered and liensed, and for driving without a driver's license in respect of such class of vehicle.</p>

<p>District Court</p>	<p>Sentence The accused was convicted and sentenced as follows:</p> <ul style="list-style-type: none"> • for driving on 2 Dec 2015, fined for \$500.00 and in default, 5 weeks imprisonment; • for driving with excess alcohol on breath, sentenced to 6 months supervision on the following conditions: <ul style="list-style-type: none"> • to attend an Alcohol and Drugs Program for a period advised by the Probation Service during the supervision period; • prohibited from alcohol consumption for 3 months; and • to carry out 50 hours community work • for driving an unregistered vehicle, fined for \$100.00 in default of which, 1 week imprisonment; and • for driving whilst unlicensed, fined for \$100.00 in default of which, 1 week imprisonment; • the defendant was also disqualified from holding or obtaining a driver's licence for 12 months and will remain disqualified until he has passed such driving test of competence to drive any class or classes of vehicles you may thereafter seek to drive.
<p>35. Police v Overhoff [2016] WSDC 12 (29 March 2016)</p> <p>District Court</p>	<p>The defendant was charged with 2 counts of careless driving under the <i>Road Traffic Ordinance 1960</i> in relation to a traffic incident on Vaitele Street.</p> <p>Held: The Court held it was satisfied beyond reasonable doubt that the defendant drove without due care and attention. The defendant was thereby remanded at liberty for sentencing.</p>
<p>36. Police v AH Kee [2016] WSDC 15 (15 April 2016)</p> <p>District Court</p>	<p>The defendant appeared for a defended hearing of the charge of negligent driving causing injury under the <i>Road Traffic Ordinance 1960</i>.</p> <p>Held The Court dismissed the charge, having heard all the evidence and considering the evidence in its totality, it was satisfied that the prosecution had not proven the charge beyond a reasonable doubt.</p>
<p>37. Police v Vaili [2016] WSSC 103 (6 May 2016)</p> <p>Supreme Court</p>	<p>The defendant was faced with 4 charges, one of which was dangerous driving having regard to all circumstances including the nature, condition and use of the road and the amount of traffic thereon.</p> <p>Held For the offence of dangerous driving, the defendant was convicted and sentenced to 3 months in prison. This period plus the other imprisonment terms imposed for separate charges added up to an imprisonment term of 6 years for the defendant for all 4 charges.</p>
<p>38. Police v Wright [2016] WSDC 23 (8 June 2016)</p>	<p>The defendant was charged with negligent driving causing injury under the <i>Road Traffic Ordinance 1960</i> in relation to a traffic accident that occurred on Vaitele-Uta Road.</p> <p>Held</p>

District Court	The charge against the defendant was dismissed considering all the evidence and its totality
<p>39. Police v Viane [2016] WSDC 32 (15 July 2016)</p> <p>District Court</p>	<p>The defendant appeared for <u>sentencing</u> on a charge of driving whilst the level of alcohol in his breath was in excess of the legal limit. The charge was one of the 3 charges the defendant denied.</p> <p>Held The Court decided not to impose a sentence until further information (to be sought) is considered. The sentence was therefore deferred (to 16 December 2016).</p> <p>The Defendant then ordered:</p> <ul style="list-style-type: none"> • to appear again for sentencing on 16 December 2016; • to undertake a recognized drug and alcohol programme in NZ; • to provide confirmation of the programme, academic performance (from University) and matters referred to in paragraph 31 of this decision
<p>40. Police v Ieremia [2016] WSDC 44 (5 September 2016)</p> <p>District Court</p>	<p>The accused faced two (2) charges:</p> <ol style="list-style-type: none"> i) Negligent driving causing bodily injury (a not guilty plea entered); and ii) Driving without a valid driver's license (a guilty plea entered). <p>Held The Court found the accused guilty of the negligent driving causing injury charge.</p>
<p>41. Police v Falaniko [2016] WSDC 38 (19 September 2016)</p>	<p>The defendant was charged with one count of dangerous driving (s.39 of the RTO) as he failed to keep a distance from the front vehicle which was dangerous to the public and indeed caused the accident. He pleaded not guilty to the charge.</p> <p>Held The defendant was found guilty of the charge against him.</p>
<p>42. Police v Masoe [2016] WSDC 48 (18 November 2016)</p> <p>District Court</p>	<p>The defendant appeared for sentencing on 2 charges:</p> <ol style="list-style-type: none"> (i) driving while under the influence of alcohol (ii) Failing to comply with traffic lights (dangerous to the public having regard to all circumstances of the case) <p>Held The Court considered the totality of the offending and level of culpability and contemplated a short custodial sentence. However, given there were no physical injuries and status of the defendant as a first time offender, he was spared a custodial sentence.</p> <p>The Court convicted and sentenced the accused as follows:</p> <ul style="list-style-type: none"> • for driving while the proportion of alcohol in the breath was 84 micrograms, fined \$660.00 to be paid within 7 days, in default, 7 weeks imprisonment. • for dangerous driving, convicted and sentenced to 8 months supervision on conditions (i) carry out 80 hours of community work and (ii) complete an 8 week alcohol program as directed by the Probation Service.

		<ul style="list-style-type: none"> In terms of a driver's licence, taking into account employment and family matters for a driver's licence, the period of disqualification is reduced to 8 months from today, therefore the Defendant is disqualified from holding or obtaining a drivers licence for 8 months.
43. Police v Amosa [2016] WSDC 47 (18 November 2016)		<p>The accused appeared for sentencing on 4 charges:</p> <ul style="list-style-type: none"> .1.1 driving while the proportion of alcohol in his breath was 63 micrograms .1.2 careless driving .1.3 driving without a valid driver's license .1.4 driving an unregistered vehicle <p>The accused pleaded guilty to all the charges.</p> <p>Held</p> <p>The Court considered the offending as a whole and noted it was not at the low end of offending meaning a discharge without conviction and a conviction and discharge are not appropriate.</p> <p>The accused was convicted and sentenced as follows:</p> <ul style="list-style-type: none"> for driving while the proportion of alcohol in your breath was 84 micrograms, fined \$540.00 to be paid within 7 days, in default, 6 weeks imprisonment; for careless driving, convicted and fined \$80.00 to be paid within 7 days, in default, 1 week imprisonment; for driving an unregistered vehicle, convicted and fined \$80.00 to be paid within 7 days, in default, 1 week imprisonment; further disqualified from holding or obtaining a driver's licence for 3 months. Such disqualification shall continue until such time as the accused have passed a test of competence for driving a motor vehicle as required by law.
44. Police v Chang [2016] WSDC 49 (12 December 2016)		<p>The accused faced 3 charges pertaining to a traffic incident she was involved in on the main roads in front of the TATTE Building, Fugalei. The charges were:</p> <ul style="list-style-type: none"> 1.5 negligent driving causing bodily injury; 1.6 alternative charge of dangerous driving; and 1.7 failing to stop and ascertain whether she had injured any person. <p>Held</p> <p>The Court held as follows:</p> <ul style="list-style-type: none"> for negligent driving causing injury, the charge was dismissed. for dangerous driving (alternative charge), the charge was also dismissed. for failing to stop and ascertain injury, the charge was also dismissed.
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45. Police v Tunupopo [2015] WSDC 7 (26 October 2015)		<p>The accused faced 2 charges - one of negligent driving causing bodily injury and in the alternative, a charge of dangerous driving.</p> <p>Held</p> <p>On the evidence, the Court found the accused guilty of the negligent driving causing injury, and although also proven, it was an alternative charge, dangerous driving was accordingly dismissed.</p>
	District Court	

<p>46. <i>Police Leilua</i> [2015] WSDC 8 (26 October 2015)</p> <p>District Court</p>	<p>v</p> <p>The accused stood trial for one charge of negligent driving causing death arising from a traffic incident which occurred around Fasitoo Uta which allegedly resulted in the death of a 9 year old boy.</p> <p>Held</p> <p>The Court held that on the evidence, it was satisfied that the prosecution had proven the charge of negligent driving causing death, and the accused was therefore found guilty as charged.</p>
<p>2 0 1 4</p>	
<p>47. <i>Iosua Attorney General</i> [2014] WSCA 5 (2 May 2014)</p> <p>Court Appeal</p>	<p>v</p> <p>The appellant appeals against a sentence imposed by the Supreme Court for 2 charges of manslaughter. The appellant pleaded guilty and thereby sentenced to:</p> <ul style="list-style-type: none"> - two concurrent terms of 11 years imprisonment; - disqualified from holding or obtaining a driver's license for a period of 12 years; and - disqualified from holding or obtaining a road service license indefinitely. <p>Held</p> <p>The Court allowed the appeal against sentence and the sentences of imprisonment were quashed and substituted with sentence to imprisonment for concurrent terms of 7 years on each of the two charges of manslaughter.</p> <p>The orders for disqualification from holding or obtaining a driver's license for a period of 12 years, and disqualification from holding or obtaining a road service license indefinitely was maintained.</p>
<p>48. <i>Police Siaso</i> [2014] WSSC 56 (14 October 2014)</p> <p>Supreme Court</p>	<p>v</p> <p>The accused appeared for sentence on one charge of manslaughter (sometimes referred to as motor manslaughter), one charge of negligent driving causing death, one charge of being an unlicensed driver, and one charge of driving an unlicensed vehicle. The accused pleaded guilty to all charges at the earliest. The charge of manslaughter was then withdrawn after it was raised that the facts would not be capable of sustaining a charge of manslaughter although the accused already pleaded guilty to it. There were then 3 charges left against the accused dealt with in the sentence.</p> <p>Held</p> <p>The Court sentenced the accused as follows:</p> <ul style="list-style-type: none"> • for negligent driving causing death, the accused was sentenced to 12 months imprisonment. He was also disqualified from holding a driver's licence for 2 years. • for unlicensed driver, convicted and discharged. • for driving an unlicensed vehicle, convicted and discharged.
<p>49. <i>Police Risiti</i> [2014] WSDC 4 (30 July 2014)</p> <p>District Court</p>	<p>v</p> <p>The accused was charged with: (i) negligent driving causing the death of an 11 year old; (ii) negligent driving causing bodily injury to a 49 year old; (iii) and negligent driving causing bodily injury to a 21 year old</p> <p>In discussions, the Court noted that the absence of a bus driver's license was not an aggravating factor against the bus driver as evidence show that the bus was driven in a safe manner. The evidence point toward the defendant as the one who was negligent in the manner he drove the delivery truck, which resulted in the death of the 11 year old (despite there being minimal impact between the two vehicles).</p> <p>Held</p>

		The Court found that the Defendant breached the standard of care expected of an ordinary prudent driver in the circumstances and that all the elements of each charge have been made out beyond reasonable doubt. The defendant was therefore found guilty of all charges.
50. Police v Kerlake [2014] WSDC 5 (11 April 2014)	v	The defendant is charged under sections 39A (Negligent Driving Causing Death) and 39(1) (Reckless or Dangerous Driving) of the RTO 1960 for an incident that occurred on Ifiifi Road at Malifa.
District Court		Held The Court found beyond reasonable doubt that the elements of the offence of negligent driving causing bodily injuries were proven and therefore found the defendant guilty of the offence. There was no need to consider the alternative charge of dangerous driving.
51. Kerlake v Attorney General [2014] WSSC 87 (23 December 2014)	v	This was an appeal against conviction from a decision in the District Court (<i>immediately above</i>).
Supreme Court		Held The Supreme Court was in agreement with the decision of the trial Judge that the appellant was negligent. The decision was not unreasonable. The appeal was therefore dismissed.
52. Police v Lee Kum [2014] WSDC 13 (23 April 2014)		The accused faced 2 traffic violation charges. The first and more serious charge alleged that the accused drove in a manner that was negligent and thereby causing the injuries which led to the death of male of Tanumapua. The accused pleaded not guilty to that charge and thus the hearing on 21 March 2014. The second charge was that the accused was not the holder of a valid driver's licence and the accused pleaded guilty and remains to be sentenced on that charge.
District Court		The only issue in question relates to the first charge where the accused argued that he did not breach the standard of care expected of a reasonable driver in the circumstances of the matter before the court. Held The Court dismissed the charge of negligent driving causing death against the accused as the prosecution did not prove to the required standard that the accused drove negligently at the time of the incident.
53. Police v Tofi [2014] WSSC 168 (25 August 2014)	v	The defendant faced 3 charges: (i) vehicular manslaughter; (ii) negligent driving causing injury; (iii) driving an unlicensed vehicle.
Supreme Court		Held In determining the sentence, the Court took into account tFor the charge of <u>negligent driving causing death</u> , the defendant was convicted and sentenced to 2 years imprisonment (minus time served in custody); for the charge of <u>negligent driving causing injury</u> , the defendant was convicted and sentenced to 18 months imprisonment (term to serve concurrently to the other term); for the charge of <u>unlicensed driving</u> , the defendant was fined \$200 and in default, the defendant will serve an extra 1 months imprisonment.

