

PUBLIC INFORMATION ANNOUNCEMENT

THE BILLS NOW BEING CONSIDERED BY THE LEGISLATIVE ASSEMBLY

The Attorney General's Office is responsible for drafting, fostering and publishing the laws; in order to inform the public of the many important and interesting laws that are this year being considered by the Legislative Assembly, we are listing and briefly explaining the Bills that are now before the Assembly.

How Bills originate and are handled

With most Bills, there is a process whereby different Government Ministries decide what new laws they want, or what amendments they want to existing laws. Cabinet approval is sought and they ask experts and consult with other parts of government and the public; and when the details are decided the government lawyers write the law or check the drafts. All Bills (and subsidiary legislation such as regulations) then are considered in detail by the Cabinet sub-committee called the Law Committee. This Committee checks the new law to make sure it is lawful, not in conflict with other laws and policies of Tonga and that it conforms with the Cabinet decision about what should be in the Bill. After amendments and consultations at this last stage, and after final approval by Cabinet the proposed new law is presented to the Legislative Assembly.

The Legislative Assembly reads the Bills and debates them and considers them in committees. If they are passed by the Parliament the laws are sent to the King who must agree to them before they can become law. If the King assents, the new or amending laws will become Acts and come into force then or some later date as necessary.

As at 14th September 2012, below is a list of some of those laws that Government hopes will be passed by the Legislative Assembly this year –

1. Water Resources Bill 2012

This is a very important new law for Tonga and is to allow for the management, protection and conservation of water resources by the Government on behalf of all the people. The Tonga Water Board is allowed to take and use water from aquifers, springs and lakes and other people and groups can also use bores, and drill for water with a permit from the Ministry of Lands, Environment, Climate Change and Natural Resources.

The Ministry has the duty to protect water reserves, make them sustainable and safe and monitor developments to reduce the risks to the water reserves, and for this it has extensive powers and is to develop a Water Management Plan.

2. Electoral Boundaries Commission Bill 2012

The main purpose of this Bill is to confirm the principles on which electoral boundaries are to be redrawn by the Electoral Boundaries Commission.

The Electoral Boundaries Commission Act 2010 was passed after considerable late night debate in the Legislative Assembly in 2010. The Assembly had before it the report of the Royal Constituency Boundaries Commission that included 3 options for deciding electoral boundaries. The Assembly chose option 2 but unfortunately the Bill that was passed was in fact the Bill that gave effect to option 1.

This amending Bill is designed to correct this and ensure that the principles that are to be followed by the Electoral Boundaries Commission are based on keeping island groups together for electoral purposes as far as possible – the same as for the 2010 election.

The Electoral Boundaries Commission will soon be required to draw up new electoral boundaries based on the new national census results. If this Bill is passed, the Commission will then be able to draw those boundaries on the criteria that the Assembly actually approved and that the Commission considers to be most acceptable and expected by the people.

3. District and Town Officers (Amendment) Bill 2012

This is a small amendment that says that the Electoral Commission is to handle elections of District and Town officers. The Act now says that the Prime Minister's Office organizes the election, but now that Tonga has a new Electoral Commission and all the elections staff are there, the Act needs an amendment to conform with the new elections arrangements. This amendment is needed soon because elections for District and Town officers are due next year.

The regulations also have to be changed, but as usual this is done by Cabinet first and then the regulations come into force subject to the right of the Legislative Assembly to rescind them.

4. Good Governance Commission Bill 2012

The Government wanted to get the Anti-Corruption Commission and the Ombudsman Office (Commissioner for Public Relations) up and running, but was concerned that there were also many similar new ideas being considered and that Tonga needed an overall independent supervising authority to be able to afford or properly organize all these.

Cabinet agreed that a Tonga sized solution is to have in this area one basic body - the *Good Governance Commission*, with probably one suitably experienced person to start it off and get it organized properly. This will be an independent body and will have a number of divisions overseen by the Commission - an anti-corruption division, ombudsman division, then all the other functions that Tonga may want to go ahead with now or in the future - for international crime, money laundering, freedom of information, human rights, integrity commission, counter terrorism, and many others that will come up. Most of these have the same need for investigators, enforcement, monitoring, specialised accounting skills etc - and if combined then they will all have a proper job to do, directed and supervised centrally - rather than numbers of separate offices all doing similar things at great expense and struggling on a Tonga budget.

