

SAMOA

Arrangement of Provisions

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2001, No. 11**AN ACT to amend the Central Bank of Samoa Act 1984.***[6th September 2001]*

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 Central Bank of Samoa Amendment Act 2001 and shall be read with and form part of the Central Bank of Samoa Act 1984 (the “principal Act”).

(2) This Act shall come into force on the date that it is assented to by the Head of State.

2. Interpretation – Section 2 of the principal Act is amended as follows:

- (a) By deleting the definition of “Board” and replacing it with the following:

“Board” means the Board of Directors of the Bank established by this Act; and

- (b) By deleting the definition of “Financial Year” and replacing it with the following:

“Financial Year” means the period of 12 months ending on the expiration of the 30th day of June or such other period as determined by the Board; and

- (c) By deleting the definition of “Chief Executive” and inserting the following definition in the appropriate alphabetical order:

“Governor” means the Governor of the Bank appointed under this Act.

3. Amendment to Part IV – Part IV of the principal Act is repealed and replaced with the following:

PART IV GOVERNOR, BOARD AND EMPLOYEES

9. Governor-(1) The Head of State, acting on the advice of Cabinet, shall from time to time appoint a Governor of the Central Bank from amongst persons of recognised standing and experience in financial and banking matters.

(2) The Governor shall:

- (a) Serve as the Chief Executive Officer of the Bank;
- (b) Be responsible to the Board for the execution of the Bank’s policies and the efficient management of the Bank;
- (c) In carrying out his duties, follow any general or special directions given to him by the Board.

(3) The Governor shall be appointed for a period not exceeding three years and on such terms and conditions as may be specified.

(4) The Governor may be reappointed.

(5) The Governor shall devote the whole of his professional services to the Bank and not hold any other office, (whether remunerated or not) without the written permission of the Minister given on the recommendation of the Board.

(6) No person may be appointed under subsection (1) to be the Governor or may continue to hold office as the Governor, while that person is:

(a) A Member of Parliament; or

(b) A Director, officer or employee of a corporation (other than the Bank) the business of which is wholly or mainly that of Banking business or the extension of credit and which is conducted in Samoa; or

(c) An officer or employee of the Public Service.

(7) The Governor may delegate in writing any power, duty or authority which the Governor has under this Act save for this power of delegation.

10. Board of Directors – There shall be a Board of Directors of the Bank appointed pursuant to section 12 of this Act.

11. Duties of Board-(1) Subject to this Act, the Board shall maintain a constant review of the following matters:

(a) The carrying out of the functions of the Bank;

(b) The performance of the Governor in discharging the duties and responsibilities of his office;

(c) The use of the Bank's resources.

(2) The Board may give directions and advice to the Governor on any matter relating to the performance of the Bank's functions and the exercise of its powers.

(3) The Board may make by-laws for the conduct of its business and issues directives for the purpose of giving effect to the provisions of this Act.

12. Appointment of Directors-(1) The Board shall consist of:

- (a) The Governor, who shall be the Chairperson of the Board;
- (b) The Financial Secretary who in the absence of the Governor shall be the acting Chairperson of the Board; and
- (c) Three (3) Directors appointed under this section.

(2) The three (3) Directors specified in subsection (1)(c) shall be appointed from time to time by the Head of State, acting on the advice of Cabinet and shall be citizens of Samoa and shall include one or more persons having industrial or commercial or agricultural experience.

(3) The Directors appointed under subsection (1)(c) shall hold office on such terms and conditions as may be determined by the Head of State, acting on the advice of Cabinet, and may from time to time be reappointed.

(4) No person may be appointed to be a Director under subsection (1)(c) or may continue as a Director, while he is:

- (a) A Member of Parliament; or
- (b) A director, shareholder, officer or employee of a corporation (other than the Bank) the business of which is wholly or mainly that of Banking business or the extension of credit and which is conducted in Samoa.

13. Vacation of office-(1) A Director appointed under section 12(1)(c) may at any time resign his office by notice in writing delivered to the Head of State.

(2) The Head of State, acting on the advice of Cabinet, may remove any Director appointed under section 12(1)(c) from office:

- (a) For disability, neglect of duty, misconduct, or bankruptcy; or
- (b) If the Head of State is satisfied that the Director has permanently left Samoa; or

(c) If the Director is absent from three consecutive meetings of the Board without leave of absence from the board; or

(d) Pursuant to sections 16 and 17A.