2 0 1 3	
54. Police v Chan Sau [2013] WSDC 5 (21 June 2013) District Court	<p>The defendant was charged with negligent driving causing death.</p> <p>Held The Court found that on the whole of the evidence, the accused was guilty of negligent driving causing death.</p>
2 0 0 3	
55. Mapesone v Police [2003] WSSC 41 (6 October 2003) Supreme Court	<p>This case was a general appeal pursuant to section 138 of the now repealed <i>Criminal Procedure Act 1972</i> from a sentencing decision of the District Court.</p> <p>The District Court found the defendant (current appellant) to have been negligent while driving an overloaded bus. There were two charges - the first being negligent driving causing death and the second negligent driving causing injury. The Court imposed a twelve (12) months sentence of imprisonment in relation to the negligent driving causing death and a concurrent sentence of six (6) months imprisonment for that relating to negligent driving causing injury. There were also periods of disqualification and orders for defensive driving courses to be undertaken.</p> <p>Held The Court could not find that the sentence imposed by the DC was manifestly excessive given the aggravating features of the matter, therefore the Court dismissed the appeal.</p>
56. Police v Uolo [2003] WSSC 11 (3 July 2003) Supreme Court	<p>The accused faced with 2 charges</p> <p>.8 the principal charge was motor manslaughter</p> <p>.9 an alternative charge of negligent driving causing death was also brought.</p> <p>The Court noted that this was the first time a charge of 'manslaughter by negligent driving causing death' was brought (known as motor manslaughter in other jurisdiction)</p> <p>Held The Court held that manslaughter by negligent driving causing death is not a crime under the then provisions of the <i>Crimes Ordinance 1961</i>. In view of that conclusion, there was no need to proceed to consider the second question raised in these proceedings, namely, whether the charge of negligent driving causing death should be allowed to be tried together with the manslaughter charge because the assessors may get confused as the two offences have the same elements. As the alternative charge of negligent driving causing death is within the jurisdiction of the DC, the charge is transferred (under s.30 of the CPA 1972) to the District to deal with it.</p>
2 0 0 2	
57. Tauai v Police [2002] WSSC 5 (8	<p>This was an appeal against sentence from the District Court pursuant to s.138 (Defendant's general right of appeal to SC) of the now repealed <i>Criminal Procedure Act 1972</i>. The appellant was charged with 11 counts of overloading</p>

March 2002)	under s.38A (Dangerous riding on, or overcrowding of, vehicles), <i>Road Traffic Ordinance 1960</i> .
Supreme Court	Held Given the circumstances of the present case, the sentence of 6 months imprisonment imposed is not excessive, but the period of permanent disqualification from holding a driver's license is excessive. The Court allowed the appeal in part by reducing the permanent disqualification from holding a driver's licence to 3 years.
1 9 9 9	
58. <i>Police v Afualo</i> [1999] WSDC 2 (11 August 1999)	The defendant was charged with 2 offences under s.39A of the RTO 1960 – (i) negligent driving causing death and (ii) negligent driving causing bodily injuries.
District Court	Held The Court held that it is satisfied beyond reasonable doubt given the evidence before it that the defendant is guilty of negligent driving causing the death of one person and negligent driving causing injury to another.
1 9 9 8	
59. <i>Lautasi v Police</i> [1998] WSSC 10; Misc 23104 & 23129 (15 May 1998)	This was an appeal against the appellants' conviction and sentence to a fine of \$1,000 to be paid, and in default 3 months imprisonment and disqualification from holding a drivers licence for 5 months commencing on date sentence imposed for the three offences under the RTO 1960 ¹⁵ .
Supreme Court	The grounds for appeal were that: i) the decision was wrong in law; and ii) the decision was against the weight of evidence. The Magistrate who heard the case ordered a stay in the execution of his decision until this appeal matter is determined by the Court. Held The sentence was not regarded as inappropriate nor inadequate where lenience has been shown nor one which this Court should increase on appeal. The Court held that the stay on execution of the sentence imposed in the Magistrate Court has expired on the delivery of this judgment and the sentence is therefore varied to the extent that the fine of \$1,000.00 is to be paid no later than 22 May 1998 in default 3 months imprisonment and the period of disqualification from holding or obtaining a drivers licence for a period of 5 months is to commence today 15 May 1998.
60. <i>Police v Vaa</i> [1998] WSMC 3 (2 October 2008)	The defendant was charge with (i) negligent driving causing death and (ii) driving while under the influence of alcohol.
	Held The defendant was found guilty of the charge of negligent driving causing death but not guilty of the drink and drive charge.

¹⁵ (i) negligent driving causing death (s.39A); (ii) failing to stop and ascertain if any injured person (s.44(1)(3)); and (iii) failing to report the accident to the nearest police station/constable (s.44(2)(5)).

Magistrates Court	
61. Police v Worall [1998] WSMC 1 (9 July 1998) Magistrates Court	The defendant was charged with negligent driving causing injury. Held The Court took into account a number of factors in favour of the defendant such as this instance being his first offending at age 43 and the offence being at the lower end of the scale. He was warned of any future re-offending. The defendant was convicted and fined to \$250 and in default 4 weeks imprisonment. The defendant was also ordered to undertake a driving improvement course under section 44A of the RTO 1960
1997	
62. Aukuso v Police [1997] WSSC 26; Misc 22088 (5 November 1997) Supreme Court	This was an appeal brought under section 138 of the <i>Criminal Procedure Act 1972</i> against a conviction imposed by the Magistrates Court for 2 counts of overloading. The appellant on each of the two charges was sentenced to 1 month imprisonment. Held The Court was of the view that if the matter ended up in a retrial, then the best forum to deal with this matter would be the Magistrates Court. In terms of the preliminary issues raised by the parties, they had all been answered.
1996	
63. Attorney General v Isaako [1996] WSSC 17 ; Misc 20248 (19 February 1996) Supreme Court	This was an appeal by Police (Prosecution) against a decision of the Magistrates Court dismissing a charge of negligent driving causing death against the respondent (defendant in the Magistrates Court proceedings). The charge was dismissed on the basis that there was no proof beyond reasonable doubt that it was the negligent driving of the defendant that caused the injuries which resulted in the death of the deceased. Held The appeal was allowed and the case was remitted back to the Magistrates Court for the conviction to be entered against the defendant on the charge of negligent driving causing death and for sentence.
1993	
64. Filipo v Commissioner of Police [1993] WSSC 37; Misc 15928 (13	The Appellant appeals having been tried and convicted for dangerous driving, and was sentenced to pay a fine of \$210 to be payable and in default two 2 months imprisonment. Held The Court dismissed the appeal both against conviction and against the defendant's sentence as it was of the view that the fine of \$210 imposed by the Magistrates Court in this case was not excessive having regard to all the circumstances of the case. This was a serious case of dangerous driving and the

December 1993)	fine imposed is quite within the range of penalties that the trial Court was entitled to impose.
Supreme Court	
1978	
65. <i>Police v Pula</i> [1978] WSLawRep 9; [1970-1979] WSLR 181 (18 April 1978)	This was an appeal by way of case stated pursuant to section 131 of the Criminal Procedure Act 1972, against the decision of Mr F.J. Thomsen, Magistrate when he dismissed 3 charges ((i) <i>negligent driving causing bodily harm</i> ; (ii) <i>failing to stop after an accident</i> ; and (iii) <i>driving while under the influence of alcohol</i>) against the defendant, finding that no prima facie case had been made out in respect of all the charges. Case stated to determine whether Magistrate erred in dismissing three driving charges against defendant.
Supreme Court	Held Question answered in the affirmative and charges of negligent driving causing bodily injury and driving while under the influence of drink are remitted to the Magistrate to continue the hearing of them. The remaining information for failing to stop was correctly dismissed.
1976	
66. <i>Vili v Police</i> [1976] WSLawRp 2; [1970-1979] WSLR 122 (29 October 1976)	The appellant with two previous convictions for speeding (in excess of 35 miles/hour at the area in which lower speed is prescribed) was imposed a fine of \$20.00 and disqualified from driving for 6 months. The defendant then appealed his conviction and sentencing handed down by the Magistrate's Court at Apia arguing that it the information did not show an offence and that the sentence was manifestly excessive.
Supreme Court	Held The Court allowed the appeal to the extent that the disqualification order will be set aside. The fine of \$20.00 remained.
1960	
67. <i>Police v Ofo'ia</i> [1960] WSLawRp 12; [1960-1969] WSLR 22 (22 December 1960)	The defendant is charged with one of negligent driving and the other of being in charge of a motor vehicle while in the state of intoxication. The charge of negligent driving was established without difficulty while the charge of driving while in a state of intoxication was challenging.
High Court	Held For the charge of negligent driving, the defendant was convicted and fined £7.10.0 and his driver's license was suspended for a period of 6 months. As the evidence were too conflicting to establish the second charge of driving while in a state of intoxication, it was dismissed.
1961	
68. <i>Police v Faletolu</i> [1961] WSLawRp 7; [1960-1969] WSLR 42 (7	The defendant was charged with dangerous driving and attempting to pass another vehicle without having a clear view of the road under (the latter being an alternative charge to the first). The question for determination was whether the act of the defendant in drawing out from behind the slowing Gold Star bus and endeavouring to pass it, constitutes driving which, having regard to all the circumstances of the case, was dangerous to the public.

