

SAMOA

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2002, No. 20

AN ACT to establish the South Pacific Games Authority to conduct the 2007 South Pacific Games in Samoa and for related purposes. *[22nd August 2002]*

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

**PART I
PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the 2007 South Pacific Games Authority Act 2002.

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

2. Interpretation - In this Act unless the context otherwise requires:

“Act” means the 2007 South Pacific Games Authority Act 2002:

“Authority” means the South Pacific Games Authority established by section 3 of the Act:

“Court” means the Supreme Court of Samoa:

“Games” means the 2007 South Pacific Games:

“Intellectual Property Rights” means the complete range of intangible property rights, including but not limited to patents, trademarks, design rights and copyright, in the names, titles, items, matters and events listed in the Schedule to the Act. The Minister, with the consent of Cabinet, may amend the Schedule from time to time provided that a public notice of any amendment is published in Samoan and English in two newspapers circulating in Samoa:

“Media Rights” means the right to report, broadcast, film, photograph, record, publish, televise, or distribute any report, photograph, film, recording, publication or broadcast of any event or activity of the 2007 South Pacific Games in Samoa through any publicly accessible media, including, but not limited to, newspapers, radio, television, cinema, internet, books, magazines, recordings and any computer based technology:

“member” means a member of the Authority as listed in section 4 of the Act:

“Minister” means the Minister responsible for Sport:

“SASNOC” means the Samoa Association of Sports and National Olympic Committee or its successor, however styled, and in the event that SASNOC ceases to exist such organization or body representing sports organizations in Samoa as may be nominated by the Minister:

“Secretary” means the Head of the Department responsible for Sport.

PART II

SOUTH PACIFIC GAMES AUTHORITY

3. South Pacific Games Authority-(1) There is established a body called the South Pacific Games Authority.

(2) The Authority is a body corporate with perpetual succession, a common seal and is capable of -

- (a) Acquiring, holding and disposing of real and personal property;
- (b) Suing and being sued; and
- (c) Doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

(3) The common seal may be affixed only:

- (a) In the presence of a member of the Authority or other person authorized in writing by the Authority; and

- (b) With an attestation by the signature of the member of the Authority or other person authorized in writing by the Authority.

4. Membership of the Authority-(1) The Authority consists of the following persons:

- (a) The Minister, who shall be the Chairman;
- (b) The Secretary, who shall be the Deputy Chairman;
- (c) The President of SASNOC;
- (d) A representative of SASNOC;
- (e) The Manager, Samoa Land Corporation;
- (f) The Attorney General;
- (g) The Director General of Works;
- (h) The Financial Secretary;
- (i) Two persons representing business, nominated by the Minister; and
- (j) One person representing the community, nominated by the Minister.

(2) The Authority may co-opt other persons from time to time to attend and participate in its deliberations but such persons shall not have the power to vote on any matter.

5. Purpose and function of the Authority - The Authority's purpose and function is the preparation, management and conduct of the 2007 South Pacific Games in Samoa.

6. Powers of the Authority-(1) Subject to this Act and the laws of Samoa, the Authority may do all things necessary to prepare for, manage and conduct the Games, including but not limited to:

- (a) Acquiring expending and using funds and other resources, including grants, loans and any other resources required by the Authority;
- (b) Borrowing, mortgaging or entering into any financial arrangement deemed necessary by the Authority and approved by the Financial Secretary and the Attorney General;

- (c) Entering into any commercial arrangements deemed necessary by the Authority for the financing and sponsorship of the Games and approved by the Financial Secretary and the Attorney General;
- (d) Constructing or causing to be constructed facilities required by the Authority;
- (e) Acquiring property, both real and personal, by way of purchase, lease or any other arrangement, by agreement or compulsorily, in accordance with the Constitution and the Taking of Land Act 1964. The purpose and function of the Authority under section 3 shall be a Public Purpose under the Taking of Land Act 1964;
- (f) Entering into contractual and other arrangements with Government departments and agencies and other bodies, private companies and individuals and other bodies, organizations, groups and individuals to enable the Games to be conducted;
- (g) Employing staff and contracting the services of persons, companies organizations and groups required by the Authority to conduct the Games; and
- (h) Upon completion of the Games, at the direction of Cabinet and with the approval of the Financial Secretary and the Attorney General, transferring assets acquired by or under the control of the Authority to Government departments or agencies or bodies or to other organizations, groups or persons.

7. Vacancies and Procedures of the Authority-(1) Any member of the Authority may be removed from office by the Head of State, acting upon the advice of Cabinet for disability, inefficiency, bankruptcy, neglect of duty, misconduct or permanent departure from Samoa, or may resign his or her office by written notice addressed to the Chairman.

(2) The office of any member of the Authority shall become vacant if he or she dies or resigns or is removed from office,

and thereupon the vacancy shall be filled in the manner in which the original appointment was made.

(3) Meetings of the Authority shall be called by the Chairman or on a requisition in writing from at least three (3) members of the Authority.