(3) If an appointed Director dies, or resigns, or is removed from office under this section, the vacancy thereby occurring shall be deemed to be an extraordinary vacancy and shall be filled as soon as practicable by an appointment made in the same manner as that of a Director vacating office.

(4) Any person appointed to fill an extraordinary vacancy shall hold office for the unexpired balance of the term of office of his predecessor, but may from time to time be reappointed.

14. Remuneration of appointed Directors – Every Director shall be paid such remuneration and allowances as may from time to time be fixed by Cabinet.

15. Meetings of the Board-(1) Subject to subsection (2) of this section, the Board shall meet at such times and places as the Board determines, or as the Governor (or in his absence the Financial Secretary) directs.

(2) The Board shall meet at least once in every two months.

(3) The Governor, or in his absence the Financial Secretary, shall convene a meeting whenever required to do so in writing by any two members of the Board.

(4) At any meeting of the Board three members (of whom one shall be the Governor or the Financial Secretary) shall form a quorum.

(5) The Governor shall preside at every meeting at which he is present.

(6) If the Governor is for any reason absent from a meeting the Financial Secretary shall preside at that meeting.

(7) Every question arising at a meeting shall be decided by a majority of the votes of the members present and voting.

(8) At every meeting the Governor or other member presiding shall have a deliberative vote and in the case of an equality of votes, he shall also have a casting vote.

(9) Subject to the provisions of this Act, the Board may regulate its own procedure in such manner as it thinks fit.

(10) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the Directors.

16. Termination for conflict of interest-(1) No member of the Board shall act as a delegate of any business interest or receive or accept directions therefrom in respect of duties to be performed under this Act.

(2) Any Director who, otherwise than as a Director, is directly or indirectly interested in any arrangement entered into, or proposed to be entered into by the Bank, shall as soon as possible after the relevant facts have come to his notice, disclose the nature of such interest at a meeting of the Board.

(3) A disclosure under this section shall be recorded in the minutes of the meeting of the Board and the Director shall not take part after the disclosure in any deliberation or decisions relating to the arrangement, but shall be counted as present for the purpose of forming a quorum of the Board for any such deliberation or decision.

(4) No member of the Board, or any officer or employee of the Bank, shall accept any gift or advantage for himself, or for any person with whom he may have family, business, or financial connections if the acceptance thereof would result, or give the appearance of resulting in a diminishment of his impartial devotion to functions, duties or responsibilities under this Act.

(5)(a) Where any member of the Board or any officer or employee of the Board acts contrary to the provisions of this Act, or uses information obtained through the Bank for his personal gain (or the gain of any other person) and Cabinet is satisfied that such a breach has occurred that member shall be immediately terminated as a Director of the Board; and

(b) Any person terminated under this section shall not be eligible for reappointment at any time to be a Director of the Bank.

17. Power to appoint officers and employees – The Governor may appoint and employ, at such remuneration and on such terms and conditions as he may determine, such officers and employees as may be considered necessary for the due performance of the functions of the Bank.

17A. Secrecy-(1) No member of the Board, or any officer or employee of the Bank shall disclose to any person any information relating to the affairs of the Bank or of any financial institution or of any other person which he has acquired in the performance of his duties under this Act, except where disclosure is required for the purpose of the performance of his duties or is lawfully required by any Court or under the provision of any law.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding 50 penalty units, or to both.

(3) Each member of the Board and each officer and employee of the Bank shall forthwith upon his appointment or employment, as the case may be, make a declaration of secrecy in the form specified by the Minister.

(4) Any disclosure in breach of this section shall be grounds for the immediate termination of appointment in the case of a Director or immediate dismissal in the case of an official or employee of the Bank.

17B. Indemnity – The Board of Directors, the Governor and any officer or employee of the Bank shall not incur any 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.

4. Savings-(1) All appointments made under the repealed provisions of Part IV prior to the coming into force of this Act shall remain, as if made under the amending provisions, for the remainder of their terms and on the same conditions, unless sooner terminated under the provisions of the principal Act.

(2) All by-laws, directives, decisions and delegations of the Board of Governors and the Chief Executive Officer, made prior to the commencement of this Act, shall have full force and effect until they are amended or rescinded by the Board of Directors or the Governor, as the case may be.
