

SAMOA

Arrangement of Provisions

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| 1. Short title and commencement | 3. Division 4 of Part III repealed |
| 2. Section 13 substituted | 4. Section 51 substituted |
| | 5. Transitional provision |

2013, No. 23

AN ACT to amend the Police Service Act 2009 (“Principal Act”). *[15th October 2013]*

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

1. Short title and commencement - This Act may be cited as the Police Service Amendment Act 2013, and commences on the date of assent by the Head of State.

2. Section 13 substituted - For section 13 of the Principal Act, substitute:

“13. Eligibility for appointment as Commissioner - A person must not be appointed as the Commissioner under section 12 unless the person:

- (a) is, at the time of application, a member of the Service or a police service in another country; and
- (b) has been a member of the Service or a police service in another country, for a period of at least 10 years; and
- (c) satisfies any other prerequisite criteria which may be prescribed by regulations made or General Instructions issued under this Act.”.

3. Division 4 of Part III repealed - Division 4 of Part III of the Principal Act is repealed.

4. Section 51 substituted - For section 51 of the Principal Act substitute:

“51. Inquiries into breach of duty-(1) An Assistant Commissioner may charge (“the charge”) a member, other than the Commissioner, with a breach of duty under this Act (“charged member”).

(2) The charged member may admit or deny the charge.

(3) If the charged member admits the charge, the Assistant Commissioner must refer the matter to the Commissioner for a penalty to be imposed under section 51B.

(4) A charged member who fails to respond to the charge within the time specified in the charge is deemed to have denied the charge.

(5) A member who is convicted by a court of an offence punishable by imprisonment is, in addition to the conviction and imprisonment, liable to any punishment under section 51B, as if the member had been charged under this section and the charge had been proved.

51A. Disciplinary tribunals-(1) The Commissioner may appoint:

- (a) if the member charged is a non-commissioned officer, a disciplinary tribunal comprising a commissioned officer or any other person who is not a commissioned officer; or

- (b) if the charged member is a commissioned officer, a disciplinary tribunal comprising -
 - (i) two (2) members of the Service of equal or senior rank to the charged member; and
 - (ii) one (1) person who is not a member of the Service.
- (2) The functions of a Tribunal are:
 - (a) to inquire into the charge; and
 - (b) to report on the matter to the Commissioner by submitting a written account of -
 - (i) the Tribunal's findings; and
 - (ii) the punishment recommended by the Tribunal, if the charge is proved.
- (3) The proceedings of the Tribunal are to be prescribed by Regulations.

51B. Penalties-(1) A Tribunal may recommend to the Commissioner one (1) or more of the following penalties against the charged member:

- (a) no punishment be imposed;
 - (b) be cautioned;
 - (c) be discharged without the charge having been proved;
 - (d) rank or pay, or both be reduced;
 - (e) a fine not exceeding 20 penalty units be imposed;
 - (f) be dismissed from the Service.
- (2) The Commissioner is not bound by any recommendation of a Tribunal.
 - (3) A dismissal decision is not effective until:
 - (a) the decision is confirmed after an appeal; or
 - (b) the date of expiry of an appeal, and the member has not lodged an appeal under section 39.
 - (4) The member is taken to be suspended, by operation of this subsection, from the Service without pay until the dismissal becomes effective under subsection (3).”.

5. Transitional provision - The appointment of the current Deputy Commissioner of Police continues on the same terms and conditions as if Division 4 of Part III had not been repealed until the appointment expires or is revoked.

**The Police Service Amendment Act 2013
is administered by the Ministry of Police and Prisons.**

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