December 1961)	Held The Court concluded that the action of the defendant constituted (in the circumstances of the case) dangerous driving and the evidence impels the Court to enter a conviction against the defendant accordingly. The second charge was dismissed. ¹⁶
High Court	
1955	
69. <i>Police v Gold Star Transport Co Ltd</i> [1955] WSLawRp 3; [1950-1959] WSLR 36 (16 June 1955)	The present case is a matter related to condition for every passenger licence of a motor-omnibus licensed to carry passengers that <u>the vehicle should afford a ready means of entrance and exit of the passengers and driver and that the goods or luggage the property of the passengers shall be carried in a position in the vehicle that they do not impede the entrance and exit of the passengers and driver.</u> It was admitted that the goods and luggage on the motor omnibus were carried in such a position in the vehicle that they might impede the entrance and exit of the passengers. The Court held that a condition of the passenger licence is not being complied with, and therefore the owner commits an offence and must be convicted.
High Court Apia	
70. <i>Police v Gold Star Transport Co Ltd</i> [1955] WSLawRp 5; [1950-1959] WSLR 40 (16 June 1955)	The defendant company operated a passenger service pursuant to a licence stipulating, inter alia, a certain condition regarding <u>approved stopping places for buses</u> . The said condition was argued by the defendant to be new and did not appear in a previously held licence and required prior public notice. It thus became necessary to determine whether the condition regarding authorized stopping places was added during the currency of the licence (in which case proper notice must be given to the licensee) or was an original term of the licence. Held: The defendant's licence contained the condition in question, and the Court concluded that this was an original condition of the licence, not added during the currency of the licence. Consequently, it was not necessary that a notice should be given. The Court held there was a breach of the condition (re: approved stopping places) of the passenger service licence, therefore the defendant must be convicted under section 4 of the RT Amendment Ordinance 1934.
High Court Apia	
1947	
71. <i>Police v Osooso</i> [1947] WSLawRp 1; [1930-1949] WSLR 138 (30 September 1947)	In this case, "the driver of a motor vehicle owned by another person (who held a passenger service license under <i>The Road Traffic Amendment Ordinance 1934</i>), was prosecuted under sections 3 and 4 of the Ordinance on the basis that he carried on a passenger service otherwise than in pursuance of the authority and in conformity with the terms and conditions of a passenger service license ... granted under the ... Ordinance." The decision was reserved on the point whether the driver, who admitted being employed by, and driving the motor vehicle for the owner, was a person who did "carry on a passenger service."

¹⁶ One of the elements of the dangerous driving alleged against defendant is that of attempting to pass another vehicle when the road was not clear, and in the event of a conviction on the first charge, it would not be proper to enter a conviction on the second charge also.

High Apia	Court	Held The Court concluded that without any further qualifications, the Ordinance alone does not specifically impose liability on the driver unless he is also the owner or person who is responsible for the service. There was, however, a further matter for consideration and that is whether the driver aids and abets within the meaning of section 200 of the Samoa Act, 1921 ¹⁷ . On the facts of the case under review, it is fairly clear that the driver acted on his own initiative and did not have the purpose of aiding his employer to commit the offence. The information was therefore dismissed.
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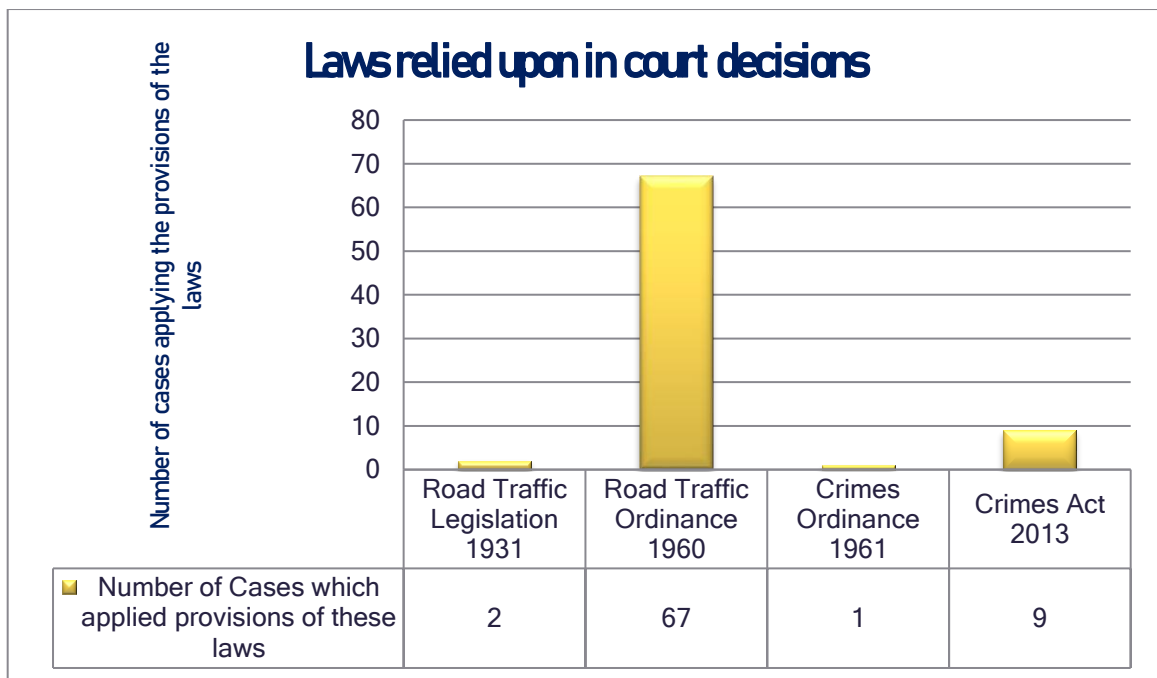
B. ANALYSIS

3.5 The above 71 reported case laws available on PACLII allow some findings:

(i) No. of Reported Court Decisions and the Laws referred to

3.6 From the total of 71 cases, the laws relied upon and applied in these cases are set out in the graph below. The total count of cases in the graph is 79 (not 71) as some of the cases relied or referred to provisions of more than one of the laws:

- 67 cases invoked the provisions of the Road Traffic Ordinance 1960 (RT Ordinance 1960);
- 9 cases applied the provisions of the Crimes Act 2013;¹⁸
- 1 case invoked the repealed Crimes Ordinance 1961; and
- 2 cases discussed the repealed Road Traffic legislation of 1931.¹⁹



¹⁷ Section 200 (Parties to offences) – Everyone is a party to and guilty of an offence who (a) actually commits the offences; or (b) does or omits any act for the purpose of aiding any person to commit the offence; or (c) counsels or procures any person to commit the offence, Samoa Act 1921.

¹⁸Please note that some of these cases were brought with alternative charges under the RTO 1960.

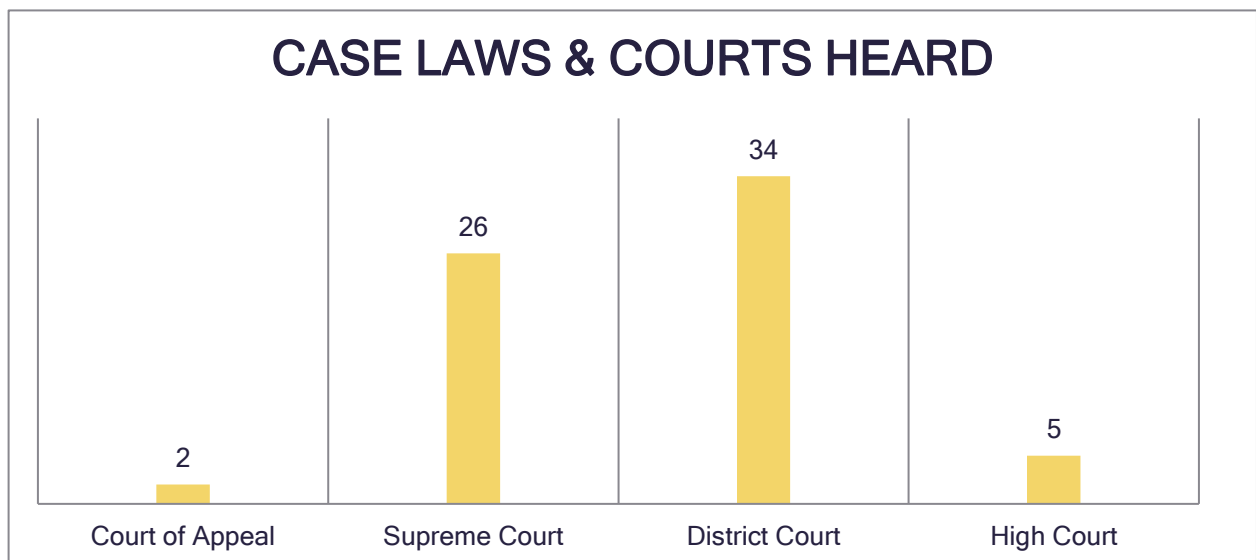
¹⁹See *Police v Osooso* [1947] WSLawRp 1; *Police v Gold Star Transport Co Ltd* [1955] WSLawRp 3.

(ii) Case laws & Courts Heard

3.7 A further analysis of the 71 cases illustrates which court heard these matters respectively. Of the 71 court decisions:

- 2 cases were heard in the Court of Appeal (COA);
- 26 cases were heard in the Supreme Court (SC);
- 34 were heard by the District Court (DC);
- 5 cases were heard in the High Court (HC);
- 2 cases were heard in the Magistrate Court (MC);
- 1 case was heard in the Family Violence Court (FVC); and
- 1 case was heard by the Alcohol and Drugs Court (ADC).

3.8 Under the RT Ordinance 1960, 'Court' refers to the Supreme Court or the District Court as the Courts to deal with the provisions of the Ordinance (dealing with any information, application, or appeal within its jurisdiction).²⁰ The above data is illustrated in the Bar Graph below:



3.9 The above figures reflect that the majority of traffic cases were heard before the District Court. This is indicative of the low threshold of legislative penalties for traffic offences, which fall within the jurisdiction of the District Court.²¹ The District Court is given jurisdiction to deal with civil claims not exceeding \$20,000 and offences punishable by imprisonment term of not exceeding 7 years.²²

3.10 In recent judgments, the Honourable Judges have noted the significant increase in the maximum penalty for traffic offences following the passage of the Road Traffic Amendment Act 2020, which has raised the penalties for the following common traffic offences:

- for negligent driving causing death – sentenced upon conviction to 10 years imprisonment or a fine of \$25,000
- for negligent driving causing injury – sentenced upon conviction to 7 years imprisonment or a fine of \$20,000

²⁰See the definition of 'Court' in section 2 of the Road Traffic Ordinance 1960.

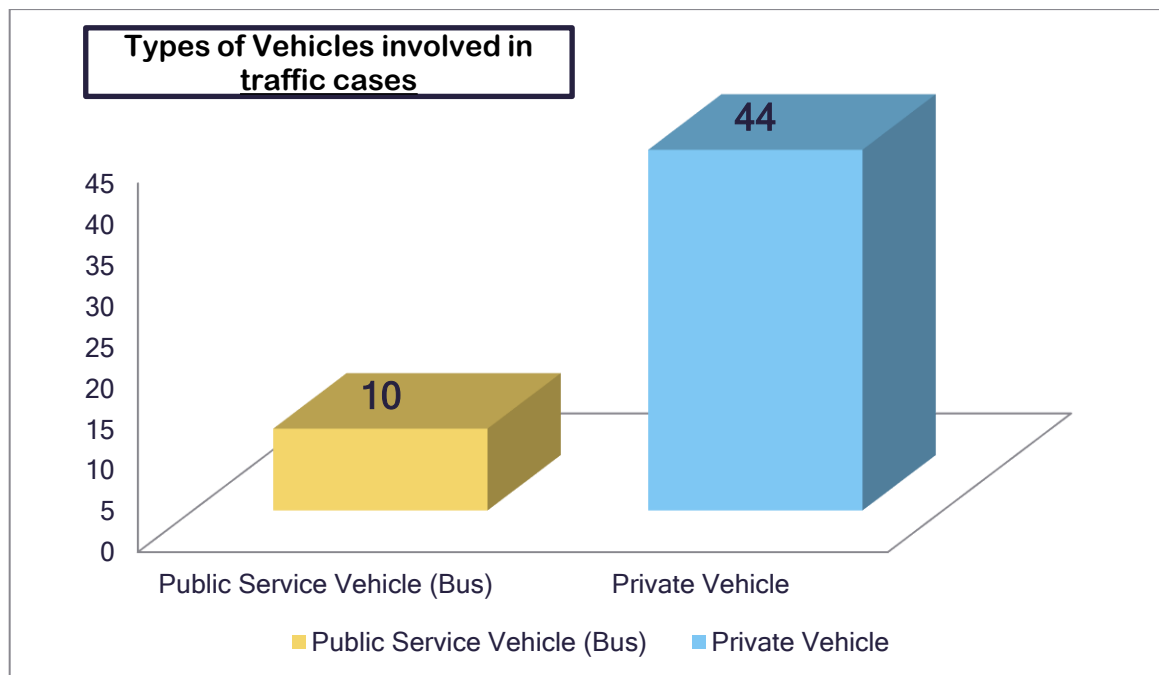
²¹See *District Court Act 2016* (Samoa) s. 30.

