

SAMOA

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1998, No. 30**AN ACT to make provision for a pension Scheme for
Members of the Parliament of Samoa. (3 July 1998)**

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

**PART I
Introduction**

1. Short title and commencement-(1) This Act may be
cited as the Parliamentary Pension Scheme Act 1998.

(2) This Act shall come into force on the date that it is
assented to by the Head of State but entitlements under this Act
shall commence on the 16th day of May 1996, and to that extent
this Act shall have retrospective effect.

2. Interpretation - In this Act unless the contrary
intention appears:

“Annual Compensation” for pension purposes, means the
salary paid from time to time to the Member during
the plan year:

“Annual Pension” for each eligible member means the
pension percentage *multiplied* by the vesting
percentage *multiplied* by the final average annual
compensation, as applicable to the member:

“Board” means the Board of Directors established under
section 4:

“Contribution” means the member’s contribution fixed at
10% of his salary per annum, and the government’s
contribution being the balance required to provide
the benefits under the scheme:

“Credited Interest Rate” means the interest rate declared by
the Board at the beginning of each plan year
pursuant to its power in section 5(e):

- “Date of Retirement” means the first day of any month selected by a member on or after his or her 65th birthday:
- “Death Benefit” means the benefits entitled to be paid under the Plan to a member who dies and leaves a surviving spouse:
- “Effective Date” means 16th May 1996:
- “Eligibility” means the election of a member to the Parliament on or after the effective date:
- “Final Average Compensation” in respect of a member’s entitlements, means the sum of the highest 3 years of annual compensation within the last 10 plan years applicable to the member, divided by 3:
- “Government” means the government of Samoa:
- “Government’s Contribution” means the amount in excess of the member’s contributions required to provide the entitlements under the plan:
- “Member of Parliament” and “Member” means a Member of the Parliament of Samoa holding that office on or after the effective date:
- “Member’s Contribution” means the amount of 10% per annum of each member’s salary:
- “Pension percentage” in respect of a member’s entitlements, means 1 percent *multiplied* by the members years of parliamentary membership (up to a maximum of 15 years):
- “Plan” means the pension plan adopted by the Board under section 11:
- “Plan Year” means each year commencing on July 1 and finishing on June 30 of the next calendar year, except for the first year which will commence on 1st January 1998 and end 30th June 1998:
- “Retirement Age” means the age of 65 years:
- “Retirement Benefit” means the benefits entitled to be paid under the plan to a member who retires after the effective date and who has reached the retirement age:

“Salary” for pension purposes means the member’s final average compensation:

“Vesting percentage” in respect of a member’s entitlements, means, where the member’s years of parliamentary service -

- (a) Is less than 10 years, 0%; and
- (b) Is more than 10 years, 100 %;

“Withdrawal benefit” means the benefits entitled to be paid under the plan to a member who leaves parliamentary service prior to reaching the retirement age for any reason other than death:

“Years of Parliamentary service” in respect of a member, means the actual number of days served in Parliament by the member *divided* by 362.25.

PART II

Establishment of Scheme

3. Establishment of Scheme - A pension scheme for the benefit of Members of Parliament shall be established and administered in accordance with the provisions of this Act.

4. Board of Directors-(1) There shall be a Board to be called the Parliamentary Scheme Board of Directors consisting of five (5) members appointed by the Head of State acting on the advice of Cabinet.

(2) Members of the Board shall hold office for 3 years and shall be eligible for re-appointment.

5. Powers of the Board - The Board shall have the power to -

- (a) Adopt the plan and approve its amendment in accordance with Part III of this Act;
- (b) Pay entitlements and pensions under the scheme in accordance with the provisions of Part IV of this Act;

- (c) Receive and invest funds in accordance with the provisions of Part V of this Act;
- (d) Retain the services of actuaries and accountants for the purposes of Part VI of this Act;
- (e) Declare a credited interest rate at the beginning of each plan year,

Provided that the Board shall not declare a rate that exceeds the rate forming part of the assumptions used by the actuary under this Act; and

- (f) Do all things necessary for the effective administration of the scheme and in particular for the approval of the administrative arrangements of the scheme under section 14.

6. Meetings of the Board-(1) The Board shall meet as and when required and a meeting may be called by the Chairman, or by any two members of the Board giving written notice to the other members.

(2) The procedure at meetings shall be determined by the Board.

(3) The Board shall ensure that minutes of its deliberations and decisions shall be kept.

(4) Decisions of the Board shall be made in accordance with a vote of a majority of members.

7. Consideration of urgent matters - Matters requiring urgent consideration may be approved by the Board by obtaining in writing the consent of a majority of members.

8. Remuneration-(1) The Directors shall be entitled to such remuneration as is fixed, from time to time, by Cabinet.

(2) The expenses incurred by a member in attending a meeting of the Board shall be reimbursed to him from the general account of the Scheme.

