

**MISCELLANEOUS (MINISTERIAL ASSIGNMENT)
AMENDMENT BILL 2019**

SAMOA

Explanatory Memorandum

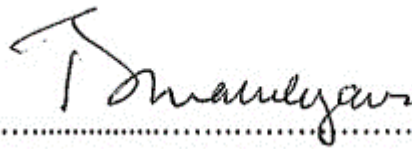
1.0 Object and reasons:

- 1.1 The Bill seeks to amend various Acts to accommodate for the Ministerial Assignment made by the Prime Minister pursuant to Article 35 of the Constitution of the Independent State of Samoa.
- 1.2 The object of the Bill is to clarify the various legal mandates and functions that are to be undertaken by each particular office in order to give effect to the Ministerial Assignment and the reshuffle of functions.

Clauses:

- Clause 1:** - provides for the short title and commencement.
- Clause 2:** - provides for amendments to be made to the Land Transport Authority Act 2007.
- Clause 3:** - provides for amendments to be made to the Police Powers Act 2007.
- Clause 4:** - provides for amendments to be made to the Road Traffic (Payment of Fines) Act 2009.

- Clause 5:** - provides for amendments to be made to the Road Traffic Ordinance 1960.
- Clause 6:** - provides for amendments to be made to the Building Alignment Ordinance 1932.
- Clause 7:** - amends the Ministry of Works Act 2002 by repealing of Part 6 of that Act.
- Clause 8:** - provides for transitional arrangements required as a result of the transfer of duties from the Land Transport Authority to the Samoa Police Service.



(Hon TUILAEPA Auelua Fatialofa Lupesoliai Lolofietele
Neioti Aiono Galumalemana Dr. Sailele Malielegaoi)

PRIME MINISTER

**MISCELLANEOUS (MINISTERIAL ASSIGNMENT)
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SAMOA

Arrangement of Provisions

1. Short title and commencement
 2. Land Transport Authority Act 2007 amended
 3. Police Powers Act 2007 amended
 4. Road Traffic (Payment of Fines) Act 2009 amended
 5. Road Traffic Ordinance 1960 amended
 6. Building Alignment Ordinance 1932 amended
 7. Ministry of Works Act 2002 amended
 8. Transitional and Savings provision
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2019, No.

A BILL INTITULED

AN ACT to amend several Acts as a result of the Ministerial Assignment made pursuant to Article 35 of the Constitution of the Independent State of Samoa 1960, and for related purposes.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement:

- (1) This Act may be cited as the Miscellaneous (Ministerial Assignment) Amendment Act 2019.
- (2) This Act commences on the date of its assent by the Head of State.

2. Land Transport Authority Act 2007 amended:

The Land Transport Authority Act 2007 is amended as follows:

- (a) Parts 5, 6 and 7 are repealed; and
- (b) in section 2, the following definitions are repealed -
 - (i) "Ministry"; and
 - (ii) motor vehicle; and
 - (iii) "owner" or "owns"; and
 - (iv) "registered"; and
 - (v) "registration plate or label"; and
 - (vi) "rule"; and
- (c) section 5(1)(d), (e) and (f) are repealed; and
- (d) section 6(a) and (c) are repealed; and
- (e) section 19(1)(e) is repealed; and
- (f) section 23(3)(e) is repealed.

3. Police Powers Act 2007 amended:

The Police Powers Act 2007 is amended as follows:

- (a) in section 2, insert the following new definitions in its alphabetical order:

“owner” means:

- (a) the person registered as the owner of the vehicle or a person in lawful possession of such vehicle; or
- (b) the purchaser or receiver of a vehicle registered in an owner’s name if -
- (i) such vehicle is sold or transferred of by the registered owner to the purchaser or receiver; and
- (ii) the owner provided written notice of sale or transfer to the Service.

“Service” has the same meaning given to it under the Police Service Act 2009;

“vehicle” has the same meaning given to it under the Road Traffic Ordinance 1960;”;

- (b) insert the new Part 6A after section 36 as follows:

**“PART 6A
ROAD TRANSPORT**

Division 1 - Principal Licensing Authority

36A. Service is the Principal Licensing Authority:

The Service is the Principal Licensing Authority under the Road Traffic Ordinance 1960.

36B. Service to keep Register:

The Service must establish and maintain a Register with all prescribed particulars of a vehicle and the owner of such vehicle.

*Division 2 - Functions and powers***36C. Commissioner may approve forms:**

The Commissioner may approve forms to be used under this Part.

36D. Functions regarding vehicle registration, licensing and road use management:

- (1) The Service is responsible for:
 - (a) registration of vehicles and licensing drivers in accordance with any law;
 - (b) establishing and enforcement of standards for vehicle registration and licensing of drivers;
 - (c) promoting safe road use and vehicle safety;
 - (d) inspection of vehicles;
 - (e) controlling or prohibiting the use of vehicles that are considered -
 - (i) to be in breach of applicable standards or requirements; or
 - (ii) unsafe to users of the vehicle or the general public; and
 - (f) formulation and implementation of road safety campaigns.
- (2) The Service has the powers required to undertake its functions under subsection (1).

