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ANNUAL REPORT #10

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GOVERNMENT OF SAMOA

The Honourable Speaker
The Legislative Assembly of Samoa

In accordance with section 9 (3) of the *Law Reform Commission Act 2008*, I lay before you copies of the 10th Annual Report for the Samoa Law Reform Commission for the period of July 2018 to June 2019 for tabling before the Legislative Assembly of Samoa. This report documents activities implemented by the Commission within this period, in accordance with the Act.

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



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PRIME MINISTER AND MINISTER FOR THE SAMOA LAW REFORM COMMISSION

In accordance with section 9 (2) of the *Law Reform Commission Act 2008*, I have the pleasure to present you with copies of the 10th Annual Report for the Samoa Law Reform Commission for the period of July 2018 - June 2019, for tabling before the Legislative Assembly of Samoa. This report documents activities implemented by the Commission within this period, in accordance with the Act.

Telei'ai Dr. Lalotoa Mulitalo

EXECUTIVE DIRECTOR
SAMOA LAW REFORM COMMISSION

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FOREWORD – PRIME MINISTER

I am pleased to present this 10th Annual Report of the activities, achievements and challenges of the Samoa Law Reform Commission for the Financial Year July 2018 – June 2019.

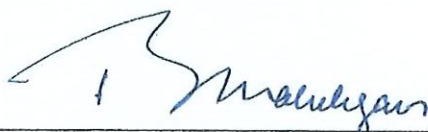
The law reform process aims to review, research and update existing law in a manner which allows broad community participation. This leads to promoting justice, good governance and accountability. Given a lot of Samoa's laws are very old, the SLRC performs the important function of ensuring that Samoa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

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

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

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

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



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

EXECUTIVE DIRECTORS NOTE

The 10th year of existence for the Samoa Law Reform Commission (SLRC) has seen the SLRC experience new challenges, and the SLRC continues to respond as best it can to the same. Some significant developments on the projects the subject of the SLRC's Key Performance Indicators for Financial Year 2018/2019 include the following.

Law Reform Projects

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

Within this financial year the Commission also worked on a number of ad hoc references. To assist the public, and in particular the Government Ministries understand the existing laws of Samoa, one of the major projects completed by the SLRC in December 2017 and its Final Report approved by Cabinet in January 2018 is the Review of the Fabric of Laws of Samoa, or more appropriately entitled - Toe Timata le Upega - O Tulafono a Samoa. In June 2019, Parliament approved the Final Report for this Review. The Draft Fabric of Laws Miscellaneous Repeal Bill is now before Parliament. The SLRC hopes this will become a periodic review to ensure Samoa operates and develops on updated, suitable and relevant laws.

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

Tatou faalagolago pea i le fesoasoani sili mai le Alii.



Telei'ai Dr. Lalotoa Mulitalo

EXECUTIVE DIRECTOR, SAMOA LAW REFORM COMMISSION

BACKGROUND

- The Samoa Law Reform Commission (Commission) was established in 2008 under the Law Reform Commission Act 2008. The Commission's functions are:
 - a) Recommend programmes for reform;
 - b) Pursuant to Terms of References from the Prime Minister, Cabinet or the Attorney General research and analyse areas of law as directed and report its recommendations to the Prime Minister and the Attorney General;
 - c) Advise government Ministries and agencies on their reviews; and
 - d) Consult with and advise the public about its work.
- In FY2018/2019, the Commission is led by Executive Director, Telei'ai Dr. Lalotoa Mulitalo with 16 staff members. The Executive Director is the administrative head of the Commission and directs, supervises and oversees all Projects.
- The Commission is divided into two Divisions; the Legal Division and the Corporate Services Unit.