(3) Subject to section 9, a Director may be entitled to payment for specific services provided by him to the Board in accordance with a decision of the Board to retain his services in a particular matter.

9. Disclosure of Interest-(1) A Director who is directly or indirectly interested in any arrangement or agreement entered into, or proposed to be entered into by the Board, or in any other matter under consideration by the Board, shall as soon as possible after the relevant facts have come to his notice, disclose the nature of this interest at a meeting of the Board.

(2) A disclosure under this section shall be recorded in the minutes of the meeting of the Board, and the Director making the disclosure shall not thereafter take part in any deliberation or decisions relating to the arrangement, agreement or matter; and the matter shall be considered in the presence of an Alternate Director appointed under section 7.

10. Indemnity for Directors-(1) The Directors shall not incur any personal liability as a result of anything done in good faith in the exercise of any power or the performance of any duty under this Act.

(2) Subsection (1) shall not apply where a Director is in breach of section 9.

PART III

The Pension Plan

11. Adoption of Plan-(1) The Board shall adopt a Plan consistent with the provisions of this Act, and which shall specify the entitlements of the members, and the manner of effecting the payment of their entitlements.

(2) The Board shall adopt a Plan under subsection (1) within three (3) months of the commencement of this Act.

(3) The members and the Directors shall be deemed to be contracting parties to the Plan.

(4) The Plan adopted under this section shall -

(a) Be consistent with the provisions of section 2, and use those definitions;

(b) Provide for entitlements that are consistent with the provisions of section 12;

- (c) Be first approved by the Minister of Finance and the Office of the Attorney-General.

12. Necessary Components of the Plan-(1) The Plan adopted under section 11 shall make provision for -

- (a) The payment of annual pensions -
 - (i) upon a member reaching retirement age; and
 - (ii) from a member's date of retirement; and
 - (iii) in accordance with a calculation being the pension percentage multiplied by the vesting percentage multiplied by the Final Average Annual Compensation, applicable to the member.
- (b) The payment of withdrawal benefits for members who leave parliamentary service prior to the retirement age for any reason other than death;
- (c) The payment of retirement benefits for members retiring on or after the effective date and who have reached the retirement age;
- (d) The payment, upon the death of a member, of a death benefit to a surviving spouse of the member;
- (e) The calculation of benefits payable to a member who is re-elected to Parliament after he or she has received any part of their pension;
- (f) Any other special conditions concerning the entitlements of members to receive benefits under the scheme; and
- (g) Any other matter that is consistent with the provisions of this Act and for which the Board considers provision should be made.

13. Amendments to the Plan-(1) The Board may approve any amendment to the Plan that is necessary for its more efficient administration and which -

- (a) Complies with section 11(3); and
- (b) Is consistent with the necessary components of the Plan under section 12.

(2) In the event that matters of a financial nature require that a review of the Plan be undertaken, the Financial Secretary may request that the Plan be reviewed, and the Board shall consider amendments necessary to take account of the matters referred to it by the Financial Secretary.

14. Administration of the Plan - The Board shall take all steps necessary to ensure the efficient administration of the Scheme, and may -

- (a) Make arrangements with the National Provident Fund to undertake its administration; or
- (b) Engage the services of an experienced and reputable administrator of such schemes; and
- (c) Employ an Administrator for the purpose of exercising the day to day administration of the scheme.

PART IV **Entitlements Under the Scheme**

15. Payment of Entitlements-(1) The Board may authorise the payment of entitlements to members that are in accordance with the Plan.

(2) The Board shall ensure that all such payments are made to members as they arise in accordance with the terms of the Plan.

(3) No payments shall be made to members unless they are entitlements under the Plan and no member shall be entitled to borrow monies from the funds of the scheme.

(4) Any payment made in contravention of subsection (3) shall be immediately repayable to the scheme and shall be recoverable by the Board regardless of the terms upon which the payment was purported to have been made.

(5) The contributions to the Fund and the benefits paid from it are exempt from taxation and section 7 of the Income tax Act 1974 is amended to add subsection (cb) as follows -

“(cb) Income derived by a beneficiary from the Fund under the Parliamentary Pension Scheme Act 1998”.

PART V

Funds of the Scheme

16. Members' Contributions-(1) Member's contributions shall be automatically deducted from their salaries and paid into the scheme.

(2) Every member shall be deemed to consent and agree to the deduction of his member's contribution from his salary.

17. Government's contribution-(1) The government's contribution shall be paid into the fund each year on an actuarial funded basis as determined by the Board in accordance with this Act.