36E. Road Transport Regulations:

The Head of State may make Regulations prescribing the following:

- (a) application process for the registration of vehicles; and
- (b) particulars to be kept in the Register; and
- (c) requirements for -
 - (i) the delivery of notices and other documents; and
 - (ii) change of name and address; and
- (d) requirements for becoming a licensed driver of a vehicle; and
- (e) subject to the approval of the National Revenue Board, fees payable for -
 - (i) an application to be considered by the Service under this Part;
 - (ii) the issuing of a licence, registration, certificate or permit; or
 - (iii) changing any record.”.

4. Road Traffic (Payment of Fines) Act 2009 amended:

The provisions of the Road Traffic (Payment of Fines) Act 2009 set out in Column 1, are amended according to Column 2 in the table below:

Column 1	Column 2
s2	(a) Repeal the definition of “Authority”; (b) Insert the following new definitions in its correct alphabetical order: ““Commissioner” means the Commissioner of Police appointed under the Police Service Act 2009; “Service” has the same meaning given to it under the Police Service Act 2009;”

	<p>(c) In the definition for “Minister” substitute “land transport” with “the Service”; and</p> <p>(d) In the definition of “Traffic Offence Notice” and “Notice” omit “or the Land Transport Authority Act 2007”.</p>
s4(2)	(a) Substitute “Land Transport Authority in consultation with the Commissioner of Police and shall be signed for the Commissioner of Police by the Police Officer” with “Commissioner”.
s5	<p>(a) In subsection (2) “the Land Transport Authority” is substituted with “an Office of the Service as approved by the Commissioner”.</p> <p>(b) Insert the following new subsection:</p> <p>“(3) The Commissioner must ensure that all fines collected under this section are deposited into the Treasury Fund.”.</p>
s8	<p>(a) Substitute with:</p> <p>“8. Powers may be exercised by police officer:</p> <p>(1) The powers and procedures provided for under this Act may be exercised by police officers.</p> <p>(2) For the purpose of the exercise of any power under this section a Notice issued by a police officer:</p> <p>(a) must be in a form approved by the Commissioner; and</p>

	<p>(b) signed for the Commissioner by a police officer.</p> <p>(3) Any fine imposed under this section is recoverable to the Government.”.</p>
s9	<p>(a) In subsections (1) and (2), omit “or to an officer of the Authority” and “or an officer of the Authority” wherever occurring.</p>

5. Road Traffic Ordinance 1960 amended:

The provisions of the Road Traffic Ordinance 1960 set out in Column 1, are amended according to Column 2 in the table below:

Column 1	Column 2
s2	<p>(a) Repeal the definitions for “authorised officer”, “Chief Executive Officer” and “enforcement officer”; and</p> <p>(b) In the definition of “prescribed fee” substitute “the Land Transport Authority Act 2007” with “this Ordinance”;</p> <p>(c) Insert the following new definitions in its correct alphabetical order:</p> <p>““Commissioner” means the Police Commissioner appointed under the Police Service Act 2009;</p> <p>“plate or label” means a plate or label affixed to a vehicle showing, that it has been registered under this Act;</p> <p>“police officer” means a sworn member under the Police Service Act 2009;</p>

	<p>“Principal Licensing Authority” means the Samoa Police Service continued under the Samoa Police Service Act 2009;</p> <p>“Samoa Police Service” or “Service” has the same meaning given to it under section 2 of the Police Service Act 2009;”.</p>
s3	<p>(a) In subsection (1):</p> <p>(i) substitute “There shall be appointed under the Land Transport Authority Act 2007 a Licence Controller who shall be” with “The Service is the appointed Licence Controller that is”; and</p> <p>(ii) omit “Land Transport Authority Act 2007”.</p> <p>(b) In subsection (2) substitute “Parts 2 and 4 of the Land Transport Authority Act 2007” with “the examination and registration of vehicles, or licensing of drivers”.</p>
s5A	<p>(a) In subsection (1), substitute “Chief Executive Officer” with “Commissioner”.</p> <p>(b) In subsection (2) substitute “the Land Transport Authority Act 2007” with “this Ordinance”.</p>
s8(a)	<p>(a) For “authorised officer” substitute “police officer”.</p>
s9	<p>(a) For “authorised officer” substitute “police officer” wherever occurring.</p>
s11	<p>(a) in subsection (1), for “appropriate fee set out in the First Schedule to this Ordinance,” substitute with “prescribed fee”;</p> <p>(b) subsection (2) is repealed.</p>