LEGAL DIVISION

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

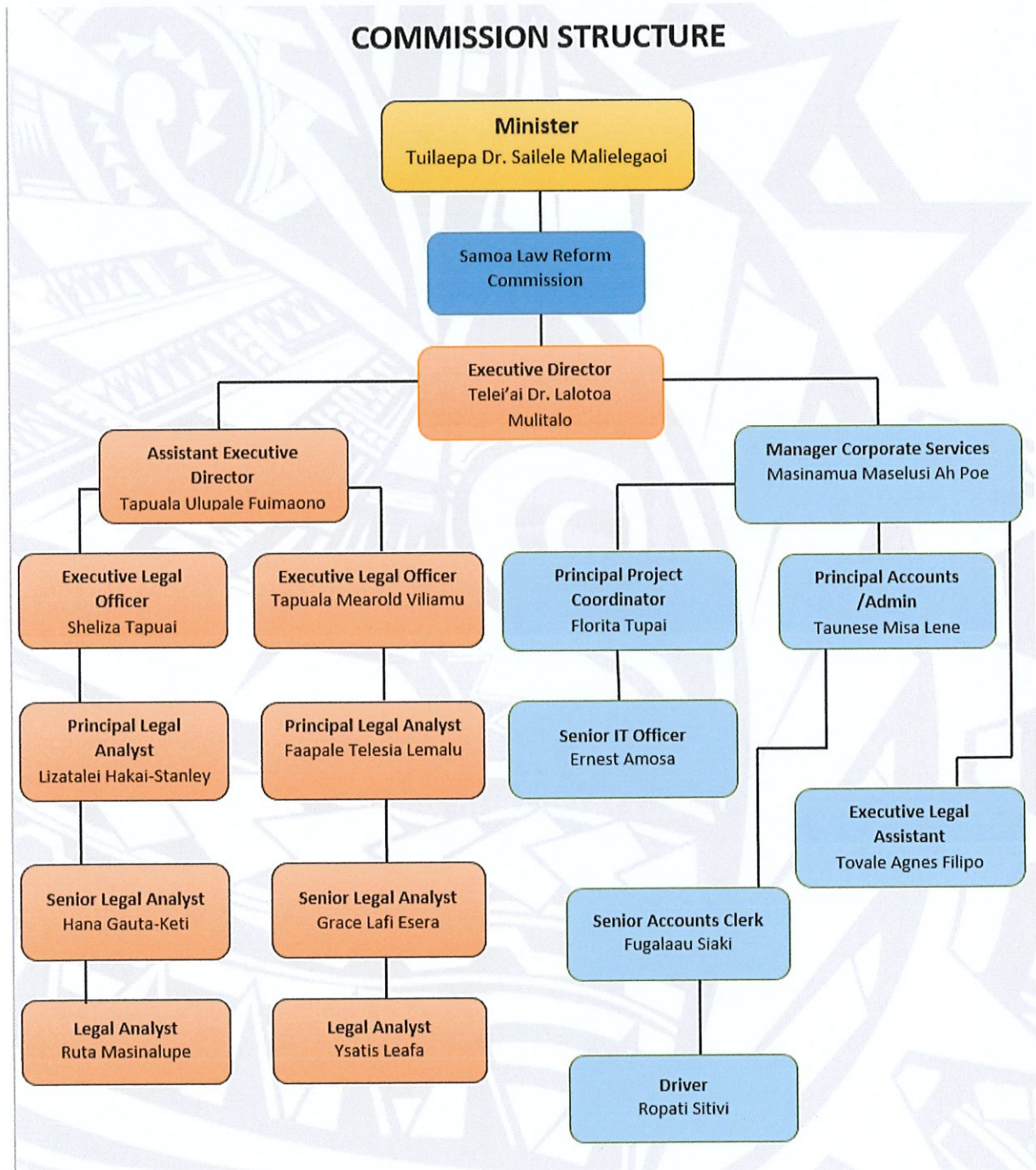
CORPORATE SERVICE UNIT

- The Corporate Service Unit provides finance, administration, human resource, and information technology support service to the Office of the Samoa Law Reform Commission. The CSU also assists with editing and translation of reports as well as assisting with planning and implementing Public Consultations for Projects.
- The Corporate Service Unit is led by a Corporate Manager, Masinamua Maselusi Ah Poe, who supervises 6 staff members;
 - o 1 Principal Legal Project Coordinator;
 - o 1 Principal Accounts and Administration Officer;
 - o 1 Senior ICT Officer;