²²See section 19 and 30, *District Court Act 2016* (Samoa).

3.11 These amendments in effect now give the Supreme Court the jurisdiction to hear and determine these as more serious traffic offences.

(iii) Types of Vehicles

3.12 An attempt was also made to draw some analysis as to the types of vehicles which were involved in the traffic cases the Court dealt with. From the Commission's findings, **10 cases**²³ involved public service vehicles, or more specifically buses and **44 cases** involved private vehicles. These figures are reflected in the Bar Graph below:



3.13 Justice Doherty in the case of *Mapesone v Police* [2003] WSSC 41 reiterated the importance of public safety and ensuring that those who operate and drive public transport vehicles conduct themselves in accordance with the standards set down by the legislation.

3.14 Justice Tuatagaloa in the case of *Police v Tausagi* [2017] WSSC 18 also emphasized the need for the responsible Government agency overseeing traffic matters to look at stringent measures to be imposed upon bus owners and bus drivers when issuing driving licenses and warrant of fitness for buses. The standard of care for bus drivers as opposed to other drivers is very high because of the number of lives they carry.

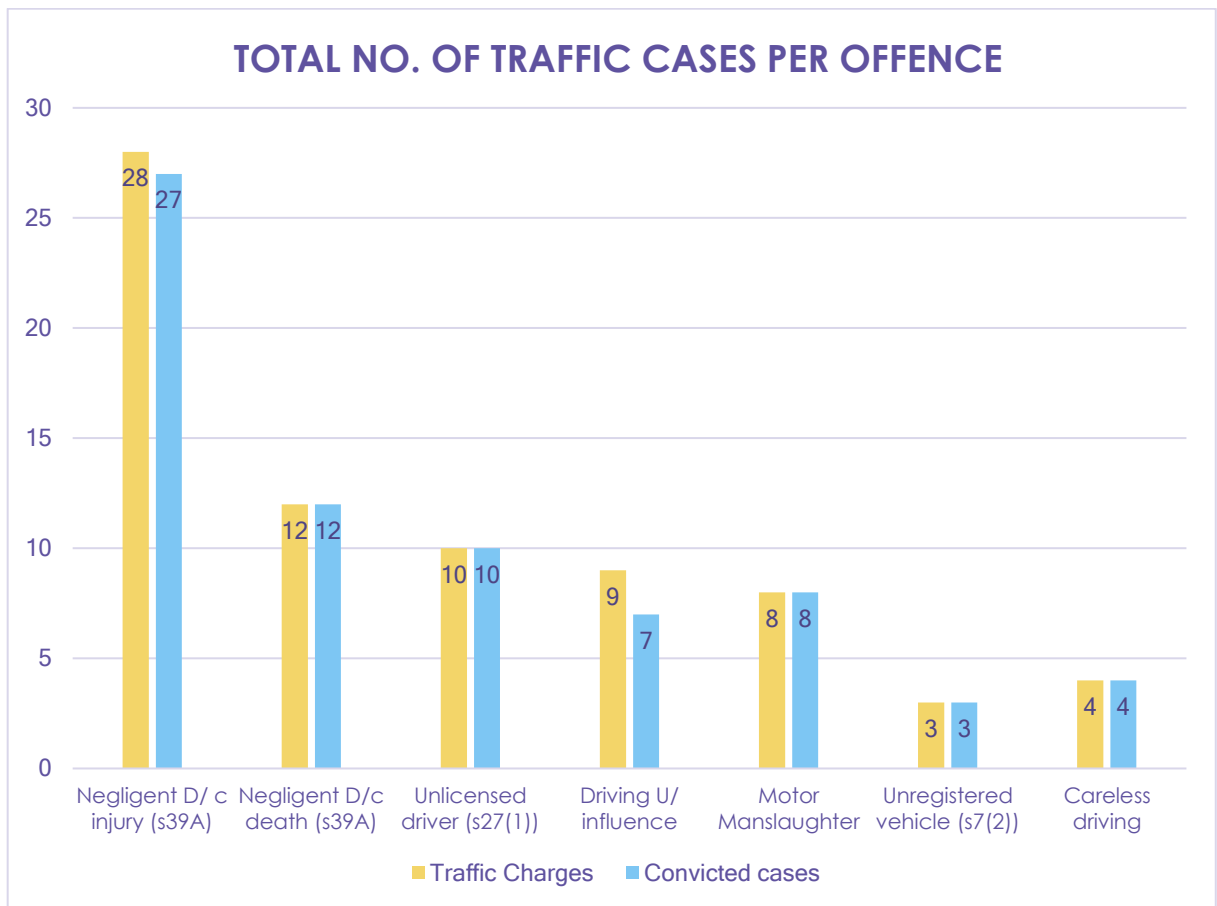
3.15 Justice Leaiataualesa in the case of *Police v Finau* [2019] WSSC 58 briefly addressed the RTO 1960 in particular section 29(4) which deals with the granting or refusal of driving licenses. His Honour directed that a robust process should be implemented and applied by the licensing authority in terms of the grant of licenses to drive buses and taxis for the protection of the public. Convictions for serious violent offending should raise red flags as to the suitability of any such person to drive buses and taxis and whether they are fit and proper persons to hold such licenses.

²³See *Police v Gold Star Transport Co Ltd* [1955] WSLawRp 3; [1950-1959] WSLR 36 (16 June 1955); *Police v Faletolu* [1961] WSLawRp 7 (dangerous driving and attempting to pass another vehicle without a clear view of the road); [1960-1969] WSLR 42 (7 December 1961); *Aukuso v Police* [1997] WSSC 26 (overloading); Misc 22088 (5 November 1997); *Police v Panapa* [1955] WSLawRp 4; [1950-1959] WSLR 38 (16 June 1955); *Tauai v Police* [2002] WSSC 5 (8 March 2002) (OVERLOADING); *Mapesone v Police* [2003] WSSC 41 (6 October 2003); *Iosua v Attorney General* [2014] WSCA 5 (2 May 2014); *Police v Agafili* [2016] WSDC 3 (7 March 2016); *Police v Tausagi* [2017] WSSC 18 (30 March 2017).

3.16 Justice Fepulea'i in the case of *Police v Alapati* [2022] WSSC 32 stated that the subsequent transfer of negligent driving causing death cases for determination in the Supreme Court is a clear indication of Parliament's intention to stamp out the increasing number of fatalities and injuries caused by reckless driving of drivers especially those who have selfish regard for the safety of other road users and the public. Justice Fepulea'i went further to say that it also highlights the real need for better awareness of safe road use practices by everyone. Simple measures such as drivers reducing speed when approaching a bus dropping off passengers and anticipating the risk of someone crossing; passengers crossing only when the bus leaves and they have a clear and safe view of the road; and parents not allowing young children near or on the road unsupervised.

(iv) Traffic Offences – Most Charged

3.17 Of the cases heard by the Court under the RTO 1960, *negligent driving causing injury* accounted for **28** cases, making it the most charged traffic offence. **12** cases involved charges of *negligent driving causing death*, **10** cases involved *unlicensed drivers*, while **8** cases were recorded for *motor or vehicular manslaughter*, previously brought under the Crimes Act 2013. An overview of the offences from the most prevalent to the least is illustrated in the bar graph below:



3.18 Parliament had recently passed the Road Traffic Amendment Act 2020 to amend the RT Ordinance 1960 to elevate the penalties for the more serious traffic offences of negligent driving causing death or injury. The amendments also inserted a new provision to regulate street racing and make amendments to the penalties for negligent driving causing bodily injury or death. Again these amendments were done in piecemeal to reflect the seriousness of offences such as NDCI and NDCD by elevating the penalties and to address the rising of new types of traffic offences such as street racing.

(v) Sentencing Trends

- 3.19 Of the **71** case laws, **37** cases were sentencing decisions. Out of the 37 cases:
- **14** cases on negligent driving causing bodily injury or death;
 - **7** cases on reckless or dangerous driving;
 - **9** cases on driving under the influence of alcohol;
 - **4** cases on motor or vehicular manslaughter (previously brought under the Crimes Act 2013);
 - **2** cases on careless driving;
 - the remaining cases were on other traffic related offences such as overloading, unlicensed drivers, driving unregistered vehicles, and unlawful conversion of vehicles.
- 3.20 The total number of **37 cases out of 71** is arguably insufficient to draw an analysis on the Court's sentencing for traffic offences. Nevertheless, as the Commission works with what is available, this number is used as basis of the Commission's analysis below, bearing in mind the number of unreported cases unaccounted for in this data:

Offence	Sentence imposed
Negligent driving causing death	<ul style="list-style-type: none"> • imprisonment term ranges from 12 months to 4 years while Court costs or reparation orders range from \$1,000 to \$10,000, the defendant is sometimes prohibited from holding a driver's license for a certain period of time;²⁴
Negligent driving causing injury	<ul style="list-style-type: none"> • imprisonment term ranges from 6 months to 2 years, Court fines range from \$200 to \$300, sometimes the Court orders for the defendant to undertake a driving improvement course;²⁵
Reckless or dangerous driving	<ul style="list-style-type: none"> • imprisonment term ranges from 3 to 14 months, Court fines are around \$200, sometimes the Court orders the defendant to undertake community work or be under supervision;²⁶
Driving while under the influence of alcohol	<ul style="list-style-type: none"> • Court fines range from \$500 to \$600, the Court sometimes order supervision or for the defendant to undertake community work;²⁷
Careless driving	<ul style="list-style-type: none"> • fines range from \$50 to \$80, sometimes the Court orders the defendant to be under supervision;²⁸
Unlicensed driving	<ul style="list-style-type: none"> • fines range from \$100 to \$200, sometimes the Court orders for the defendant to be under supervision.²⁹

- 3.21 Some analysis that may be drawn from the above assessment of penalties shows that the Courts have often awarded their sentencing on the lower range of the maximum penalties set

²⁴ See *Lautasi v Police* [1998] WSSC 10; *Police v Siaso* [2014] WSSC 56; *Police v Tusa* [2017] WSDC 25; *Police v Lauina* [2017] WSDC 5; *Police v Keji Li* [2017] WSSC 170.

²⁵ See *Chang v Attorney General* [2018] WSCA 3; *Police v Tausagi* [2017] WSSC 18; *Police v Saimoni* [2017] WSDC 16; *Police v Worall* [1998] WSMC 1.

²⁶ See *Police v Siliato* [2019] WSFVC 5; *Police v Lui* [2016] WSDC 8; *Police v Foai* [2016] WSADC 3; *Police v Masoe* [2016] WSDC 48; *Filipo v Commissioner of Police* [1993] WSSC 37.

