

SAMOA

Arrangement of Provisions

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2012, No. 15

AN ACT to amend the composition of boards of public bodies in various Acts of Parliament, and for related purposes. *[16th March 2012]*

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 Composition of Boards of Public Bodies Act 2012 and shall be read together and form part of the respective Acts that are amended by it.

(2) This Act commences on a date or dates to be nominated by the Minister.

2. Accident Compensation Act 1989 - The Accident Compensation Act 1989 is amended as follows:

(a) in section 2, by inserting after the definition of “Injury” the following:

““Member” or “Member of the Corporation” means a member of the board of the Corporation;”; and

(b) in section 4, for subsections (2) and (2A), substitute:

“(2) The board of the Corporation shall be comprised of seven (7) members who shall be selected in accordance with applicable law relating to the management of public bodies.

(2A) The members of the Corporation shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) One person appointed under subsection (2) shall be a legal practitioner who is qualified to be a Judge of the Supreme Court.

(2C) One person appointed under subsection (2) shall be a registered medical practitioner.

(2D) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(2E) No person may be appointed or continue to hold office as a member, while that person is a full-time officer or employee of the Corporation.

(2F) Unless the board decides otherwise, the Chief Executive Officer must attend all board meetings but shall have no voting rights.”; and

- (c) in section 5 -
 - (i) in subsection (1), for “section 4(2)(f)” substitute “section 4”; and
 - (ii) repeal subsection (3); and
- (d) in section 6(3), for “5” substitute “four (4)”; and
- (e) by repealing section 7(1) and (2).

3. Agriculture Store Corporation Act 1975 - The Agriculture Store Corporation Act 1975 is amended as follows:

- (a) in section 2 -
 - (i) the definition of “Appointed member” is repealed; and
 - (ii) inserting after the definition of “Corporation” the following:

““Member” or “member of the Corporation’ means a member of the board of the Corporation;”; and

- (b) in section 3, for subsection (2), substitute:

“(2) The board of the Corporation shall be comprised of seven (7) members who shall be selected in accordance with applicable law relating to the management of public bodies.

(2A) The members of the Corporation shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) Cabinet shall appoint one of the members to be Chairperson, and may appoint a Deputy Chairperson.

(2C) A person who is a full-time salaried employee of the Corporation may not be a member.

(2D) Unless the board decides otherwise, the Chief Executive Officer must attend all board meetings but shall have no voting rights.”; and

- (c) in section 7(3), for “(5)’ substitute “four (4)”.

4. Development Bank of Samoa Act 2010 - The Development Bank of Samoa Act 2010 is amended as follows:

- (a) in section 3, for subsection (2) substitute:

“(2) The Board of the Bank shall be comprised of not more than seven (7) directors who shall be elected in accordance with applicable law relating to the management of public bodies except for the following:

(a) the Chief Executive Officer of the Ministry of Finance who shall be an *ex-officio* director; and

(b) a representative of a joint venture partner of the Bank if appointed under section 9(4).

(2A) Other than the *ex-officio* director under subsection (2)(a), directors of the Bank shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) The *ex-officio* director under subsection (2)(a) shall not receive remuneration or other benefits from the Bank for services as a director.

(2C) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(2D) Unless the Board decides otherwise, the Chief Executive Officer must attend all Board meetings but shall have no voting rights.”;

(b) in section 9 -

(i) subsections (1) (2) and (3) are repealed; and

(ii) in subsection (5), for “subsection (1)” substitute “section 3(2)”; and

(c) in section 12(3), for “six (6)” substitute “four (4)”.

5. Electric Power Corporation Act 1980 - The Electric Power Corporation Act 1980 is amended as follows:

(a) in section 3, for the definition of “Director” substitute:

““Director” or “director of the Corporation” means a director of the board of the Corporation;”; and

(b) in section 5, for subsection (1) substitute:

“(1) The board of the Corporation shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies.

(1A) The directors of the Corporation shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(1B) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(1C) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Corporation.

(1D) Unless the board decides otherwise, the General Manager must attend all board meetings but shall have no voting rights.”; and

(c) in section 7 -

(i) in subsection (1), for “at any time be removed from office by the Head of State acting on the advice of” substitute “be removed by”; and

(ii) in subsection (4) for “5(1)(e)” substitute “5(1)”; and

(d) section 8(1) and (2) are repealed.