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

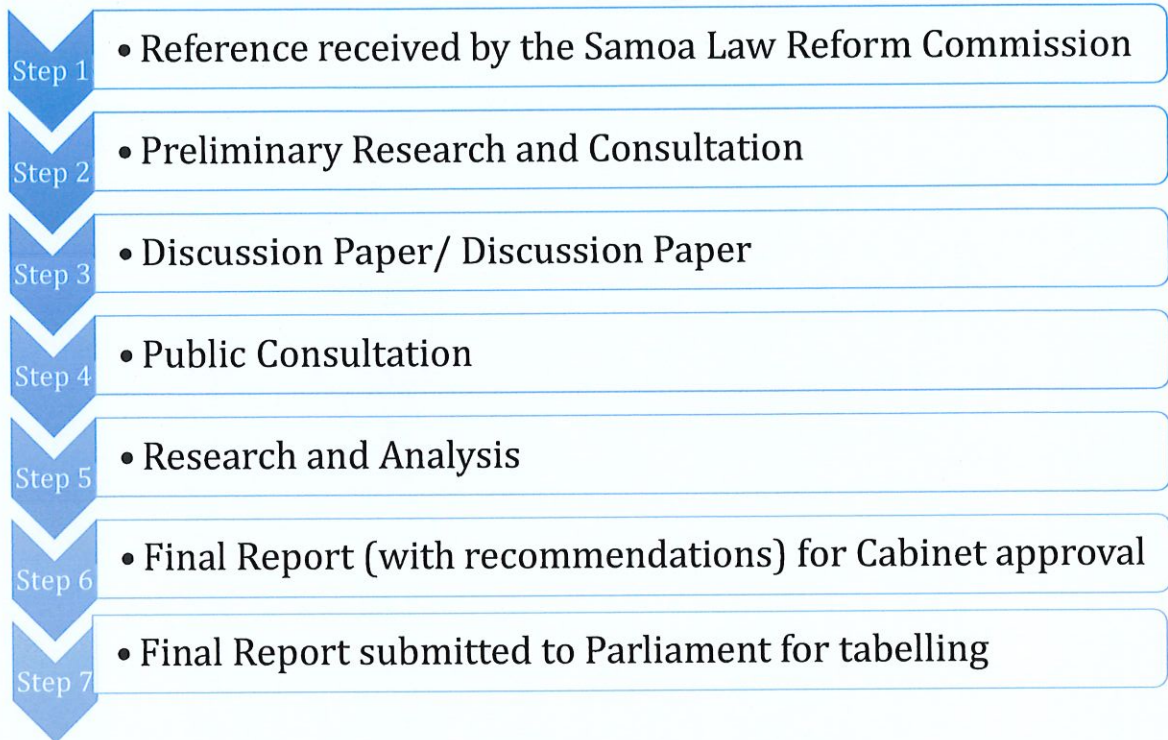
ORGANISATIONAL STRUCTURE

As of June 2019, the Commission's organisational structure is as follows;



THE LAW REFORM PROCESS

- The Commission follows a 7 Step process:



STEP 1 – REFERENCE RECEIVED BY THE SAMOA LAW REFORM COMMISSION

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

STEP 2 – PRELIMINARY RESEARCH AND CONSULTATIONS

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

STEP 3 – ISSUES/DISCUSSION PAPER

The Commission prepares and publishes an Issues Paper or Discussion Paper, which highlights problems and includes a series of questions about the main issues under consideration. Sometimes suggested options are included in the Discussion Paper and further submissions will be invited from affected individuals and groups. The Discussion

Paper is intended to stimulate discussion and to encourage interested persons to provide feedback. The Commission submits the Discussion Paper for Cabinet approval.

STEP 4 – PUBLIC CONSULTATION

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

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

STEP 5 – FURTHER RESEARCH AND ANALYSIS

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

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

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

STEP 7 – FINAL REPORT SUBMITTED TO PARLIAMENT

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

nuances and meanings in the English version is appropriately portrayed in the Samoan version.

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

LAW REFORM PROJECTS

Key Performance Indicators for Financial Year July 2018 to June 2019

1. EXCHANGE OF INFORMATION REVIEW –

(A) Discussion Paper - submitted to the Attorney General by February 2018.

- a) Proposed by the Samoa Law Reform Commission (SLRC) and approved by Office of the Attorney General on 5 May 2017, this review examines existing ‘information exchange’ mechanisms in Samoa in the public sector. Initially, a Freedom of Information framework was explored but this option was re-assessed given Samoa’s available resources and priorities of Government. Consequently, the Terms of Reference (TOR) was narrowed down to focus on the following:
 - i. to consider and assess issues on ‘exchange of information’ in Ministries and Corporations;
 - ii. to consider laws and policies in place on exchange of information’ in Ministries and Corporations;
 - iii. to consider similar laws and policies in other countries on exchange of information in Government; and
 - iv. to provide suitable options for Samoa.
- b) During the preliminary consultations, research and analysis, the Project was renamed to the ‘Exchange of Information Review’ to accurately reflect the revised Terms of Reference.

- c) Preliminary Research and Preliminary Consultations with various stakeholders affected by the review/reform completed. The comments and views collected during the preliminary research and consultation informed the Discussion Paper.
- d) The Discussion Paper was developed and submitted to Cabinet. It was then approved by Cabinet on the 30th May 2018.

(B) Public Consultations - conducted by July 2018.

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

(C) Final Report - submitted to Attorney General by December 2018

Final Report was submitted to Cabinet in December 2018. Final Report was approved by Cabinet on the 6 March 2019. Following Cabinet's approval, the Final Report was tabled in Parliament on the 10 June 2019.

2. FOREIGN INVESTMENT LAW

(A) Discussion Paper - submitted to the Attorney General by July 2018.

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

to support any revised legal framework (in MCIL and MOR) must be taken into account.

- d. To avoid duplication, the Review is now with MCIL and is being carried out by the TA. MCIL will revert to the SLRC for any assistance required on this Review.

(B) Public Consultations - conducted by December 2018.

Project with MCIL. Refer to "D" above.

(C) Final Report - submitted to Attorney General by October 2018.

Project with MCIL. Refer to "D" above.

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

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

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

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

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

composition, law reform process and the challenges faced by the same and how the SLRC responded to those; the budget and staff turnover.

- **Where we want to be** – requires research on for example the available literature on law reform commissions of the Pacific Islands and other commonwealth countries, a jurisdictional comparative analysis of law reform commissions in the Pacific region and elsewhere in terms of LRCs' functions, composition and processes.
- **How do we get there** – will be substantially informed by an analysis of both (a) and (b). A Law Reform Handbook setting out an updated 'law reform process' of the SLRC will also inform how we envisage to "get there". From this review, the SLRC and the OAG hope to provide a framework that will continue to improve the services of the SLRC, to ensure that the SLRC continues to strive towards meeting its mandate, i.e. for Samoa's laws to meet the needs of our country.
- The Review of the Law Reform Commission Act 2008 commenced in March 2018.
- The Preliminary Consultations and Research completed in April 2018.
- Discussion Paper was submitted to the Prime Minister on the 2 November 2018. The Prime Minister referred the Discussion Paper to Cabinet on 5 November 2018.
- The Discussion Paper was approved by Cabinet in January 2019.
- SLRC drafted the Bill which was approved by the Attorney General in May 2019. Following the Attorney General's approval, the Draft Bill was approved by Cabinet on the 17 June 2019. The same Bill was passed by Parliament on the 27 June 2019.