²⁷ See *Police v Tupou* [2018] WSDC 17; *Police v Nauer* [2017] WSSC 161; *Police v Lui* [2016] WSDC 8; *Police v Foai* [2016] WSADC 3; *Police v Inifi* [2016] WSDC 9; *Police v Masoe* [2016] WSDC 48; *Police v Masoe* [2016] WSDC 48; *Police v Amosa* [2016] WSDC 47.

²⁸ See *Police v Siliato* [2019] WSFVC 5; *Police v Annandale* [2017] WSDC 15; *Police v Amosa* [2016] WSDC 47.

²⁹ See *Police v Sape* [2022] WSSC 13; *Police v Siliato* [2019] WSFVC 5; *Police v Inifi* [2016] WSDC 9.

for the given traffic offences. The Commission is mindful that the decisions of the Court are based on a case by case basis and depending on the circumstances and facts of each case. The Commission considers this Review as the opportunity to offer recommendations as to reforms which would better reflect the nature of the traffic offences and the relevant penalties to be of assistance to the Honourable Courts as they deal with and decide on traffic cases.

3.22 At this stage, perhaps a sentencing band can be drawn from the recently enacted *Road Traffic Amendment Act 2020*, which not only significantly amplified the penalties for certain existing traffic offences like Negligent Driving Causing Death or Injury, but also inserted and introduced new traffic offences that were previously absent from Samoa's traffic legislation.³⁰ This may be a matter for further discussions and exploration throughout this Review.

3.23 All in all, the above case law analysis shows that the RT Ordinance 1960 and its subsidiary legislation are still heavily applied in the Samoan Courts. However, its outdatedness in form and content, offences and penalties requires much consideration for review and reform to cater for the road traffic environment of Samoa today.

³⁰ See section 38C of the Road Traffic Ordinance 1960

4. PART C: OTHER JURISDICTIONS

- 4.1 This is the first time for a full review into the traffic laws of Samoa. As such, the Commission looked at the approaches and experiences of other jurisdictions to guide its review towards a relevant regulatory framework appropriate and suitable to the context of Samoa. The Commission researched into the road traffic legislative frameworks of overseas jurisdictions which include New Zealand, Fiji and the Australian States of Queensland and Victoria, to identify systems and best practices available in those jurisdictions that could benefit Samoa.
- 4.2 A comparison of Samoa's road traffic legislative framework and corresponding traffic laws of other jurisdictions is provided in Table 2 below.

TRAFFIC LAWS IN COMPARATIVE JURISDICTIONS				
SAMOA	NZ	AUS (QLD)	AUS (VIC)	FIJI
1. Road Traffic Ordinance 1960	1. Land Transport Act 1998	1. Transport Infrastructure Act 1994	1. Road Safety Act 1986	1. Land Transport Act 1998
2. Road Transport Reform Act 2008	2. Land Transport Management Act 2003	2. Transport Planning and Coordination Act 1994	2. Road Management Act 2004	2. Road Act
3. Road Traffic (Payment of Fines) Act 2009	3. Government Roving Powers Act 1989	3. Transport Operations (Passenger Transport) Act 1994	3.	3. National Road Safety Council Act 1994
	4. Railways Act 2005	4. Transport Operations (Road Use Management) Act 1995		4.
	5. Road User Charges Act 2012	5. Transport Security (Counter-Terrorism) Act 2008		
	6.	6. Heavy Vehicle National Law Act 2012 (Cth)		
		7.		

A. NEW ZEALAND

- 4.3 New Zealand's traffic legislative framework consists of the following key legislation:

- Land Transport Act 1998;
- Land Transport Management Act 2003;
- Government Rounding Powers Act 1989;
- Railways Act 2005; and
- Road User Charges Act 2012.

4.4 The main land transport legislation of New Zealand, which will be analysed for the purpose of this review, is the Land Transport Act 1998 (LTA 1998). The LTA 1998 has 207 sections and 17 Parts. As of October 2022, the Act has been amended 77 times.

4.5 The LTA 1998 is an Act to:

- promote road user behavior and vehicle safety;
- provide for a system of rules governing road user behavior, the licensing of drivers, and technical aspects of land transport, and to recognize reciprocal obligations of persons involved;
- consolidate and amend various enactments relating road safety and land transport;
- enable New Zealand to implement international agreements relating to road safety and land transport.

4.6 From the Commission's comparative analysis of NZ's LTA 1998 and Samoa's RT Ordinance 1960, the key distinctions between the two laws can be summarized as follows:

(i) Structure and Outline

4.7 As New Zealand is a developed country with a much complicated road traffic system, it is no surprise that NZ's LTA 1998 is more comprehensive and well-structured in terms of its content. It is easy to navigate through the provisions of the LTA 1998 when identifying the main land transport actors and the key traffic matters it governs.³¹

4.8 Samoa's RT Ordinance 1960 contains 5 main Parts. The most substantive part of the Act is Part 2, which provides for 'Regulating and Registration of Vehicles'. The current outline and structure of Samoa's RT Ordinance 1960 is sometimes unclear in particular the specific land transport matters each Part regulates. For instance, the title of Part 2 of RT Ordinance 1960 is 'Regulating and Registration of Vehicles', however, Part 2 also provides for the licensing of drivers and also contains provisions on traffic offences. In contrast, New Zealand's LTA 1998 provide for these specific land transport matters in separate and under different parts of the Act. For instance Part 4 (Drivers Licensing), Part 4A (Transport Licensing) and Part 17 (Motor Vehicle Licensing and Registration).³²

(ii) Terminology

4.9 Samoa's RT Ordinance 1960 provides over 40 terms in its interpretation provision. In contrast, NZ's LTA 1998 has some 100 plus terms in its interpretation provision. The table

³¹ See 22 Parts of the LTA 1998: Part 1 - Preliminary, Part 2 – Primary responsibilities of participants in land transport system, Part 3 – Additional responsibilities concerning road transport, Part 4 – Driver Licensing, Part 4A – Transport Services licensing, Part 4B – Work time and log books, Part 5 – Offences relating to driving (other than alcohol related offences), Part 6 – Driving offences involving drink or drugs, and penalties and procedures, Part 6A – Offences relating to transport services and penalties, Part 6B – Offences relating to work time and logbooks, Part 6C – Offences relating to chain of responsibility, Part 7 – Disqualification, demerit points, licence suspension, and vehicle impoundment, Part 7A – Immobilizing devices applied to parked motor vehicles, Part 8 – Mitigation of penalties and rights of appeal, Part 9 – Enforcement of responsibilities, Part 10 – Proceedings enforcing responsibilities, Part 11 – Land transport subordinate legislation, Part 12 – The Crown and land transport, Part 14 – Administrative provisions, Part 15 – Miscellaneous provisions, Part 16 – Repeals, amendments to other enactments, and transitional and savings provisions, Part 17 – Motor vehicle registration and licensing.

³² Part 4 (Driver Licensing), Part 4A (Transport Licensing), Part 17 (Motor Vehicle Licensing and Registration).

below provides some terms available in New Zealand's LTA 1998 interpretation provision for consideration when updating the Samoa's road traffic legal framework.

Terms in the Land Transport Act 1998 (New Zealand) to consider in revised traffic law for Samoa			
1.	Driver	7.	Motorcycle
2.	Driver license	8.	Heavy motor vehicle
3.	Owner	9.	Rental service vehicle
4.	Road	10.	Large passenger service
5.	Speed limit	11.	Passenger service
6.	Motor vehicle	12.	Small passenger service

(iii) Traffic offences and penalties

- 4.10 Under New Zealand's LTA 1998, the provisions on traffic offences and penalties are addressed under specific parts - Parts 5, 6, 6A, 6B and 6C. For Samoa's RTO 1960, the offences and penalties provisions are scattered all across the Act.
- 4.11 In terms of penalty range, NZ's LTA 1998 imposes much higher traffic penalties compared to Samoa's RT Ordinance 1960. For instance, for unlicensed driving, the maximum penalty in NZ is a fine not exceeding NZ\$1000. The penalty in Samoa for unlicensed driving is a fine not exceeding \$200 for a first offence, or a fine not exceeding \$400 for a second or subsequent conviction or an imprisonment term not exceeding 3 months.
- 4.12 The Commission acknowledges the difference in size and context of the two countries and the different road traffic system in place for Samoa and New Zealand. However, given the prevalence and frequent occurrences of traffic offences in Samoa, especially the most serious offences in the last 10 years and the proliferation of cars in Samoa, it is timely for Samoa to consider an increase in the penalty structure for traffic offences in Samoa, similar approach taken by New Zealand.

B. QUEENSLAND

- 4.13 Queensland does not have a single overarching law that regulates its traffic matters. The Queensland Parliament has over the years enacted different pieces of legislation to regulate the different aspects of road transport in its State. For instance, the *Tow Truck Act 1973* regulates the tow truck industry while the *Transport Operations (Passenger Transport) Act 1994* regulates passenger transport with the objective of providing the best possible public passenger transport at a reasonable cost to the community and at the same time to keep Government regulation to a minimum.
- 4.14 For the purpose of a comparative analysis with Samoa's RT Ordinance 1960, the most relevant traffic law of Queensland is the *Transport Operations (Road Use Management) Act 1995*. It is an Act about road management and other purposes related to transport. A number of key Regulations are made under the Act to regulate the more specific traffic matters such as the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* and *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*.
- 4.15 The Transport Operations (Road Use Management) Act 1995 establishes a scheme to allow —
- a) identification of vehicles, drivers and road users;
 - b) establishment of performance standards for vehicles, drivers and road users;
 - c) establishment of rules for on-road behaviour;

- d) monitoring of compliance with this Act, including by using alternative compliance schemes;
- e) management of non-performing vehicles, drivers and road users; and
- f) control of access to the road network, or parts of the road network, for vehicles, drivers and road users; and
- g) management of traffic to enhance safety and transport efficiency.

(i) Structure and outline

4.16 Similar to New Zealand's traffic legal framework, Queensland's *Transport Operations (Road Use Management) Act 1995* is a much more complex and comprehensive piece of legislation compared to Samoa's RT Ordinance 1960. It comprises of more than 200 sections, 7 Chapters, 4 Schedules and numerous Parts and Division.

(ii) Traffic offences and penalties

4.17 There is a great disparity in the penalties imposed for the different traffic offences between the two jurisdictions. For instance, in Samoa, the penalty for speeding is a fine of two (2) penalty units (\$200). In Queensland, the penalty for speeding increases every 10 km over the speed limit. If a driver is caught speeding less than 13 km over the limit the penalty is \$318.44. If caught speeding at more than 40 km over the limit the penalty is \$2,237.11, as well as eight demerit points, and six months of licence suspension.

4.18 It may seem impossible to stop drivers speeding entirely, however by implementing a range of penalties for speeding offences it may assist in creating safer roads. It is also evident that the pecuniary penalties in Samoa for the more serious traffic offences such as reckless or dangerous driving and negligent driving causing injury or death, are very low in comparison to Queensland. A complete review of the penalties imposed for not only these offences but all the traffic offences in an updated legislative framework for Samoa will assist to increase deterrence.

(iii) Public transport system

4.19 In terms of public transport, Queensland operates a Government funded entity called the Translink which is responsible for overseeing the transport network for the whole State. This is far more advanced in comparison to the privatized system used in Samoa for buses and taxis. Public transport systems are not well developed in many developing countries including Samoa. These forms of transport thus present a real dilemma for road transport planners. There have been countless reported incidents in Samoa of bus crashes and connected fatalities. While investment into public transport may not be realistic, reforming traffic rules and regulations around public transport is recommended to ensure safety on the roads.