6. Fire and Emergency Services Act 2007 - The Fire and Emergency Services Act 2007 is amended as follows:

(a) in section 5, for subsection (1) substitute:

“(1) The Board shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies except for the following who shall be *ex-officio* directors:

(a) the Commissioner of Police and Prisons; and

(b) the General Manager of Samoa Water Authority;
and

(c) the General Manager of Electric Power Corporation.

(1A) Other than the *ex-officio* director under subsection (1)(a), the directors of the Board shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by the Cabinet.

(1B) An *ex-officio* director under subsection (1) shall not receive remuneration or other benefits from the Authority for services as a director.

(1C) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(1D) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Authority.

(1E) Unless the Board decides otherwise, the Commissioner for Fire and Emergency Service must attend all Board meetings but shall have no voting rights.”; and

(b) section 6(3) is repealed.

7. Land Transport Authority Act 2007 - The Land Transport Authority Act 2007 is amended as follows:

(a) for section 2, inserting after the definition of “Board” the following:

““Chief Executive Officer” means the Chief Executive Officer of the Authority;”; and

(b) for section 8, substitute -

“8. The Board of Directors of the Authority-(1) The Board shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies except for the Chief Executive Officer who shall be an *ex-officio* director.

(2) Other than an *ex-officio* director, the directors of the Board shall be appointed by the Head of State, acting on the advice of Cabinet, for a period not exceeding three (3) years, and may be removed from office by the Cabinet.

(3) An *ex-officio* director shall not receive remuneration or other benefits from the Authority for services as a director.

(4) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(5) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Authority.

(6) Unless the Board decides otherwise, the Chief Executive Officer must attend all Board meetings but shall have no voting rights.”; and

(c) in section 9, for subsection (1), substitute -

“(1) The Chairperson shall preside at all meetings of the Board at which he or she is present and in his or her absence from any meeting of the Board the Deputy Chairperson if any, shall preside at the meeting and if there is no Deputy Chairperson appointed, or the Deputy Chairperson is absent from the meeting, the members shall appoint one of their members to preside at the meeting.”; and

(d) in section 10, for “A director” substitute “Except for the Chief Executive Officer, the directors”; and

(e) in section 11, for subsection (1), substitute -

“(1) The Cabinet may revoke the appointment of the Chairperson of the Authority or of any director other than the Chief Executive Officer, if the Cabinet is satisfied that the Chairperson or any director:”.

8. Life Assurance Corporation Act 1976 - The Life Assurance Corporation Act 1976 is amended as follows:

(a) in section 2 -

(i) omit the term and definition of “Appointed member”; and

(ii) after the definition of “Imprest account”, insert:

““Member” or “member of the Corporation” means a member of the board of the Corporation;” and

(b) in section 3, for subsection (2) substitute:

“(2) The board of the Corporation shall be comprised of five (5) members who shall be selected in accordance with applicable law relating to the management of public bodies.

(2A) The members of the Corporation shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) Cabinet shall appoint one of the members to be Chairperson, and may appoint a Deputy Chairperson.

(2C) No person may be appointed or continue to hold office as a member, while that person is a full-time salaried officer of the Corporation.

(2D) Unless the board decides otherwise, the Chief Executive Officer must attend all board meetings but shall have no voting rights.”.

9. National Kidney Foundation of Samoa Act 2005 -
Section 7 of the National Kidney Foundation of Samoa Act 2005 is amended as follows:

(a) for subsection (2) substitute:

“(2) Subject to subsection (13), the Board shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies.

(2A) One person appointed under subsection (2) shall be a registered medical practitioner.

(2B) The directors of the Foundation shall be appointed by the Head of State acting on the advice of Cabinet.

(2C) If the registered medical practitioner appointed as a director under subsection (2A) is a public servant, then that person shall not be entitled to remuneration or benefits from the Foundation for services as a director.

(2D) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(2E) No person may be appointed or continue to hold office as a director while that person is a full-time member of staff of the Foundation.

(2F) Unless the Board decides otherwise, the Chief Executive Officer must attend all Board meetings but shall have no voting rights.”; and

(b) in subsections (3), (4) and (5), for “subsection (2)(c)” substitute “subsection (2)”;

(c) in subsection (9), for “six”, substitute “four (4)”.