OTHER REFERENCES

1. REVIEW OF THE FAMILY LAWS OF SAMOA

The Review of the Family Laws of Samoa was initiated by the Samoa Law Reform Commission during an Awareness Session with the Chief Justice on the 13 January 2018. On the 26 September 2018, the Commission drafted a Terms of Reference for the Attorney General's approval. The TOR for the proposed Review of the Family Laws of Samoa is as follows:

To review the effectiveness of the existing family laws of Samoa;

To research relevant local, regional and international best principles and practices, review and consult with the stakeholders/public on the same; and

To make recommendations on an appropriate legal framework on family laws that serve the needs of Samoa.

Stage 1 - On the 2 October 2018, the Office of the Attorney General approved the proposed TOR by the Commission for the Review of the Family Laws of Samoa.

Stage 2 - Preliminary Research and Consultations commenced in October 2018. The Family Laws Public Awareness Seminars were carried out from July to November 2019. This was made possible by funding from the Sisters for Change NGO based in London. The Commission is very thankful for this support as it has allowed the people of Samoa to hear first – what core family laws (x6) there are in Samoa, before they are asked of any input on those laws, come 2020, God willing.

Stage 3 - The Discussion Paper is being developed for Cabinet approval.

2. FABRIC OF LAWS OF SAMOA

- Given the need to understand the fabric of the existing laws in force in Samoa to allow for effective law reform reviews, in August 2017, the Samoa Law Reform Commission (SLRC) initiated the review of the Fabric of Laws of Samoa Project. This initiative was driven by the belief that an overall background knowledge of the fabric of laws of Samoa is necessary for effective law making. This effort is the first of its kind. It is envisaged (and hoped) it will not be the last and that it will be a periodical project, to allow Samoa continue to operate on current and updated laws. Such will provide benefits at national level, as it will inform the Judiciary in its duty of applying the laws, the Executive in policy making and the Parliament in its Constitutional law making function. Both an informed Government and public will result in meaningful, effective and better law making.
- The approved Terms of Reference is as follows:
 - i) To identify the current fabric of laws (all 285 existing Acts of Parliament) of Samoa;
 - ii) To identify which Ministries, State Owned Enterprises (SOEs), or Constitutional Offices (COs) are responsible for which laws (legal authority); and
 - iii) To identify and confirm from Ministries/SOEs/COs any outdated laws under their administration and recommend removal, updating or replacing.
- Having followed all the first 6 stages of the law reform process (Terms of Reference received; Preliminary research and consultations; Discussion Paper; Consultations; Analysis of Research and Consultation information; and Development of the Final Report

for Cabinet approval (approved 18th January 2018)), the Final Report was tabled in Parliament on Friday 5 October 2018.

- The Final Report was passed by Parliament on the 26 June 2019.
- On the 17th April 2019, the SLRC was called in for a meeting with the Standing Orders, Electoral, Petitions & Constitutional Offices Committee on the Final Report.
- On the 26 June 2019, Parliament approved the Final Report.
- As per FK (19)24, Cabinet approved the Fabric of Laws Miscellaneous Repeal Bill 2019 drafted by SLRC. This Bill is now tabled before Parliament.

3. JUDGEMENT SUMMONSES ACT 1965

On the 20th November 2018, the Office of the Attorney General (OAG) referred a reference to the Commission to review the Judgment Summonses Act 1965 (JSA 1965). The Terms of Reference - Stage 1 (TOR) require the Commission to do the following.

- a) Review the appropriateness of the current JSA 1965 in particular, the placement in custody of citizens for non-performance of a civil contract.
- b) Consult with stakeholders and the public on the current practice of the JSA 1965.
- c) Research relevant regional and international legislation that provide for alternative methods for debt repayments and consider adopting similar practices, only if applicable to the context of Samoa.
- d) To make recommendations on appropriate legal framework on whether to:
 - i. reform the JSA 1965 (i.e. remove the terms of imprisonment as a punishment for non-payment of debts);
 - ii. introduce new alternative methods of debt repayments under the JSA; or
 - iii. remove government (by the repeal of the JSA 1965) from any role in civil contracts for breach of debts.

Having followed the six (6) stages of the Law Reform Process:

Stage 2 – Preliminary Research and Consultations. Preliminary Research were carried out from November 2018 to March 2019 and Preliminary Consultations were carried out with the Ministry of Justice and courts Administration (Administrator of the Act) on 2 April 2019.

Stage 3 – Discussion Paper. The findings from the preliminary research and consultations informed a Discussion Paper which was approved by Cabinet on the 17 April 2019.