4.20 At this stage, perhaps comprehensive restrictions and regulation by the Government on the licensing and registration of buses and taxis may help to increase public transport safety without a complete overhaul of the privatized system. These restrictions may include stricter motor vehicle inspections in order to ensure the roadworthiness of buses and taxis prior issuance of renewed registration.

C. VICTORIA

4.21 The Australian State of Victoria has two main traffic laws. These are the Road Safety Act 1986 and the Road Management Act 2004.

4.22 The Road Safety Act 1986 regulates and provides for the following:

- a) safe, efficient and equitable road use;
- b) set out the general obligations of road users in relation to responsible road use;
- c) improve and simplify procedures for the registration of motor vehicles and the licensing of drivers; prevent the rebirthing of stolen vehicles; and
- d) ensure the equitable distribution within the community of the costs of road users.

4.23 The duty of road users as well as driving and traffic related offences are also provided for under the Act as well as the registration and licensing of motor vehicles.

4.24 A number of key Regulations are also made under the principal Act to regulate the more specific traffic matters which include the *Road Safety (Vehicles) Regulations 2009*, *Road Safety (Traffic Management) Regulations 2009*, *Road Safety (General) Regulations 2019* and the *Road Safety (Drivers) Regulations 2019*.

(i) Structure, outline and Traffic offences and penalties

4.25 As the international community work towards encouraging good practice in road safety management, the State of Victoria is already at the forefront in this area, whereby legislation and regulations have been passed and endorsed to reflect the trend towards supporting a safe and efficient use of roads in the State.

4.26 A comparable analysis of the main traffic legislation of Victoria and Samoa shows that Victoria imposes heavier pecuniary penalties for traffic offences compared to Samoa. Most parts of the RT Ordinance 1960 are drafted in an outdated manner and therefore require to be updated. Some consideration of Victoria's legal framework may be visited to decide on a practical penalty structure for traffic offences in Samoa.

D. FIJI

4.27 Fiji has three (3) key traffic legislation and more than 30 subsidiary laws that govern its traffic matters.³³ The *Land Transport Act 1998* is Fiji's main transport legislation. The Act commenced in parts in two separate years where Parts 1 and 2 commenced in 1999, while Parts 3 to Part 9 commenced in 2000.

4.28 Fiji's LTA 1998 has 132 sections, 9 Parts and 1 schedule.³⁴ Its long title provides that it is an Act:

- (a) to establish the Land Transport Authority;
- (b) to regulate:

³³ These include Land Transport Act 1998 (Fiji), Road Act (Fiji), National Road Safety Council Act 1994. See Office of the Attorney General, 'The Laws of Fiji' < <https://www.laws.gov.fj/Acts/DisplayAct/2627> > (accessed August 2021).

³⁴ See Office of the Attorney General, 'The Laws of Fiji' < <https://www.laws.gov.fj/Acts/DisplayAct/2627> > (accessed August 2021). Part 1 – Preliminary (ss 1-5)(x5);

Part 2 – Land Transport Authority (ss 6 -39) (x34);

(Div 1 – Establishment & Functions of Authority)(ss 6-16) (x11); Div 2 – Management & Administration of Authority (ss 17-23)(x7); Div 3 – Funds, Accounts & Assets of Authority)(ss 24-32)(x9); Division 4 Administration (ss 33-39)(x7)).

Part 3 – Land Transport Appeals Tribunal (ss 40-48)(x9);

Part 4 – Registration of Motor Vehicles and Trailers (ss 49-55)(x7);

Part 5 – Licensing of Drivers (ss 56-60) (x5);

Part 6 – Public Service Vehicle Licensing (ss 61-66C) (x10);

Part 7 – Use of Motor Vehicles and Public Streets (ss 67-71)(x5);

Part 8 – Enforcement, Offences & Penalties (ss 72 -111) (x41);

(Div 1 – Powers of Offices (ss 72-79) (x8); Div 2 – Offences, Penalties & Proceedings (ss 80-85A) (x7); Div 3 – Traffic infringement Notices & Demerit Points (ss 86 - 96)(x11); Div 4 – Particular Offences (ss97-111)(x15); Part 9 – Miscellaneous (ss 112 - 114) (x5).

- (i). the registration and use of vehicles;
 - (ii). the licensing of drivers of vehicles; and
 - (iii). the enforcement of Traffic Laws; and
- (c) to provide for the repeal of the Traffic Act and for related matters.

4.29 As of February 2020, the LT Act 1998 has been amended 21 times Part 8 contains the bulk of the Act with provisions regulating matters of enforcement, offences and penalties.

4.30 Fiji also has a number of subsidiary legislation in the form of Regulations, Rules and Orders.³⁵ There are Regulations particular to the regulation of Public Service Vehicles, Vehicle Registration and Construction, Breath Tests and Analyses, Minibus Stands to name a few. The Land Transport Orders are particular to matters on Speed Limits, Pedestrian Crossings, Traffic Orders, No stopping Orders and Parking Meters.

4.31 Fiji is the closest country to Samoa with similar socio economic circumstances to Samoa. One of the key distinctions between the land transport legislative frameworks of the two countries is the difference in offences and penalties provisions which merit consideration for this Review.

(i) Traffic offences and penalties

4.32 A comparative analysis of the offences and penalties in Samoa and Fiji's key traffic laws is set out in the table below, in particular, the penalties for the most common traffic offences that are also found Samoa's RTO 1960.

Offence	Penalty	
	Fiji	Samoa
Aggravated dangerous driving occasioning death	a. Minimum – \$2000 and disqualification for 12 months; b. Maximum – \$20,000 and 14 years imprisonment and disqualification for up to life.	Nil
Dangerous driving occasioning death or grievous bodily harm	(a) Minimum – \$1000 and disqualification for 6 months; (b) Maximum – \$10,000 and 10 years imprisonment and disqualification for up to life	Causing injury – 7 years imprisonment or a fine not more than \$20,000, and disqualification for 1 year or more; Causing death – 10 years or a fine not more than \$25,000
Reckless or Dangerous Driving	(a) First offence – \$1000 and disqualification for 6 months; (b) Second offence – \$2000 and 2 years imprisonment and disqualification for 12 months	Fine not more than \$1000 or imprisonment for 2 years

³⁵ See Office of the Attorney General, 'The Laws of Fiji' <<https://www.laws.gov.fj/Acts/DisplayAct/2627>> (accessed November 2022).

Careless or Inconsiderate Driving	\$500/3 months imprisonment and 3 demerit points	(a) First offence – Fine not more than \$200; (b) Second offence - \$400 or imprisonment not more 3 months
Driving without licence	(a) First offence - \$200/30days (b) Second offence -\$1000/6 months imprisonment and disqualification for 12 months	(a) First offence – Fine not more than \$200; (b) Second offence - \$400 or imprisonment not more 3 months

4.33 Out of the overseas jurisdictions examined in this Review, Samoa has the lowest penalty range imposed for the most common and serious traffic offences.

E. OVERALL ANALYSIS

4.34 The traffic laws are crucial in ensuring the safety of commuters on the roads. The comparative analysis between Samoa's laws and those of the selected neighbouring countries has further emphasized Samoa's need to update its legislative framework to better respond to the changes and progression in this area of development.

4.35 Apart from the specific recommendations to the provisions of the *Road Traffic Ordinance 1960* as discussed in the Part, considering how old this law is, it may be the best way forward to completely overhaul and perhaps replace this law by a brand new traffic legal framework reflective of Samoa's current infrastructure and existing vehicles. A new legislative framework will address the many areas that the current Ordinance lacks or misses entirely. Additionally, if the recommendation for a completely new legislative framework is accepted, it should be drafted using modern drafting language and terminologies.

4.36 The preliminary proposals in this Discussion Paper are made with Samoa's context in mind. For example, where it has been recommended that penalties be raised, it has been stated that fines should not be increased to the same level as overseas jurisdictions (especially the more developed places such as New Zealand and Australia). The Commission emphasizes that a detailed examination of overseas jurisdiction against local legislation is required, to ensure that recommendations for traffic reform for Samoa do take into account the differences between Samoa and other jurisdictions in terms of population, geography, infrastructure and economy.

5. PART D: CONCLUSION

- 5.1 The current road traffic laws have been the subject of criticism and concerns due to the alleged leniency and inconsistency of crime and punishment. The increase in the number of traffic accidents resulting in deaths, injuries, damages to property and other consequences has also brought these laws under the public eye, as to whether there is enough efforts given to resolve these matters. The unlicensed drivers, unregistered vehicles, and vehicles on the road that are not roadworthy are some of the on-going issues. This Review is perhaps the opportunity to revisit, strengthen and update Samoa's traffic laws.
- 5.2 The 71 unreported case laws which invoked the provisions of the RTO 1960 (from 1947 – 2022) confirms the high number of road traffic matters heard by the Courts. These unofficial figures warrant a full review of not only the legislative framework but also the systems and practices which govern the operation of road traffic in Samoa. Preliminary consultations also revealed the full support from Government Stakeholders to undertake and advance this review.
- 5.3 New Zealand, Fiji and the Australian States of Queensland and Victoria all have similar road traffic laws in place. Common in all of these countries are road traffic laws setting out matters on licensing and registration of vehicles, traffic offences, road safety and so forth. An overall comparison of the traffic laws of overseas jurisdiction and Samoa's traffic laws reveal that Samoa's traffic legislative framework is out of date in form and content. For possible recommendations for reform of Samoa's traffic laws, a detailed examination of overseas jurisdiction legislation against local legislation is required, to ensure that recommendations for reform takes into account Samoa's context.
- 5.4 Samoa's traffic laws need to be updated revised and expressed in simple terms in form and in structure and publicised for all the general public to understand and follow. The provisions of the Road Traffic Ordinance 1960 in its current form, are lengthy and at times archaic. Outdated language is used throughout the provisions of the legislation which requires redrafting to use plain and simple provisions and modern terminology.
- 5.5 As indicated in the beginning, this Discussion Paper is developed to record the Samoa Law Reform Commission's findings from its preliminary research and analysis and consultations undertaken to inform relevant questions to be asked during public consultations. The Commission hopes that the discussions above provide sufficient background and support for the Commission's response to the Terms of Reference and the urgent need for review of the outdated traffic laws of Samoa.

6. DISCUSSION QUESTIONS

6.1 The following questions are to generate discussions and invite submissions on the Review of Samoa's traffic laws. The Commission looks forward to your submissions to inform any proposed legislative changes to respond to this review:

Road Traffic Ordinance 1960

1. Please provide some thoughts on the reform of any of the following areas:
 - (i) *process and requirements for drivers licences and permits (international driving permit and learner's permit);*
 - (ii) *process and requirements to register vehicles (private or public service vehicle);*
 - (iii) *composition and functions of the 'Transport Control Board';*
 - (iv) *Road service licences; and*
 - (v) *driving and vehicle offences (driving by young persons under 17 years for motor vehicles and 21 years for public service vehicles, speed limit, careless driving, overcrowding, unsafe vehicles etc.).*
2. In addition to the regulation of drivers and vehicles, Part 3 of the Ordinance also sets out provisions on the regulation of roads, bridges and traffic signs. Should these matters be retained in the RT Ordinance 1960? Please explain your answer.
3. Should the terminologies and drafting language used in the Ordinance be updated? If yes, please discuss your answer.
4. Should the subsidiary laws (regulations, orders etc.) made under the RTO 1960 be consolidated and updated?
5. Should there be regular Awareness of Safe Road Use Practices? If so, who should be leading these Awareness programs?
6. The National Road Code exists alongside the core Traffic Laws of Samoa. Should this document be formalised and authorised by Act?
7. Who should be the administrator of the RT Ordinance 1960?