10. National Provident Fund Act 1972 – Section 4(1) of the National Provident Fund Act 1972 is omitted and substituted with the following:

“4. Board of Directors - This section establishes the Board of Directors of the Samoa National Provident Fund consisting of:

- (a) the Chief Executive Officer of the Ministry of Finance who is to be Chairperson; and, at least three (3) and no more than eight (8) from the following:
- (b) two (2) persons nominated by the Samoa Chamber of Commerce and Industry (Incorporated) and appointed by the Head of State, acting on the advice of Cabinet, to represent the employers of Samoa;
- (c) a person nominated by the Public Service Association of Samoa (Incorporated) and appointed by the Head of State, acting on the advice of Cabinet, to represent the public servants of Samoa;
- (d) a person appointed by the Head of State, acting on the advice of Cabinet, to represent the private-sector employees of Samoa;
- (e) a person appointed by the Head of State, acting on the advice of Cabinet, to represent the interests of all the churches in Samoa;

- (f) a person appointed by the Head of State, acting on the advice of Cabinet, to represent the interests of farmers;
- (g) a person nominated by the Samoan Association of Manufacturers and Exporters (Incorporated) and appointed by the Head of State, acting on the advice of Cabinet, to represent the interests of manufacturers; and
- (h) such other persons appointed by the Head of State, acting on the advice of Cabinet, as Cabinet may nominate.”.

11. National University of Samoa Act 2006 – After section 14(1) of the National University of Samoa Act 2006 insert:

“(1A) Any Member of Parliament or public servant or full-time salaried officer of the University appointed or re-appointed as a member of the Council shall not be entitled to remuneration or other benefits for services as a member of the Council.”.

12. Ports Authority Act 1998 – The Ports Authority Act 1998 is amended as follows:

- (a) in section 2, for the definition of “Member” substitute:

““Member” or “member of the Authority” means a member of the board of the Authority;”; and

- (b) in section 5, for subsection (1) substitute:

“(1) The board of the Authority shall be comprised of seven (7) members who shall be selected in accordance with applicable law relating to the management of public bodies.

(1A) The members of the board of the Authority shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(1B) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(1C) No person may be appointed or continue to hold office as a member, while that person is a full-time salaried employee of the Authority.

(1D) Unless the board decides otherwise, the General Manager must attend all board meetings but shall have no voting rights.”; and

(c) in section 6 -

(i) in subsection (3), omit “The Head of State, acting on the advice of”; and

(ii) in subsection (4), for “the Head of State, acting on the advice of Cabinet,” substitute “Cabinet”; and

(d) in section 7(a) omit “or of the Authority”.

(e) in section 11 -

(i) for subsections (2) and (6), after “meeting of” insert “members of”; and

(ii) in subsection (4), for “three” substitute “four (4)”; and

(f) in sections 12(1) and 14, for “Authority” substitute “members of the Authority”; and

(g) in section 13, for “of the Authority” substitute “and members”.

13. Public Trust Office Act 1975 - Section 9 of the Public Trust Office Act 1975 is amended as follows:

(a) for subsection (2), substitute:

“(2) The Investment Board shall be comprised of five (5) members who shall be selected in accordance with applicable law relating to the management of public bodies.

(2A) The members of the Investment Board shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) Cabinet shall appoint one of the members to be Chairperson, and may appoint a Deputy Chairperson.

(2C) No person may be appointed or continue to hold office as a member of the Investment Board, while that person is a full-time salaried officer or employee of the Public Trust Office.

(2D) Unless the Investment Board decides otherwise, the Public Trustee must attend all Board meetings but shall have no voting rights.”; and

(b) in subsection (5), for “5” substitute “three (3)”;

(c) for subsection (6), substitute:

“(6) The Chairperson shall preside at all meetings of the Board at which he or she is present and in his or her absence from any meeting of the Board the Deputy Chairperson if any, shall preside at the meeting and if there is no Deputy Chairperson appointed, or the Deputy Chairperson is absent from the meeting, the members shall appoint one of their members to preside at the meeting.”; and

(d) by repealing subsection (8)(a).

14. Samoa Sports Facilities Authority Act 2007 - The Samoa Sports Facility Authority Act 2008 is amended as follows:

(a) in section 4 -

(i) subsection (1) is repealed; and

(ii) for subsection (2) substitute:

“(2) The Board of Directors shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies except for the following:

(a) the Chief Executive Officer of the Ministry of Education, Sports and Culture, who shall be an *ex-officio* director; and

(b) a representative nominated by the National Olympic Committee being the National Federation Amateur Sports in Samoa (SASNOC).