This Bill sets up the Good Governance Commission, and related to this Bill are –

5. Anti-Corruption Commission (Amendment) Bill 2012 and

6. Commissioner for Public Relations (Amendment) Bill 2012

These short amendments basically leave the existing Acts as they are – all the powers of the Anti-Corruption Commission remain the same, but now there is an organization structure under the Good Governance Commission to try to make it work effectively. The same with the Commissioner for Public Relations and that body is renamed as the Ombudsman, which is the well-recognized name of similar bodies throughout the world.

It is hoped that when these amendments are made, both bodies can get going properly, and other similar new bodies can also be organized sensibly and affordably for Tonga.

7. Births and Deaths and Marriages (Amendment) Bill 2012

When laws were first being arranged for Tonga, it was sensible and safe for the Chief Justice to be in charge of the system of registering Births, Deaths and Marriages. This has worked well but now Tonga has developed and it is time to arrange this important work another way. This Bill takes away the role from the Chief Justice and gives it to a separate Registrar General. Tonga already has a properly run office for this and the existing registrar is well capable of running a safe and reliable system of registration. This Bill makes these small but important changes to the system.

The Legislative Assembly has now passed this amendment and the King granted Royal Assent on 14th September. This Act will be brought into force by the Prime Minister through a Notice published in the Gazette, once the registry is ready to implement the amendments.

8. Legal Aid Bill 2012

The Government of Tonga already manages to provide the people with all the basics for a modern life within Tonga's limited budget. On the legal side, we have all the laws we need, enforced by the police and by a fine system of courts and Judges. People with money can find out and enforce their rights; but the only gap left in this system is the poor people of Tonga – they have no way to find out the law when they have a problem, or know what to do to enforce their rights and are often without help if they are taken to court by other people or the police.

This Bill provides the framework of a system of legal aid in Tonga to provide this basic need for people who cannot afford a lawyer to help them. Help is needed with family law issues, criminal law, domestic violence issues, inheritance law, property laws etc. Much of the help will be provided by Tonga's private law practitioners.

It is proposed to make the legal aid office part of the Good Governance Commission so that there are very little expenses for offices or staff and that it is properly managed. Government is hoping to find \$100,000 to start the legal aid scheme and is looking for more money; and overseas donors may be willing to contribute funding for legal aid generally or in certain areas.

9. Food Bill 2012

This Bill regulates the business of making, importing and selling of food in Tonga, and for this purpose sets up a National Food Authority. There are all sorts of powers to ban certain foods; check the safety of shops and warehouses; the hygiene, freshness and labelling of food; and, the health of shops and restaurants.

There are likely to be detailed regulations made or adopted regarding specific foods and premises.

10. Business Licences (Amendment) Bill 2012

The Bill represents the culmination of many years' worth of work on reforming the Business Licences Act. Throughout the process significant input has been obtained from both public and private stakeholders. There are six primary proposed changes to the Act and accompanying regulations:

- 1) allow one single business licence to cover multiple business activities;
- 2) revise the list of business activities found in Schedule 2 of the Regulations;
- 3) make the duration of the licence perpetual and combine this with an annual notice of renewal;
- 4) do not require submission of ancillary licences and other paperwork to obtain the business licence;
- 5) changing the manner in which penalties are levied for a failure to comply with the Act; and
- 6) restructure the fees that are charged.

All of the above Bills can be seen at the **official website** - <http://www.crownlaw.gov.to/cms>

Criminal and Magistrates' laws reform package

In addition to the above new and amending laws, the Attorney General and a wide committee including Judges, Magistrates and others have been working on a major revision of many aspects of the criminal laws and Magistrate's Court laws of Tonga. This package of laws is expected soon to be presented to the Legislative Assembly and at that time we hope to explain these to the public for their information, comment and discussion.

In addition to these laws, the following are also before the Legislative Assembly –

11. National Retirement Benefits Scheme (Amendment) Bill 2012
12. Personal Property Security (Amendment) Bill 2012
13. Public Health (Amendment) Bill 2012
14. Supreme Court (Amendment) Bill 2012.

The Bills already passed in 2012 by the Legislative Assembly, include the important **National Spatial Planning Act 2012** that provides for the planning and management of land use; as well as amendments to the customs and excise laws, the Public Audit Act, Electoral Commission Act, Public Service Act and the wide ranging miscellaneous amendments to laws to show the changes in the names of government ministries.

Attorney General

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