s13(4)	(a) Substitute “the Land Transport Authority Act 2007” with “this Ordinance”.
s19(2)	(b) Substitute “section 36 of the Land Transport Authority Act 2007” with “this Ordinance”.
s27(5)	(a) Omit “or authorised officer” wherever occurring.
s50	(a) Omit “or an authorised officer” wherever occurring.
s51	(a) In subsection (2): (i) in paragraph (b) substitute “Secretary for Transport” with “Chief Executive Officer of the Ministry responsible for Transport and Infrastructure”; and (ii) in paragraph (c), substitute “Director of Works” with “Chief Executive Officer of the Land Transport Authority”.
s55	(a) For “authorised officer” or “an authorised officer” or “the authorised officer” substitute with “a police officer” or “police officer” wherever occurring.
s56	(a) Repeal.
s72B	(a) In the heading of the section omit “or authorised officer”; (b) In subsection (1), omit “or an authorised officer, if”; (c) In subsection (1)(c) and (d), omit “or authorised officer”.
s72C	(a) Repeal.
s72D	(a) In subsection (1) substitute “an authorised officer” with “a police officer”. (b) In subsection(2): (i) in paragraph (a) substitute “Authority’s compound at the owner’s costs fixed by the

	<p>Authority" with "compound approved by the Commissioner at the owner's costs as prescribed by Regulations"; and</p> <p>(ii) in paragraphs (b) and (c), substitute "Authority" with "Commissioner".</p> <p>(c) In subsection (4), substitute "to the satisfaction of the Authority" with "in accordance with requirements prescribed under Regulations".</p>
s72E	<p>(a) Substitute "Authority" with "Commissioner" wherever occurring.</p> <p>(b) For subsection (4) substitute:</p> <p style="padding-left: 40px;">“(4) Before any vehicle is auctioned under this section, the Commissioner must ensure:</p> <p>(c) that the vehicle is recorded as an impounded vehicle; and</p> <p>(d) that after completion of the process in subsections (1) and (2), the vehicle is written off and disposed in accordance with procedures prescribed under the Public Finance Management Act 2001.”.</p>
Entire Act	Reference to "enforcement officer" wherever occurring is substituted with "police officer".

6. Building Alignment Ordinance 1932 amended:

The Building Alignment Ordinance 1932 is amended as follows:

- (a) insert the following new definitions in section 2, in its correct alphabetical order:

““Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for Works, Transport and Infrastructure;

“Minister” means the Minister responsible for Works Transport and Infrastructure;

“Ministry” means the Ministry responsible for Works Transport and Infrastructure;” and

- (b) in section 3(2), for “Minister responsible for Natural Resources and Environment (formerly the Minister responsible for Lands, Surveys and Environment), the Chief Executive Officer (formerly the Director of Lands, Surveys and Environment), the Ministry responsible for Natural Resources and Environment (formerly the Department of Lands, Surveys and Environment)” substitute with “Minister, the Chief Executive Officer and the Ministry”.

7. Ministry of Works Act 2002 amended:

Part 6 of the Ministry of Works Act 2002 is repealed.

8. Transitional and Savings provision:

- (1) Any person appointed as an authorised officer for the Land Transport Authority (“Authority”) and who has opted to be transferred to the Samoa Police Service (“Service”), is at the commencement of this Act, considered a sworn member of the Service.
- (2) Any person employed by the Authority whose duty and function is in the administration of the traffic offence system, parking meter system, registration and examination of vehicles and licensing of drivers is at the commencement of this Act, considered a sworn

member of the Service or non-sworn member of the Service respectively.

- (3) All liabilities deriving from contracts attached to the administrative function of examination and registration of vehicles and its owners and licensing of drivers are at the commencement of this Act, vested in the Service.
- (4) Any legal proceeding commenced by the Authority for the enforcement of a traffic offence notice is at the commencement of this Act treated as commenced by the Service and must be taken forward by the Service.
- (5) Any power exercised by the Authority under an enactment repealed or amended in this Act, is treated as exercised by the Service or the Commissioner accordingly at the commencement of this Act.
- (6) Any register required to be established and maintained by the Authority pursuant to an enactment that is amended or repealed under this Act, is treated at the commencement of this Act, to be established and maintained by the Service.
- (7) The Head of State may make Regulations to provide for the transfer of assets from the Authority to the Service.
- (8) Any regulation made pursuant to an enactment that is amended or repealed under this Act:
 - (a) is at the commencement of this Act regarded valid until it is repealed or amended; or
 - (b) that contains reference to an officer of the Authority is at the commencement of this Act regarded as referring to a police officer; or

- (c) that contains reference to the Authority is at the commencement of this Act regarded as a reference to the Commissioner or Service accordingly; or
 - (d) that contains reference to the Chief Executive Officer of the Authority, is at the commencement of this Act regarded as a reference to the Commissioner.
- (9) Any enactment or amendments made to any provision or parts repealed or to any enactment amended (for the purpose of the reshuffle as per the Ministerial Assignment) under this Act that is currently in Parliament:
- (a) are not affected unless they are contrary to the object of this Act; and
 - (b) that makes reference to an authorised officer is regarded as referring to a police officer,
at the commencement of this Act.
- (10) Any resolutions passed by the Authority's Board before the commencement of this Act relating to traffic matters are taken to be made by the Service for such purposes and continue to be valid until revoked by the Service.
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