(2A) Other than the *ex-officio* director under subsection (2)(a), the directors of the Board shall be appointed by the Head of State acting on the advice of Cabinet.

(2B) The *ex-officio* director under subsection (2)(a) shall not receive remuneration or other benefits from the Authority for services as a director.

(2C) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(2D) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Board.

(2E) Unless the Board decides otherwise, the Chief Executive Officer must attend all Board meetings but shall have no voting rights.”; and

(b) by repealing section 5; and

(c) in section 8(3)(a), for “at least six (6)” substitute “four (4)”.

15. Samoa Trust Estates Corporation Act 1977 –The Samoa Trust Estates Corporation Act 1977 is amended as follows:

(a) in section 3, for subsection (2) substitute:

“(2) The Board of the Corporation shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies.

(2A) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(2B) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Corporation.

(2C) Unless the Board decides otherwise, the General Manager must attend all Board meetings but shall have no voting rights.”; and

(b) in section 5 -

(i) for subsection (1), substitute:

“(1) The directors shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.”; and

- (ii) repeal subsection (2); and
- (c) section 6(1) and (2) and section 8 are repealed.

16. Samoa Water Authority Act 2003 - Section 4 of the Samoa Water Authority Act 2003 is amended as follows:

- (a) for subsection (1) substitute:

“(1) The Board of the Authority shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies.

(1A) The directors of the Authority shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(1B) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(1C) No person may be appointed or continue to hold office as a director, while that person is holding a full-time office or is an officer, of the Authority.

(1D) Unless the Board decides otherwise, the Managing Director must attend all Board meetings but shall have no voting rights.”; and

- (b) subsections (2), (4), (5) and (7)(b) and (d) are repealed.

17. Scientific Research Organisation of Samoa Act 2008 - The Scientific Research Organisation of Samoa Act 2008 is amended as follows:

- (a) in section 2 -

- (i) the definition of “ex officio member” is repealed; and

- (ii) in the definition of “member”, omit “and the Chief Executive Officer”; and

(b) in section 8 -

(i) for subsection (2), substitute:

“(2) Subject to subsection (1), the Board shall be comprised of seven (7) directors who shall be selected in accordance with applicable law relating to the management of public bodies.

(2A) The directors of the Organisation shall be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) Cabinet shall appoint one of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(2C) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer of the Organisation.

(2D) Unless the Board decides otherwise, the Chief Executive Officer must attend all Board meetings but shall have no voting rights.”; and

(ii) in subsection (3) for “subsection (2)(c) the Minister and” substitute “subsections (2) and (2A) the Head of State and”; and

(iii) in subsections (4) and (5), for “subsection (2)(c)” substitute “subsections (2) and (2A)”; and

(c) for subsection (9), substitute:

“(9) At every meeting four (4) members of the Board shall constitute a quorum.”.

18. Revocation of appointments - All appointments to the following, held immediately prior to the commencement of this Act, are revoked:

- (a) Accident Compensation Corporation; and
- (b) Agricultural Store Corporation; and
- (c) Board of the Airport Authority; and
- (d) Board of the Development Bank of Samoa; and
- (e) Electric Power Corporation; and

- (f) Board of Directors of the Samoan Fire and Emergency Service Authority; and
- (g) Board of the Samoa Housing Corporation; and
- (h) Board of Directors of the Land Transport Authority; and
- (i) Samoa Life Assurance Corporation; and
- (j) Board of the National Health Service; and
- (k) Board of Directors for the National Kidney Foundation; and
- (l) Board of Directors of the Samoa National Provident Fund; and
- (m) Board of Directors of the Samoa Tourism Authority; and
- (n) Ports Authority; and
- (o) Public Trust Office Investment Board; and
- (p) Board of Directors of the Samoa Sports Facilities Authority; and
- (q) Board of the Samoa Qualifications Authority;
- (r) Board of Directors of the Samoa Trust Estates Corporation; and
- (s) Board of Directors of the Samoa Water Authority; and
- (t) Board of Directors for the Scientific Research Organisation of Samoa.

19. Repeal - Clause 38, 38.1 and 38.2 of Schedule 7 to the Public Bodies (Performance and Accountability) Act 2001 is repealed.

**The Composition of Boards of Public Bodies Act 2012
is administered by the Ministry of Finance.**

Printed by the Clerk of the Legislative Assembly,
by authority of the Legislative Assembly.