Stage 4 – Public Consultations. The SLRC carried out consultations from May – June 2019 with the key stakeholders: the Samoa Prisons and Correction

Services, Ministry of Justice, Courts and Administration, Ministry of Police, Office of the Attorney General, Samoa Chamber of Commerce, Central Bank of Samoa, Members of the Judiciary, Samoa Housing Corporation, Development Bank of Samoa, Samoa National Provident Fund and the Samoa Law Society. The public was also invited to provide comments or views on the Review of the JSA 1965.

Stage 5 – Further Research and Analysis was carried out.

Stage 6 – Final Report approved by Cabinet 9 October 2019, FK 19(36)

Stage 7 – Final Report being translated for Parliament approval.

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

- On 2nd and 5th March 2018, the Commission called a meeting and did meet with the Samoa Law Society (then) Council and the Legislative Drafting Division of the Office of the Attorney General (OAG) on the (i) Draft Supreme Court Rules (Civil Procedure); and (ii) Draft District Court Rules (Civil Procedure). Beforehand, the Commission reviewed the two sets of Civil Procedure Rules (Supreme and District) and thereafter called the above said parties to meet to take this review to completion. At the end of this financial year, the revised penultimate final two sets of Draft Rules were with the Office of the Attorney General for their Final review.
- On the 1st October 2018, 80 copies of the Final Report both in English and Samoan were sent to the Office of the Legislative Assembly for tabling in Parliament.
- On the 17 April 2019, SLRC were called in for a meeting with the Standing Orders, Electoral, Petitions and Constitutional Offices Committee regarding the Final Report.
- The Final Report was approved 26 June 2019.

5. REVIEW OF THE PROPERTY LAW ACT 1952

- The Review of the Property Law Act 1952 was referred to the Commission on 18 August 2014 by the Attorney General. The Terms of Reference (TOR) required the Commission to:
 - a) undertake research and analysis of the Samoa PLA;
 - b) provide a report for recommendations on the review; and
 - c) carry out any other matter necessary to undertake the review.

- **Stage 6** – Final Report was approved by the Prime Minister on the 14 December 2018. The Final Report was then approved by Cabinet on the 19 December 2018 as per FK (18)15.
- **Stage 7** - After the Final Report was translated into Samoan language, 80 copies of the Final Report both in English and Samoan languages were sent for tabling in Parliament on the 1st April 2019.

6. REVIEW OF THE NARCOTICS ACT 1967

- In March 2015, the Commission received a Terms of Reference from the Office of the Attorney General to review the Narcotics Act 1967. The TOR required the Commission to consider the following issues:
 - (a) Whether the Samoa's Narcotics Act is adequate in controlling and regulating drugs;
 - (b) The need to consider emerging issues such as:
 - i. preventative regulatory regime;
 - ii. minimisation of drug related harm;
 - iii. new drugs, such as synthetic marijuana and party pills;
 - iv. support and treatment services and rehabilitation facilities;
 - v. medicinal use of certain drugs in controlled situations; and
 - vi. the establishment of an Alcohol and Drugs Court (ADC).
 - (c) The adequacy of enforcement, particularly in relation to:
 - i. penalties, including the appropriate penalty for low-level offending, inclusion of education, assessment and treatment for drug users;
 - ii. monitoring of prisoners released after serving their term or early on parole, e.g. mandatory drug testing; and
 - iii. rehabilitation as a sentencing option.
 - (d) The roles and responsibilities of parents, Village Fono and churches with respect to drug use.
- Stage 6 – Final Report was approved by Cabinet on the 10th January 2018 as per FK (18) 02. 80 copies of the Final Report in both English and Samoan languages were sent for tabling in Parliament on the 12 June 2018.
- Stage 7 – Approved by Parliament on 26 June 2019

PARLIAMENTARY SUMMONS

- Due to the nature of its work, the Commission has been summoned by Parliamentary Committees to comment on Bills that are derived from the Commission's Final Reports and also on Bills the Commission had no part in developing. For the latter Bills, the Commission is required to analyse the Draft Bill against legislative drafting principles and styles; and where needed, carry out research on related laws. This is to equip the Commission with responses in contemplation of Parliamentary Committee queries on those Draft Bills.
- The Commission is also summoned by Parliamentary Committees to answer to queries in relation to their Final Reports tabled in Parliament.
- The Commission's submissions were mostly done verbally in front of the Committees. In some cases, the Committees requested written responses following a session with the Commission, and the Commission has provided the same as sought. The following is a summary of Parliamentary summons for Financial Year 2018/2019.

FINAL REPORTS

1. 17 April 2019 – Fabric of Laws Final Report
2. 17 April 2019 – Civil Procedure Rules 1980 and Magistrate Court Rules 1971 Final Report

BILLS FROM THE COMMISSION'S FINAL REPORTS

3. 17 June 2019 – Law Reform Commission Bill 2019

CHALLENGES

1. Training and capacity building opportunities for this unique field of the legal profession, law reform, is very hard to come by. The Commission carries out monthly legal and law reform training and at times invites government lawyers and public sector lawyers.
2. Information ascertained from various stakeholders for the different projects carried out by the Commission are inconsistent and incomplete. The Commission has had to carry out time consuming research and analysis due to lack of basic baseline data. Case Law Court decisions are not always available when needed during the course of our research, and a time consuming costly task to physically follow up on these decisions.
3. The most critical important aspect of law review is research i.e. legal, doctrinal, literature social, philosophical etc. Legal search engines such as Lexis Nexis, NZlii and Austlii are vital for informed law reform. Subscription to these legal research engines is needed for

access. The challenge is affordability. The Commission's research is limited without access to these useful databases.