(2) Based on actuarial assumptions adopted by the Board, the actuary appointed by the Board, will determine the normal cost contribution percentage payable and accrued benefit cost contribution percentage payable by the government during each fund year, as follows -

- (a) The normal cost contributions percentage for each fund-year after the effective date is the percentage of aggregate compensation of all current members which, if contributed over each member's prospective period of service and added to aggregate member contributions, will be sufficient, with addition of the accrued benefit cost, to provide for payment of all future benefits from the fund;
- (b) The accrued benefit cost contribution percentage for each fund-year after the effective date is the percentage of expected aggregate compensation of members for that fund-year which, if contributed during that fund-year, will be equivalent, as determined by the actuary with

approval of the board, to the accrued benefit cost contribution for that fund-year. The accrued benefit cost contribution for each fund-year after the effective date is the level annual payment required to liquidate the unfunded accrued benefit cost at the beginning of that fund-year over the remainder of the period of five (5) years beginning from the effective date; the accrued benefit cost ever, be less than interest for one year on the unfunded accrued benefit cost at the beginning of such fund-year; and

- (c) The unfunded accrued benefit cost at the beginning of a fund-year may, at the discretion of the Board, be adjusted to take account of changes in actuarial assumptions or of changes in cost attributed to service rendered prior to that fund-year. The adjustment resulting from changed actuarial assumptions is liquidated over a period not to exceed fifteen (15) years from the date of the adjustment. The adjustment resulting from changes in cost attributed to service rendered prior to the date of such adjustment is liquidated over a period not to exceed thirty (30) years from the date of the adjustment. Liquidation of any adjustment is by level contributions made each fund-year by the government, however, no contributions may be less than interest for one year on the unfunded portion at the beginning of that fund-year.

18. Other Funds of the Scheme-(1) The government shall fund the administrative cost of the scheme in the event that the income from the investment of the scheme's funds are insufficient to meet such costs.

(2) Funds paid by the government under subsection (1) may be regarded as an advance to the scheme and may later be recoverable by the government from income from the investment of the scheme's funds.

19. Investment of Scheme's Funds-(1) Subject to the following subsection, the Board shall within three (3) months of the date of the commencement of this Act, determine and approve an investment policy to guide the investment of the scheme's funds and such plan may be reviewed as the Board sees fit.

(2) Subject to subsections (3) and (4), the Board may authorise the investment of the Contributions to the Scheme -

(a) In any Samoa Government securities, or in any of the stock, funds, or other securities of a Common-wealth Government;

(b) On deposit in any bank within Samoa; and

(c) In any securities authorised for the investment of money subject to a trust to which the Trustee Act 1975 applies, by an Order of the Head of State, acting on the advice of Cabinet.

(2) Any such investments may be varied from time to time.

(3) The Board shall ensure that investments made under this section are done in such a manner as to permit the payment of the benefits payable under the Scheme as and when they fall due.

(4) When the liability to pay benefits under the Scheme at any given time is such as to permit investment of a certain proportion of the funds for a period of six months or less, the Board may authorise the investment of that proportion of the Scheme's funds in a bank in new Zealand, Australia or the United States, if those banks offer a better rate of interest than that which is available at banks within Samoa.

PART VI

Actuarial Valuations, Audit etc.

20. Actuarial Surveys of the Scheme-(1) Notwithstanding subsection (2) for the first three (3) years after the commencement of this Act an actuarial survey consistent with subsection (2) shall be conducted each year.

(2) Subject to subsection (1), every three (3) years an actuarial survey and investigation shall be made of the operating experience of the scheme, including a study of the rates or mortality, disability, retirement and separations, and of other essential factors relating to the operations of the scheme. The survey also provides for a verification or redetermination of the rates of contributions by the government. At least once in each 3-year period between surveys, an actuarial valuation of the scheme is made showing the status of the scheme and providing a verification or a redetermination of the rates of contributions by the government. At least once each year the Board shall obtain an actuarial opinion providing a verification or a redetermination of the rates of contribution by the government. The Board shall obtain and provide to the Minister of Finance and the Clerk of the Legislative Assembly an actuarial opinion of the cost of any proposed amendments affecting the operation of the Scheme. The costs of the surveys, valuations, and opinions are paid from the funds of the scheme.

21. Audit of all funds-(1) Within three (3) months of the end of each plan year the accounts of the scheme shall be audited by auditors appointed by the Board.

(2) The Minister of Finance may require the Controller and Chief Auditor to examine and report on the accounts of the scheme, or any aspect of its operations.

22. Annual report-(1) Within six (6) months of the end of every plan year, the Board shall send to the Minister of Finance and the Clerk of the Legislative Assembly a report of its proceedings and operations for that year together with at least 2 copies of its duly audited accounts for that year.

(2) The Minister of Finance shall lay copies of the report and of the audited accounts before the Legislative Assembly within fourteen (14) days after he receives them, if the Legislative Assembly is then in session, and if it is not then in session, within fourteen (14) days after the commencement of the next session of the Legislative Assembly.

PART VII**Repeals, Transitional Provisions etc.**

23. Repeal of NPF Parliamentary Retirement Fund -
Part X of the National Provident Fund Act 1972 is repealed.

24. Application of Entitlements - The entitlements of members under Part X of the National Provident Fund Act 1972 shall be rolled over into the scheme.
