

WATER SCHEMES BILL 2015

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SAMOA

Explanatory Memorandum

Introduction

The Bill seeks to give formal legal recognition to the Independent Water Schemes as a water service provider in villages. The Independent Water Schemes comprise of the community managed water schemes that exist throughout the villages and communities in Samoa and are registered with the Independent Water Scheme Association (Association). The Independent Water Schemes is Samoa's second water service provider, the other being the Samoa Water Authority (SWA).

The Independent Water Schemes is one of the stakeholders of the Water and Sanitation Sector which has been identified as a priority sector under the Strategy for the Development of Samoa. The overarching development goal of this Sector, as set out in the *Water for Life: Water and Sanitation Sector Plan 2012-2016*, is to secure "reliable, clean, affordable water and basic sanitation within the framework of Integrated Water Resources Management, for all people in Samoa to sustain health improvements and alleviate poverty". The Bill will ensure that the Independent Water Schemes contribute towards increasing and improving access by people in the rural villages to reliable, clean and affordable drinking water and have better control over the prevalence of water borne diseases through the provision of basic sanitation.

The Bill aims to:

- formally recognize Independent Water Schemes as a water service provider to replace water Committees established under the repealed Water Act 1965;
- strengthen its governance and management structures;
- provide a legal basis for assistance from the Government and other sources channelled through the Ministry of Women, Community and Social Development (Ministry);
- provide a proper legal framework for the coordination of services between the Independent Water Schemes and other Sector stakeholders; and
- create responsibilities to ensure the water supplied meets the required national drinking water standards and the sanitation requirements, as well as for sustainable management of water resource.

The Bill is divided into 4 parts as follows:

- Part 1 - Preliminary
- Part 2 - Water Schemes
- Part 3 - Independent Water Schemes Association
- Part 4 - Miscellaneous.

Clauses:

PART 1 - PRELIMINARY

- Clause 1:** - states that, when enacted, the Bill will be called the Water Schemes Act 2015 and will commence on a date to be nominated by the Minister.
- Clause 2:** - provides for definitions of terms.
- Clause 3:** - provides that the Act binds the Government.

PART 2 - WATER SCHEMES

Division 1 - Water service providers

- Clause 4:** - provides for the legal recognition of the Independent Water Schemes as water service providers.
- Clause 5:** - clarifies the interests of communities in relation to their customary land upon which water flows and states with certainty that the ownership of such land is not disturbed by this new Act. This clause mirrors section 6 of the Water Resources Management Act 2008 and clarifies that nothing in this Act affects the rights of the community over customary land and resources on it.
- Clause 6:** - clarifies the jurisdiction of the Village Fono in relation to governing the Independent Water Schemes given the village context in which the Independent Water Schemes operates, and outlines its responsibilities in setting up the Community Water Communities and overseeing its operations.

Division 2 - Community Water Committees

- Clause 7:** - provides for the establishment of a community water committee (CWC) and its members.
- Clause 8:** - provides for the terms of office of members of CWC.
- Clause 9:** - sets out the functions and powers of the CWC in relation to its work as a water service provider.
- Clause 10:** - provides for the rules of meetings of the CWC.

- Clause 11:** - provides for the funds of the CWC and requires a CWC to set up an account at a bank and ensure that all monies collected and received by the CWC are deposited into that account.
- Clause 12:** - empowers the CWC to supply water to a person in a village and to impose conditions for the supply of water.
- Clause 13:** - empowers the CWC to install, maintain and inspect pipes, pipelines and appliances for the purposes of supplying water. It imposes an obligation on each village customer to maintain pipes and all appliances in good repair and empowers CWC to disconnect supply where an inspection finds that a customer is in breach of maintaining pipes in good repair to avoid water wastage through leaking.

Division 3 - Fees

- Clause 14:** - provides that fees approved by the Village Fono are to be prescribed by regulations and to be payable within 30 days from when they are incurred.
- Clause 15:** - empowers the CWC to propose fees that are affordable to the village customers, subject to the approval of the Village Fono.

PART 3 - INDEPENDENT WATER SCHEMES ASSOCIATION

Division 1 - Association

- Clause 16:** - provides for the continuation of the Independent Water Schemes Association (Association) that was incorporated under the Incorporated Societies Ordinance 1952, and establishes it as a legal entity.
- Clause 17:** - provides for the registration of CWC as member of the Association.
- Clause 18:** - provides for the functions and powers of the Association highlighting its key role in liaising between the community and the Ministry as well as the Water and Sanitation Sector. It also gives general powers necessary to carry out its functions.

Division 2 - Executive Committee of the Association

- Clause 19:** - establishes the Executive Committee of the Association consisting of 11 members to be elected at an Annual General Meeting. To ensure the involvement of women at this level, there is also a specific requirement for two (2) members of the office holders to be female.
- Clause 20:** - provides for the terms of office of the Executive Committee members.
- Clause 21:** - provides for matters relating to the resignation of a member, grounds of removal of a member and when there is a vacancy in the Executive Committee.
- Clause 22:** - provides for the functions of the Executive Committee which includes recruiting staff for its office, and gives general powers necessary for carrying out its functions.

Division 3 - Meetings

- Clause 23:** - provides rules to be applied for an Annual General Meeting (AGM) of the Association.
- Clause 24:** - power of the Executive Committee to call a Special General Meeting (SGM) of the Association and requires a notice to be published by the Secretary.
- Clause 25:** - provides for the rules to be applied during the meetings of the Executive Committee.
- Clause 26:** - general provisions relating to rules to be applied during an AGM, SGM or a meeting of the Executive Committee.
- Clause 27:** - requiring the Secretary to keep minutes of all resolutions passed at any meeting.

Division 4 - Funds and accounts

- Clause 28:** - provides a requirement for an Account to be set up for the Association and for all monies received to be deposited into that Account.

Clause 29: - imposes a transparency and accountability requirement on the Association to keep accounting records and have the financial records audited; and to present the audited accounts to its members at its AGM.

Clause 30: - provides for Association fees including membership fees, etc which the Association is empowered to set and require its members to pay at the beginning of every calendar year.

Division 5 - Government assistance

Clause 31: - provides that the Government may provide financial and other types of assistance to the Independent Water Schemes channelled through the Association.

Clause 32: - requires the Association to take into account Government policies and initiatives when exercising its functions and powers in relation to the activities of the Independent Water Schemes and the Community Water Committees.

PART 4 - MISCELLANEOUS

Clause 33: - empowers the Association to develop its own rules for dispute resolution otherwise to adopt the Alternative Disputes Resolution Act 2007 provisions.

Clause 34: - provides for the protection of any member, officer, employee or agent of the Association or a member of the CWC from any personal liability for actions and decisions taken in good faith when exercising functions and powers under the Act.

Clause 35: - creates a general offence against any breaches of the provisions of this Act and a general penalty.

- Clause 36:** - empowers the Head of State acting on the advice of Cabinet to make regulations.
- Clause 37:** - provides for transitional and saving provisions.

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(Hon TUILAEPFA Fatialofa Lupesoliai Aiono Neioti Sailele Malielegaoi)
**PRIME MINISTER AND ACTING MINISTER OF WOMEN,
COMMUNITY AND SOCIAL DEVELOPMENT**