4. Financial constrictions has limited Public Consultations. Consultations for each Project (2 Upolu, 2 Savaii). The Consultation phase is crucial as it is the opportunity to hear the Public's opinion and identify issues and challenges at the grassroots level. This in turn will inform suitable reforms for Legislation governing the country. Without ample evidence/submissions gathered due to the low turnout at Consultations and the lack of submissions made, the recommendations may be limited and not capture the full extent of the issues in reality.
5. Human resource management has changed over the years. There is still substantial turnover rate but not as frequent as previous years. Attracting lawyers/ staff continues to be a challenge to the Commission, especially experienced staff. All legal vacant positions are advertised at least thrice before a satisfactory pool of applicants is gained. With some positions, the Commission has proceeded to the recruiting and selection process even though there may be one or two applicants. The Commission continues to continue to seek suitable qualified and experienced staff members for the Office.
6. Training and capacity building opportunities for this unique field of the legal profession, law reform, is very hard to come by. There have been no legal overseas training offered through MFAT or PSC available to the SLRC lawyers. All overseas legal trainings and workshops are received by other offices especially the Office of the Attorney General. This is very unfortunate for the SLRC especially when some of the core projects of the SLRC are the subject of those workshops and training. The AG of the Office of the Attorney General and the CEO MFAT were approached for the sharing of these training but nothing has resulted to date. This is unfortunate for the SLRC. However, work continues.

HUMAN RESOURCE MANAGEMENT

As alluded to earlier, the Commission has a total of 17 staffing positions. The following has been movement of incumbents for the Commission staff positions for Financial Year 2018/2019;

(i) **RESIGNATIONS-**

- a. Resignation of Leopold Bureieta Leauga from the Manager Corporate Service position on the 26 October 2018;
- b. Don Charlie Reed was recruited as a Senior IT on 6th August 2018, unfortunately he resigned from the position on the 1st February 2019.

- c. Ysatis Leafa was recruited as Legal Analyst on the 18th March 2019, unfortunately due to medical complications she resigned from the post effective on 9th August 2019.

(ii) **NEW APPOINTMENTS-**

- a. Appointment of Ms Tovale Filipo to the position of Executive Legal Secretary on the 22 October 2018.
- b. Appointment of Masinamua Maselusi Ah Poe to the Manager Corporate Service position on the 07 January 2019.
- c. Appointment of Ernest Amosa as the Senior IT Officer on the 18th April 2019.

(iii) **INTERNSHIP-**

- The SLRC occasionally hosts interns from Universities around the Pacific Region and abroad. It is to not only assist upcoming lawyers from those Institutions who hope to join the legal profession but more importantly allows the Commission to build working relationships/ networks with these Institutions. The following is a list of interns the Commission has accommodated for Financial Year 2018/2019;
 1. Josephine Vidler (University of Queensland)
 2. Susanna Connolly (University of Queensland)
- All interns have assisted in carrying out research on SLRC's various projects. Their contribution has benefitted the Commission to an extent. The Internship Programme is an excellent learning experience as it assists the interns understand the disparity between their well-resourced jurisdictions and the limited resourced Law Reform Commission of Samoa and other developing countries. It is hoped that as future practitioners in their own countries, they will be able to understand and assist Samoa and developing countries in the future, on the **challenges of law reform faced by plural societies**.

INTERNATIONAL CONFERENCES AND FORUMS

The Commission has attended the following international Conferences

Name of International Conference	Sponsor	Dates	Venue	SLRC attended	Designation

TULAFONO O TU MA AGA I LE PASEFIKA	UNIVERSITY OF CANTERBURY – CHRISTCHURCH NZ	2 nd – 4 th July 2018	Christchurch	Teleiai Dr Lalotoa Mulitalo	Executive Director
AOAOGA O LE VASA O AGANUU TULAFONO MA ISI TU MA AGA A LE PASEFIKA	UNIVERSITY OF SOUTH PACIFIC	9-10th August 2018	Suva - Fiji	Teleiai Dr Lalotoa Mulitalo	Executive Director
Fofoina o Feeseeseaiga o Mataupu Tau Le Siosiomaga Ma Atunuu Laiti (Environmental Dispute Resolution & Small Island States	MINISTRY OF FOREIGN AFFAIRS – NEW ZEALAND	3 rd – 7 th September 2018 (Training Workshop 3--5 Sept 18) Conference - 6- -10 Sept 2018)	London England	Telei'ai Dr Lalotoa Mulitalo	Executive Director
Tulafono Ma Le Lalolagi Faa- Tekonolosi	Australian Law Reform Agency Committee	23--25 October 2018	Port Moresby PNG	Telei'ai Dr Lalotoa Mulitalo & Ulupale Fuimaono	Executive Director & Assistant Executive Director

TRAINING AND CAPACITY BUILDING

The Commission has attended the following trainings and workshops.