Road Transport Reform Act 2008

1. Should the Road Transport Reform Act 2008 be retained in the Fabric of Laws of Samoa? If so, who should be the administrator of this Act?
2. Alternatively, should it be repealed or incorporated into a proposed new traffic legislative framework?

Road Traffic (Payment of Fines) Act 2009

1. Should the Act be updated into a proposed new traffic legislative framework? If yes, what areas of the Act would you suggest to be updated? (e.g. traffic offence notice, procedure on the payment of TON, limitation on prosecution, traffic offences).
2. Who should be the administrator of this Act?
3. Alternatively, should it be consolidated and updated into a single traffic legislative framework?

Others

Please comment on any other issue you would like to raise on this review.

SCHEDULE 1

Road Traffic Regulations 1961 (SLRC's unofficial consolidation)

ROAD TRAFFIC REGULATIONS 1961	
<u>Regulations</u>	<u>Summary of provisions</u>
1. Title, commencement and division.	Provides for the Title of the Regulation, its commencement date and its divisions into 15 Parts.
2. Interpretation.	Provides the definitions of some 22 terms and phrases used throughout the Regulations.
3. Person may be prosecuted under Ordinance or regulations.	Provides that nothing in these regulations will affect a person's liability to be prosecuted under the Ordinance for an offence under the Ordinance and under these regulations.
3A. Offences under these regulations.	Provides that exempt for Part XII, a person is guilty of an offence for contravening or failing to comply with any provisions of these regulations.
PART 1 - CERTIFICATES OF COMPETENCY AND DRIVING LICENSES	
4. Application.	Provides for a person the Ordinance requires to pass a test of competency to drive a motor vehicle, to apply in writing on a test application form, to a Licensing Authority who is to particulars stipulated in this regulation allotted for the test in the spaces provided for the purpose in the form.
5. Driving test and issue of certificate of competency.	Provides for obligations of an applicant in relation to his test application form once completed; the duties and responsibilities of an examining officer following receipt of a completed test application form in relation to a driving test and the issuance of a Certificate of competency; and facts such officer is to be satisfied with before the issuance of the same certificate.
6. Public Service Vehicle.	Provides for additional requirements an applicant for a certificate of competency to drive public service vehicle must satisfy the examining officer with.
7. Roadworthy vehicle to be provided for test.	Provides for every person who is to undertake a driving test under regulation 5 to provide for that person a vehicle in good roadworthy condition and of the class named in the test application form being a class under section 31 of the Ordinance.
8. Driving licence.	Provides for the Licensing Authority to issue a license in conformity with the certificate surrendered by a successful applicant, and to keep a driving test Register to which the details stipulated under this provision is to be entered into.
PART II - ANNUAL LICENSING	
9. Licence labels.	Provides that as required under section 12 of the Ordinance, every person issued a licence label is to affix such label in the manner stipulated under this regulation for the whole period the licence is in force.

10. Issue of dealer's plates.	Provides for the issuance of dealer's plates for use under section 19 of the Ordinance, and that it shall be deemed to include application for a license to use registration number plates in the licensing year in which they are issued.
11. Use of dealer's plates.	Provides that for exempted circumstances by which a dealer in, or a repairer of motor vehicles (or a person authorized in that behalf) may use a motor vehicle on any road, in any licensing year despite that the motor vehicle has not been registered, or licenced, and that it may not have affixed thereto registration number plates, or a license label issued for that motor vehicle.
PART III - REGISTRATION NUMBER PLATES	
12. Fixing of plates.	Provides the requirements/criteria which is apply to registration plates assigned to motor vehicles.
13. Trailer to show number.	Provides for the positioning of a registration number assigned to every trailer drawn by a motor vehicle.
14. Register of dealer's plates and licences.	Provides for the Principal Licensing Authority to keep a Register of dealer plates and licences issued by him.
15. Fixing of dealer's plates.	Provides for how registration number plates are to be displayed on vehicles used under a dealer's general licence.
PART IV - CONSTRUCTION, WEIGHT AND EQUIPMENT OF MOTOR VEHICLES	
16. Exceptions.	Provides for regulations that do not apply to road marking or repairing machinery, and provides an exemption for specified time all motor vehicles registered before 1 year expires from the making of any regulation hereof that provides for the construction or weight of any class or description of vehicle.
17. Length.	Provides for the lawful overall lengths of a motor vehicle and a trailer.
18. Width.	Provides the overall width limit of a motor vehicle.
19. Overhang.	Provides the lawful limit for the overall length of the overhang of a motor vehicle.
20. Height.	Provides the legal limit of the maximum height of a motor vehicle loaded or unloaded from the surface of the road.
21. Steering column.	Provides that no person shall operate a left hand drive motor vehicle having the steering column to the left of the longitudinal centre line of the body of the vehicle.
22. Wheels.	Provides for the construction of all motor vehicles to either be a wheeled vehicle, or a track laying vehicle.
23. Springing.	Provides for motor vehicles (other than a trailer or motor cycle) to have suitable and sufficient springs and shock where required under this regulations.
24. Brakes.	Provides for the brakes, or the braking systems motor vehicles shall be equipped with.
25. Directions indicators and rear lights.	Provides the requirements for the direction indicators, of a type mentioned in regulation 37, which shall be equipped to every motor vehicle constructed to be steered from the left side and exempted under regulation 21(1) is to be equipped.

26. Visibility.	Provides for stipulations every motor vehicle must comply with so that such vehicle has full view of the road and traffic ahead at all times.
27. Windscreen wiper.	Provides for motor vehicles with windcreens to be equipped with a windscreen wiper in accordance with this regulation.
28. Reversibility.	Provides for the net weight limit of every motor vehicle by which it shall be capable of travelling under its own power.
29. Rear vision mirror.	Provides for motor vehicles to have reflecting mirror constructed and fitted for the purposes of this regulation.
30. Warning device.	Provides for motor vehicles to have instrument capable of giving warning of its approach or position provided that such instrument does not include a gong, bell or siren except of vehicles used for the purposes exempted under this regulation.
31. Silencer.	Provides for every motor vehicle propelled by certain engines to be constructed so that exhaust gases first pass through a silencer, expansion chamber, or other contrivance for the purposes of this regulation.
32. Emission of smoke and sparks.	Provides for all motor vehicle to be constructed so that no avoidable smoke or visible vapor is emitted therefrom.
33. Solid fuel.	Provides for motor vehicle using solid fuels to be fitted with an efficient appliance, and a try or shield for the purposes of prevention under this regulations.
34. Lights.	Provides for the positioning/placing of head lamps and a rear lamp of a motor vehicle on such a vehicle.
35. Mudguards.	Provides for every motor vehicle (other than those exempted under this regulation) to be fitted with fittings specified under this regulation for protection of the vehicle from mud, water, or stones thrown by rotation of the wheels.
36. Speedometer.	Provides for all motor vehicle unless exempted under this regulation to be fitted with a speedometer for the purposes and in such a manner as this regulation stipulates.
37. Permissible direction and indicators.	Provides for the types of direction indicators motor vehicles are to be equipped with.
PART V - USE OF MOTOR VEHICLES	
38. Lamps.	Provides for the requirements on headlamps, and other lamps for every motor vehicle while in motion on a road at night, or while the vehicle is stationary on a road.
39. Reflectors.	Provides for the carriage of 2 red reflectors in addition to the lamps also required to be carried on certain vehicles under these regulations, and provides for specifications for such reflectors.
40. Tyres.	Provides for, and save as exempted under this Regulation, motor vehicles is prohibited from being driven on any road unless it is fitted with wheels and pneumatic tyres prescribed under this Regulation.
41. Towed vehicles.	Provides for the lawful limit in length for a rope, bar, or other device used for towing a trailer, or towed vehicle and prohibits a vehicle towing more than 2 trailers.

42. Overhang.	Provides for the lawful requirements for the overhang of any load carried by a motor vehicle and the power of the Minister to make exemptions to the provisions of subclause (1).
43. Marking.	Provides for duties of owners of certain vehicles to pain certain specifics stipulated under this Regulation, or otherwise displayed the same on the vehicle as required by this Regulation.
44. Maximum Weight.	Provides for the maximum weights of vehicle laden or unladen, the power of Minister to exempt a vehicle from the application of maximum weights prescribed, and the limits of application of this Regulation.
45. Securing of load.	Provides that the load carried by a motor vehicle to be secured so that danger is not likely to be caused to a person on a road.
46. Maintenance.	Provides for the specified materials these Regulations required to be fitted to a motor vehicle to be, while the vehicle is used on a road, be maintained in good and efficient order and to be properly adjusted, and for the vehicle to be kept at all times in a sound structural and mechanical condition.
47. Maintenance of tyres.	Provides for all tyres of a motor vehicle to be maintained at all times while the vehicle is used on a road in accordance to this regulation.
48. Use of warning device.	Provides for warning devices, the requirements for such devices and situations in which such devices may or may not be used.
49. Reversing.	Provides for prohibition to cause a motor vehicle to travel backwards for a greater distance or time than what may be requisite for the purposes stipulated under this regulation.
50. Obstruction of road.	Provides for a prohibition against causing or permitting a vehicle to stand on a road to cause unnecessary obstruction.
51. Position of driver.	Provides a prohibition for a person driving to be in a position that may compromise his having proper control over the vehicle, or his retention of a full view of the road and traffic ahead.
52. Tampering with vehicle.	Provides that it is prohibited, without lawful authority or reasonable cause, to tamper with the brakes or other mechanism.
53. Travelling in insecure position.	Provides for an offence for a driver of a motor vehicle, save where exempted under the regulation, to allow a person to be in any of the positions outlined in this regulation, in the motor vehicle while in motion.
54. Dangerous and inconsiderate driving.	Provides for situations in which driving is dangerous or inconsiderate. (e.g. removing both hands from the steering control while the vehicle is in motion).
PART VI – SPECIAL PROVISIONS RELATING TO THE USE OF PUBLIC SERVICE VEHICLES	
55. Number of passengers.	Provides for every public service vehicle, that it is prohibited from carrying an excess number of passengers;and display of the number of passengers the vehicle is licensed to carry on every

56. Obstruction of passage.	Provides for prohibition against placing an object in obstruction of a person attempting to reach the exit of an omnibus.
57. Interior illumination.	Provides for illumination to be adequate for the inside of motor omnibuses when plying for hire on a road at night, and that such lights must be prevented from incommoding the driver.
58. Carriage of petrol, etc.,	Provides that save as exempted under this regulation, it is prohibited to carry an inflammable liquid in, or on a public service vehicle.
59. Routes.	Provides for an offence against a driver of a motor omnibus who unnecessarily delays to proceed directly to the places included in its route.
60. Obstruction of driver.	Provides for a prohibition against carrying a person, or goods in a position, or in a manner as to occupy any part of a driver's seat, or to obstruct his movement or view when driving the vehicle.
61. Towing.	Provides for a prohibition against a motor omnibus from towing a trailer, or being towed by another vehicle, while carrying passengers.
62. Fire extinguisher.	Provides for motor omnibuses to carry a fire extinguisher that satisfies the criteria stipulated in these Regulations and be available for inspection under this Regulation.
63. Destination indicator.	Provides for motor omnibuses when plying for hire on a road to carry at least one destination indicator for the purposes of this regulation.
64. Stop light.	Provides for all public service vehicles used on a road to have a red stop light which shall go on upon application of the brakes.
65. Coasting.	Provides for a prohibition against drivers of public service vehicle carrying passengers from allowing such vehicle to proceed with gears or clutch disengaged for longer than required by this regulation.
PART VII - DETERMINATION OF SEATING CAPACITY OF PUBLIC SERVICE VEHICLES	
66. Calculation of capacity.	Provides for provisions that apply when determining the numbers of persons for seating capacity in a public service vehicle.
PART VIII - EQUIPMENT OF BICYCLES	
67. Lights, brakes, bell, etc.	Provides for certain prohibitions when riding and operating bicycles and creates an offence for any contravention for the provisions of this Part of these regulations.
PART IX - RULES OF THE ROAD	
68. Interpretation.	Provides for the interpretation of 3 terms and phrases commonly used throughout this Part IX.
69. Keeping to left.	Provides for the driver of a motor vehicle (and other vehicle), and the rider of a bicycle to keep the vehicle to the left of the road and to reduce speed of the same according to this regulation.

