

TEACHERS BILL 2015

SAMOA

Explanatory Memorandum

Introduction

The Bill seeks:

- to regulate the registration of teachers, including issuing of their registration certificates and teaching licences, the types of registration, suspension, cancellation and re-registration of teachers by the Samoa Teachers Council (Council);
- to provide for the establishment of the Council together with its members, functions, and rules relating to its meeting;
- to regulate professional standards and breach of professional standards; and
- to establish a Tribunal which mainly deals with complaints and appeals against the decisions of the Council.

Clauses:

PART 1 PRELIMINARY

- Clause 1:** - states that, when enacted, the Bill will be called the Teachers Act 2015, and will commence on the date nominated by the Minister.
- Clause 2:** - provides for definitions of terms.
- Clause 3:** - provides that it will bind the Government and applies to all teachers in government, mission and private schools, as well as early childhood education centres. It also provides that the proposed Act does not apply to those who teach in tertiary institutions.
- Clause 4:** - clarifies the relationship between the proposed Act and the employment of teachers under the Public Service Act 2004 or who are privately employed under any employment contract.

**PART 2
REGISTRATION OF TEACHERS**

Division 1 - General

- Clause 5:** - prohibits a person from teaching unless he or she has a certificate of registration and a teaching licence. It also provides a list of persons who are not subject to the prohibition under this section, such as a teacher trainee etc.
- Clause 6:** - provides for the categories of registration.
- Clause 7:** - empowers the Council to grant or refuse registration and also provides for the duration of registration.
- Clause 8:** - provides for the restrictions on granting of registration.
- Clause 9:** - provides for the disclosure of criminal records containing personal information of an applicant by request of the Registrar to the Commissioner of Police and the Attorney General.

Division 2 - Full registration

- Clause 10:** - provides for the qualifications and experience required of an applicant for full registration.
- Clause 11:** - provides for the application form and procedures for full registration.
- Clause 12:** - provides for the processing of an application by the Council.

Division 3 - Temporary registration

- Clause 13:** - provides for the qualifications and experience required of an applicant for temporary registration.
- Clause 14:** - provides for the application form and procedures for a temporary registration.
- Clause 15:** - provides for the application for extension of temporary registration.

- Clause 16:** - provides for the processing of an application for temporary registration by the Council.

Division 4 - Certificate of registration and registers

- Clause 17:** - requires the Registrar to issue a certificate of full registration in an approved form subject to payment of the prescribed fee by the applicant.

- Clause 18:** - requires the Registrar to issue a certificate of temporary registration in an approved form subject to payment of the prescribed fee by the applicant.

- Clause 19:** - provides for a Register of Teachers (full and temporary registration) to be kept by the Registrar, which can be searched by the public except personal information.

Division 5 - Teaching licences

- Clause 20:** - requires the Registrar to issue a licence of full registration when a certificate of full registration is issued to a teacher. It also provides for the duration of a teaching licence for full registration and the power of the Council to grant extension of a teaching licence.

- Clause 21:** - requires the Registrar to issue a licence of temporary registration when a certificate of temporary registration is issued to a teacher. It also provides for the duration of a teaching licence for temporary registration.

Division 6 - Suspension, cancellation and re-registration

- Clause 22:** - empowers the Council to suspend the registration of a teacher on the grounds of serious professional misconduct, conviction of an offence etc.

- Clause 23:** - empowers the Council to cancel the registration of a teacher on the grounds of conviction of an offence whether it be in Samoa or in another country, committed an offence, breached of a condition of registration etc.

- Clause 24:** - provides for the re-registration of an applicant after five (5) years from the date of cancellation or the period of five (5) years is abridged in special circumstances to be determined by the Council.

**PART 3
ADMINISTRATION**

Division 1 - Samoa Teachers Council

- Clause 25:** - provides for the establishment of the Samoa Teachers Council and the appointment of its members.
- Clause 26:** - provides for the rules relating to the election of a Chairperson and the terms of office.
- Clause 27:** - provides for the terms of office and remuneration of an appointed member.
- Clause 28:** - provides for when an appointed member may resign or become terminated and the procedure and form needed in order to do so. It also provides for when an appointed member position may become vacant.
- Clause 29:** - provides the functions of the Council.
- Clause 30:** - provides for the rules to be applied at a meeting of the Council.

Division 2 - Registrar

- Clause 31:** - provides for the appointment of a Registrar under the Public Service Act 2004 and is responsible to and under the control of the Chief Executive Officer of the Ministry of Education, Sports and Culture and the Council.

**PART 4
APPEALS AND BREACH OF
PROFESSIONAL STANDARDS**

Division 1 - Appeals

- Clause 32:** - provides for the right of an aggrieved person to appeal against any decision of the Council i.e. refuse full registration or temporary registration, cancel registration etc.

Division 2 - Professional misconduct

- Clause 33:** - provides for what amounts to professional misconduct and for the types of professional misconduct to be prescribed by Regulations.
- Clause 34:** - provides for the category of persons who may make a complaint to the Council regarding a breach of a professional standard by a teacher.
- Clause 35:** - provides for the assessment of complaints by the Council.
- Clause 36:** - provides for the referral of complaints to other agencies such as the Commissioner of Police or the Public Service Commission.
- Clause 37:** - provides for the power of the Council to investigate a complaint and the referral of complaints to the Tribunal.

Division 3 - Teachers Tribunal

- Clause 38:** - provides for the establishment of the Teachers Tribunal and its members.
- Clause 39:** - provides for the powers of the Tribunal to hear and determine appeal against the decision of the Council or complaint against a teacher etc.
- Clause 40:** - procedures of the Tribunal to be prescribed by regulations.
- Clause 41:** - power of the Tribunal to impose penalties.
- Clause 42:** - provides for appeal to the Supreme Court on a question of law.

**PART 5
MISCELLANEOUS**

- Clause 43:** - creates offences and its punishment.
- Clause 44:** - provides for matters certified by an evidentiary certificate that is signed by the Registrar.
- Clause 45:** - provides for the exemption of a member, Council, Tribunal, Registrar or any person under this Act from personal liability for any act done in good faith.
- Clause 46:** - empowers the Head of State acting on the advice of the Cabinet to make regulations.

- Clause 47:** - repeals Part X of the Education Act 2009.
- Clause 48:** - provides for transition and saving provisions.

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(Hon MAGELE Mauiliu Magele)
MINISTER OF EDUCATION, SPORTS AND CULTURE