LEGAL

Training/ Course Title	Provider	Date	Location	SLRC Employee
Drugs Control Bill 2019	Telei'ai Dr Lalotoa Mulitalo	3/08/2018	SLRC Conference Room	SLRC Legal Staff
1. Drafting Challenges – Pacific Islands 2. Environment Dispute Resolution and Small States – Law Drafting /	Telei'ai Dr Lalotoa Mulitalo	28/09/18	SLRC Conference Room	SLRC Legal Staff

Reform Perspective				
1. Law in the Digitalised World 2. Laws Regulating Cybercrime in Samoa: Online Child Pornography	1. Telei'ai Dr Lalotoa Mulitalo 2. Tapuala Ulupale Fuimaono (AED)	30/11/18	SLRC Office	SLRC Legal Staff
Programme For The Youth Leaders From The Pacific Island Countries	Guang Dong University of Foreign Countries	13/10/2018-2/11/2018	Guang Dong - China	Tapuala Mearold Viliamu
Leadership	Public Service	5/11-9/11/2018	PSC Conference Room	Lizatalei Hakai
Taking Of Customary Land for Public Purposes (discussions on the Salelologa Township cases of 2004)	Telei'ai Dr Lalotoa Mulitalo	22/02/2019	SLRC Conference Room	SLRC Staff -Legal Team and Corporate Service
Human Resource Management Development in the Singapore Public Service For Samoa Senior Executives	Public Service Commission	12/03/2019-14/03/19	TATTE Conference Room	Telei'ai Dr. Lalotoa Mulitalo
Sexual & Gender Based Violence (SGBV) Working Group	Office of the Attorney General (PILON)	25/03/19-27/03/2019	Tanoa Tusitala	Faapale Lemalu, Ruta Masinalupe, Ysatis Leafa
Formulation of an Interagency Essential Services Guide Responding To Gender Based Violence & Child Protection	MWCSD	2/4/2019 – 3/04/2019	Sheraton Hotel	Faapale Lemalu
Interpretation of Instructions /How to read drafting instructions	Telei'ai Dr Lalotoa Mulitalo	05/04/2019	SLRC Conference Room	SLRC Legal Staff, AGO Legal Staff, MNRE Legal Team

Training on Finance Laws	Salote Peteru (MoF – ACEO Legal Division)	26/04/2019	AGO Conference Room	In house counsels (arranged through the SLRC)
Working Draft Criminal Records (Clean Slate) Bill	Sheliza Tapuai & Lizatalei Hakai Stanley	30/04/2019	SLC Conference Room	SLRCL Legal Staff
Legal Training	Telei'ai Dr. Lalotoa Mulitalo	31/05/2019	SLRC Conference Room	SLRC Legal Staff
1. Legal Training – Consolidation of Regulations Project 2. Research Methodology – Analysis of data in Legal Research	Telei'ai Dr. Lalotoa Mulitalo	June 2019	SLRC Conference Room	SLRC Legal Staff and AGO Legal Staff
Translation of the Miscellaneous Repeal Bill 2019	Lizatalei Hakai Stanley	26/07/2019	SLRC Conference Room	SLRC Legal Staff
Interpretation Of Instructions/How To Read Drafting Instructions	Telei'ai Dr. Lalotoa Mulitalo	5/4/19	SLRC Conference Room	LRC Legal Staff, Attorney General Legal Staff, CBS Legal Team, MNRE Legal Staff.
MCCABE CENTER FOR LAW & CANCER INTENSIVE TRAINING	WHO	6/5/2019-24/5/2019	Melbourne Australia	Sheliza Tupai
Post School Education & Training (PSET) Annual Conference	SQA	11/4/19-12/4/19	Taumeasina Island Resort	Ruta Masinalupe

CORPORATE UNIT

Training/ Course Title	Provider	Duration	Location	SLRC Employee	Employee Designation
Development Of Finance & Economics For Samoa	Harbin University Commerce	4/7/18 - 23/7/18	Heilongjiang University	Fugalaau Siaki	Account & Administration Officer

Work Plan	PSC	27/08/18- 29/08/18	PSC Conference Room	Fugalaau Siaki	Account & Administration Officer
Presentation Skills Training	PSC	5/319- 7/3/19	PSC Conference Room	Fugalaau Siaki	Account & Administration Officer
WCEM Manual	PSC	23/3/2019	PSC Conference Room	Taunese Misa	Principal Account & Administration Officer
Finance One Refresher Training	MOF	17/04/201 9	CBS Building LvL 2	Fugalaau Siaki	Account & Administration Officer
Sector Planning	PSC	30/4/2019 - 3/5/2019	PSC Conference Room	Masinamua Maselusi Ah Poe	CSU Manager
WCEM Refresher Training	PSC	18/4/2019	SLRC Conference Room	SLRC Staff	ALL Staff

FINANCIAL MANAGEMENT

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

*for the financial year ended 30 June
2019*

	2019	Original Estimate	Final Estimate	(Over)/Under	2018
LAW REFORM COMMISSION	\$	\$	\$	\$	\$
PAYMENTS					
Outputs					
1.0 Legal Research Analysis and Recommendations	1,112,684	1,127,996	1,144,259	31,569	1,049,068
Total Outputs	1,112,684	1,127,996	1,144,259	31,569	1,049,068
Transactions on Behalf of State					