70. Passing on left when overtaking.	Provides for lawful requirements for passage on the right, or near the side of the overtaken vehicles of motor vehicles and bicycles when overtaking another vehicle.
71. Overtaking.	Provides for the lawful requirements to be complied with by drivers of motor vehicles when overtaking or attempting to pass a vehicle going in the same direction.
72. Turning at intersection.	Provides the lawful requirements for drivers of motor vehicles or other vehicles, and riders of bicycles when intending to turn at an intersection into another roadway to his right.
73. Giving way at intersections.	Provides the rules for driver of a motor vehicle when approaching a cross road, or T-intersection.
74. Giving way where necessary.	Provides for other situations on a road where it may be necessary for drivers of vehicles to give way.
75. Compulsory stop signs.	Provides for every driver of a motor or other vehicle, or the rider of a bicycle to comply with compulsory stop signs on a road according to the provisions of this regulation.
76. Clearing road.	Provides for the duty of the drivers, or riders of such vehicles to remove or cause to be remove any slippery substance, or any piercing substance falls on any road as a result of an accident, or from other cause.
77. Firearms.	Provides a prohibition, save for police purposes, of the use of a motor or other vehicle on which there is a firearm loaded as stipulated under this regulation.
78. Motor cycles.	Provides for an offence for a person driving a motor cycle under the circumstances/in the manner set out in this regulation.
79. Bicycles.	Provides a prohibition on riding a bicycle carelessly or negligently, and the lawful requirements for riding and using such bicycle.
80. Pedestrians.	Provides for certain rules applicable to pedestrians when using a road, and makes an offence from non-compliance to the requirements of this regulation.
81. Driver's signals.	Provides for certain signals every driver of a motor vehicle in certain situations whilst on the road.
82. Stopping and parking.	Provides for the certain places or positions where it is prohibited for a person, or a driver in charge of a vehicle from stopping, standing, or parking such vehicle.
83. Ridden horse traffic.	Provides for certain rules by which every horse rider must comply with when travelling on a roadway, and makes an offence for any resultant contravention of these regulations.
PART X - PUBLIC SERVICE VEHICLES (CONDITIONS OF FITNESS)	
84. Fee.	Provides for the fee payable for a certificate of fitness for any vehicle.
85. Application.	Provides for the extent of the application of certain provisions of this Part.
86. Exists and entrances.	Provides certain stipulations in relation to entrances and exits of a vehicle.
87. Emergency windows or panels.	Provides certain requirements for emergency windows or panels for vehicles subject to this regulation.
88. Passengers.	Provides that, for passengers, there shall be a clear passage to at least one exit and the emergency exit.

89. Ventilation.	Provides that there should be adequate ventilation for the purposes of this regulation.
90. Insulation.	Provides for all wires specified in this regulation to be installed and insulated as not to be a source of dangerous to persons using the vehicle.
PART XI - DRIVING RECORDS	
91. Height.	Provides for the specifications for the body sides of a vehicle from the floor of the vehicle.
92. Windows.	Provides for certain specifications for window space to be fitted to a vehicle.
93. Bell.	Provides for a bell, or other suitable device to be fitted to the vehicle for the purpose of this regulation.
94. Spacing of seats.	Provides for the lawful measurements between the spacing of seats in vehicles.
95. Filler inlet.	Provides for requirements of the situation on the vehicle of a filling inlet of any fuel tank.
96. Safety loop.	Provides for fitting a vehicle with a safety loop and the specifications for such loop.
97. General compliance.	Provides that at all times, a vehicle must have a current certificate of fitness and must comply with the requirements of any regulations made under the Road Traffic Ordinance 1960 pertaining to the construction, weight and equipment of motor vehicles.
98. Variation of requirements.	Provides for the exemption of certain motor vehicles from insofar as these regulations vary the requirements as regards the construction or weight of any class or description of vehicle.
PART XI - DRIVING RECORDS.	
99. Obligation to keep record.	Provides for every driver of stipulated vehicles, and licence holders of such vehicle to keep the records required under this section, and creates an offence from any resultant failure to keep, or cause the keeping of such records.
100. Record to be signed.	Provides for the carriage, by the driver of any record these regulations, related obligations in relation to the keeping of such records, and makes an offence from the failure to comply with the provisions of this regulation.
101. Record to be produced.	Provides for the duty of any driver, or any holder of a licence, upon a demand by a police officer, to produce any such record to the police officer, and makes it an offence for any failure to comply with the provisions of this Part.
PART XII - CONDUCT OF DRIVERS AND PASSENGERS	
102. Drivers.	Provides for certain obligations of drivers of a public service vehicle when acting in such capacity.
103. Passengers.	Provides for prohibitions against a passenger when a public service vehicle is carrying passengers, or waiting to pick up passengers.
104. Obligation to give name.	Provides for the power of an authorized person, or a police officer to remove passengers contravening these regulations from a vehicle, and the obligation of passenger who is

	reasonably suspected to be contravening these regulations to his name and address to such officers.
105. Penalty.	Provides the penalty for a person contravening or failing to comply with any of the provisions of this Part of these regulations.
PART XIII - WARRANTS AND CERTIFICATES OF FITNESS	
106. Warrants and certificates to be carried and produced. Application of this Part -	Provides a prohibition on operating a motor vehicle on a road on or after 1 April 1961 without a warrant or certificate of fitness in the form and content stipulated under this regulation.
107. Warrants of fitness.	Provides for the Warrant of fitness, who may issue such warrant, the fee payable for examination of such vehicle and further stipulations for persons issuing a warrant of fitness in respect of any motor vehicle.
108. Certificate of fitness.	Provides for the fee payable for examining a vehicle for certificate of fitness, the prohibition from the issue of such certificate unless the examining officer has satisfied the provisions of this Regulation.
PART XIV - SPEED	
109. General rules.	Provides for a prohibition on driving at a speed in excess of speed limit stipulated under this regulation.
PART XV - LOCALITY RESTRICTIONS AND REVOCATIONS	
110. Compulsory stops.	Provides for every driver, whilst subject to the provisions of this regulation, to stop his vehicle and ascertain that the way is clear for him to proceed unless the way is clear.
111. Main roads.	Provides for roads declared as main roads for the purposes of these Regulations.
112. Revocations.	Provides for the revocation of the regulations in the Third Schedule and for saving all registers, appointments and other matters specified which originated under the regulations now revoked, to continue as if they had originated under these regulations.
First Schedule. (Regulation 4)	Provides for the fees on application for driving test.
Second Schedule. (Regulation 99)	Provides for the daily record of hours of work.

SCHEDULE 2

Road Traffic Orders 1994 (SLRC's unofficial consolidation)

ROAD TRAFFIC ORDERS 1994	
1. Title and commencement	Provides for the short title and commencement date of the Order. It also provides for when the Orders referred to under clause 2 remains in force.
2. Consequential Repeals	Provides for the repeal of the Road Traffic Order 1992 and the Road Traffic Order 1993.
3. Speed Limit	Provides for speed limits for certain roads specified under this Order.
4. One way Street	Provides for the one way street at the Calliope Street in town
5. Public and Private Taxi Stands	Provides for certain areas designated and constructed as public taxi stands.
6. Central Bus Terminus and Town Area Bus Stops	Provides for certain areas to be declared either as a Central Bus Stop or constituted Bus Stops.
7. Goods Vehicles	Provides that at all times, a goods vehicle shall be parked at all times in a manner so as to leave the roadway clear and safe for all road users.
8. Prohibiting Touting	Prohibits a bus or taxi driver from forcefully encouraging the public to hire his or her taxi or bus.
9. Prohibiting sound signals in specified area	Provides for certain areas where the use of sound signals are prohibited.
10. Pedestrian Crossings	Provides certain areas which may be pedestrian crossings.
11. No parking or turning in specified area	Provides for certain areas where a motor vehicle may not be parked, turned or stop at.
12. No U-turn	Provides a prohibition against a making a U-turn from infront of Kitano Hotel to Vaisigano bridge.
13. No Left- Turn	Provides for places where no driver of any motor vehicle is prohibited from making a Left turn.
14. Use of Car Radios	Provides for certain prohibitions, in a public service vehicle, against the use of car radios and other electronic devices in the manner stipulated under this Order.
15. Prohibiting Specified Roads	Provides for certain prohibition for certain vehicles and machinery from using the Main Roads set out under this Order.
16. Traffic Lights	Provides for certain rules in relation to traffic lights by which all motorists and pedestrians must adhere to at all times.

17. Lines	Provides for the rules pertaining to the different centre lines. e.g. for single broken centre lines, it should not be crossed unless the road is clear.
18. Lanes	Provides for the rules pertaining to the lanes of the road when driving.
19. Arrows	Provides for drivers to comply with arrows painted on the road surface.
20. Seat Belts to be worn	Provides for the rules pertaining to the use of seat belts in a motor vehicle that is in motion.
21. Carriages of Children in Motor Vehicle	Provides for the requirements for carrying children under years 12 in a motor vehicle and creates a related offence for non-compliance.
22. Motorcycle helmets to be worn	Provides for requirements for riders of motorcycles to wear motorcycle helmets.
23. Offences and Penalty	Provides for application of the general penalty under RTO to be awarded for non-compliance with any provision of this Order for which no penalty is specified.

SCHEDULE 3

Road Transport Reform (Familiarization Programme) Regulations 2009

ROAD TRANSPORT REFORM (FAMILIARISATION PROGRAMME) REGULATIONS 2009	
<u>Regulations</u>	<u>Summary of provisions</u>
1. Title and commencement	Provides for the Title of the Regulations and the commencement date.
2. Interpretation	Provides the definitions of the terms "Act" and "designated area".
3. Driving practice	Provides that any person driving in the designated area shall comply with the items set out in Schedule 2.
4. Speed limit	Prescribes the speed limit in the designated area which is 15 miles per hour.
5. Non-liability of Government	Provides that the Government shall not be liable by reason of any provision of these regulations for any injury, damage or loss which may occur to any person or property.
6. Expiry	Provides that these regulations expire on a date nominated by the Minister, or the date of commencement of sections 4 to 7 (inclusive) of the Act, whichever comes first.
Schedule 1	Provides the map of the designated area.
Schedule 2	Provides the rules in which every person must comply with, in the designated area.

SCHEDULE 4

Road Traffic (Payment of Fines) Regulations 2010

ROAD TRAFFIC (PAYMENT OF FINES) REGULATIONS 2010	
Regulations	Summary of provisions
Regulation 1	provides of the short title and commencement.
Regulation 2	provides for the interpretation of the term "Schedule".
Regulation 3	provides for the amendment to the Schedule for the Road <i>Traffic (Payment of Fines) Act 2009</i> .