Rent and Lease (Government Building)	167,900	167,900	167,900	0	167,900
VAGST Output Tax	60,309	55,626	55,626	(4,683)	55,432
Total Transactions on Behalf of State	228,209	223,526	223,526	(4,683)	223,332
TOTAL PAYMENTS -LAW REFORM	1,340,893	1,351,522	1,367,785	26,886	1,272,401

Additional Financial Information

Expenditure Output 1.0 Breakdown

	2019	Original Estimate	Final Estimate	(Over)/Under
	\$	\$	\$	\$
1 Outputs 1.0				
Capital	47,953	30,978	52,210	4,252
Operating	227,292	171,960	241,440	14,148
Personnel	837,439	925,058	850,609	13,170
Total Payments	1,112,684	1,127,996	1,144,259	31,569

a. Capital Items:

The Commission spend \$16,975 within the financial year to procure a few Capital items in replacement of written off assets as listed below. The increase noted in the Final Budget Estimate as compared to the Original Budget Estimate is a result of savings allocated from Personnel Item to fund procurement of the following capital items. However, there were funds left unutilized at end.

1. Replacement of 19 Uninterruptible Power Supply (UPS) which were obsolete as dated back to 2013- 2014 as recorded in the Assets Register when they were originally purchased. Replacement of UPS units ensure computers and expensive Servers are safeguarded from being damage during power fluctuation.
2. Replacements of 1 Laptop, 1 Tablet, Computer Monitors and procured new closed door cabinets and wooden shelves for record filling.

b. Operating Expenses:

In comparison between the Final Estimate and the Original Estimate, a substantial increase of \$69,480 is noted with the actual spending exceeded the original estimate but fall short of utilizing the full Final Estimate by \$14,148. Total funds of \$69,480 were re-

allocated from Personnel savings to fund additional and overlap assignments from financial year 2017/2018:

1. The year 2018 mark the 10th Anniversary since the establishment of the Samoa Law Reform Commission in 2008. A 40 minute video clip was produced inclusively in compilation of achievements and previous year activities to commemorate this milestone achieved. The 40 minute video was aired on local TV Stations and achieved on the Commissions Website Page for Public access.
2. The Commission produced and informational 50 minute Video for Customary Land Laws in relation to LTRA 2008 Act and affiliated Laws that are related to Customary Lands. Unfortunately the video was not publicised due to amendments of the LTRA Act 2008 passed Parliament in June 2019. However, the Video has been posted on the Commission's Website page for Public information. In addressing the new changes in the LTRA Act, the Commission are now working on revising the CLLAP 1 video clip to address these changes in CLLAP 2 video with the aim of broadcasting it on local TV and post on the Commissions Website for Public awareness.
3. There were two major projects which were completed in financial year 2017/2018, namely Property Law and Exchange of Information Review. Final reports submitted to Cabinet for approval were later endorsed in the current financial year 2018/2019 by Cabinet. Once approved by Cabinet, the commission is required to translate, print and bind these Final Reports and submit 100 hard copies to OCLA for tabling in Parliament. The costs of printing and binding of final reports associated with these brought forward projects were funded from savings reallocated from Personnel Budget category.
4. Advertisements/Public Notices: A crucial part of law maintenance/reform is Public and Stakeholder input through their opinions and views submitted either verbally during Public Consultations or through written submissions. To be able to have a successful and rewarding Consultation, the Public and those involved must have full awareness and understanding of the Project and its parameters as well as the Samoa Law Reform Commission itself. The Commission advertises in many forms of media; TV, Radio, Newspaper, websites, social media and by word of mouth before every Public Consultation to ensure maximum Public participation. Advertisements on TV and Newspapers are expensive however the Commission feels this is money well

spent given the importance of Public Consultation to law reform and assisting the Commission to achieve its Key Performance Indicators and goals.

5. **Printing and Publication:** The Commission has to print and bind both the Discussion Paper for Cabinet as well as the Final Report for Parliament. The sizes of these report vary depending on the Project. Some Discussion Paper for other Projects may coincide with Final Reports of other Projects resulting in and increase on publications resulting in an increase in the costs and expenditure for this account. Increase of peripherals required for In-house printers to print seminars and consultation materials see an increase to cost of tonners and stationeries.
6. **Catering and Refreshments:** The Ministry of Finance has placed a cap on Catering and Refreshments at \$6,000.00 per Financial Year. Unfortunately, utilization of funds allocated for this item for FY1819 was underutilized due to minimum Public Consultations required under reviews of Laws as in the Commissions Approved Budget Framework for financial year under review.

c. Personnel:

The unutilized budget amount reported under the personnel category was a result of savings accumulated from vacant positions within the financial year which were filled in the last 6 months of FY2018/2019 thus bringing the Commission to full force.

d. General Comments:

Overall, budget utilization was underutilized by \$26,886.00 within the financial year 2018-2019 in comparison to final estimate.