(4) The quorum for any meeting of the Authority shall be six (6) members.

(5) Every question before a meeting of the Authority shall be determined by a majority of the votes of members present at the meeting but the chairperson of that meeting shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(6) Except as otherwise provided in this Act or in any regulations, the Authority may regulate its procedure as it thinks fit.

8. Remuneration of Authority Members – The members of the Authority may be paid such fees and allowances as approved by Cabinet.

9. Corporate Plan–(1) Subject to subsection (3), the Authority is required to prepare and provide to Cabinet, at least three (3) months before the beginning of each financial year, a draft corporate plan for the financial year.

(2) The Authority:

- (a) Must consider any comments on the draft corporate plan that are made by Cabinet within two (2) months after the draft plan is delivered to Cabinet; and
- (b) Must deliver the completed corporate plan to Cabinet before the beginning of the financial year concerned.

(3) In its first year of operation the Authority must prepare a draft corporate plan and submit it to Cabinet within three (3) months of the commencement of the Act and the provisions of subsection (2) shall apply, with such adaptations as may be required.

(4) The Authority is, as far as practicable, to exercise its function and powers in accordance with the relevant corporate plan.

(5) A corporate plan must specify:

- (a) The objectives of the activities of the Authority for the financial year concerned and for such future financial years as Cabinet directs;
- (b) The strategies, policies and budgets for achieving those objectives; and
- (c) Targets and criteria for assessing the performance of the Authority.

(6) The financial year of the Authority is the year commencing on 1 July.

10. Liability – A matter or thing done or omitted by:

- (a) The Authority; or
- (b) Members of the Authority; or
- (c) Staff of the Authority; or
- (d) Any person acting under the direction of the Authority,

does not subject the Authority, member or person so acting to any action, liability claim or demand, if the matter or thing was done or omitted in good faith for the purposes of executing this or any other Act.

11. Staff and other personnel-(1) The Authority may employ such staff as it deems necessary on such terms and conditions as the Authority determines with the approval of the Secretary of the Public Service Commission.

(2) Staff employed by the Authority shall not be regarded as public servants.

(3) The Authority may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a Government department agency or body. For the purposes of the Act a person whose services are made use of under this subsection is a member of the staff of the Authority.

(4) The Authority may engage consultants or other persons to undertake any task or work for or on behalf of the Authority.

PART III
FINANCES, ANNUAL REPORT AND AUDIT

12. Funds of the Authority - The funds available for the purpose of enabling the Authority to perform its function under the Act consist of –

- (a) All moneys from time to time appropriated by Parliament for the purpose;
- (b) All moneys received by the Authority for goods or services or under any contract or agreement;
- (c) All moneys received by the Authority by way of grant;
- (d) All moneys borrowed by the Authority; and
- (e) Any other moneys received by, or made available to the Authority under or for the purpose of the Act.

13. Accounts and Annual Report of the Authority-(1)
The Authority shall cause to be kept proper accounts and records of the transactions and affairs of the Authority and shall do all things necessary to ensure that all funds received are brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its property and over the incurring of liabilities of the Authority.

(2) The Authority shall cause to be prepared and submitted to the Minister, within two (2) months of the end of the financial year of the Authority, an annual report containing –

- (a) Financial statements for the financial year;
- (b) Performance indicators and such information as may be directed by the Minister of Finance;
- (c) A report on the operations of the Authority during the preceeding financial year;
- (d) A summary of the corporate plan; and
- (e) Such other information as Cabinet may require.

(3) The financial statements referred to in subsection (2)(a) shall be prepared on an accrual accounting basis and shall consist of –

- (a) A statement of financial transactions of the Authority for the financial year;

- (b) A statement of the financial position of the Authority at the end of the financial year; and
 - (c) Proper and adequate notes to the financial statements.
- (4) The financial statements referred to in subsection (2)(a) shall –
- (a) Present fairly the financial transactions of the Authority during the financial year to which they relate; and
 - (b) Present fairly the financial position of the Authority at the end of the financial year.
- (5) The Authority shall, within two (2) months after the end of the financial year of the Authority, cause to be submitted to the Controller and Chief Auditor for audit the financial statements and other information referred to in subsection (2) together with a copy of the corporate plan for that financial year.
- (6) The Minister shall cause copies of each annual report of the Authority, together with the Controller and the Chief Auditor's audit report, to be laid before Parliament within 14 sitting days of receiving the Controller and Chief Auditor's audit report.

PART IV

PROTECTION OF MEDIA RIGHTS

14. Media Rights held by the Authority-(1) Despite the provisions of any law, the Authority holds the media rights to the Games.

(2) The Authority may grant a licence or other right, in writing, to a part or the whole of the media rights held by the Authority to any person on such terms as the Authority, in its absolute discretion, may determine.

15. Breach of Media Rights-(1) Any person who knowingly infringes the media rights of the Authority commits an offence.

(2) Any person who knowingly aids or abets another person or counsels or procures another person to commit an offence under subsection (1) commits an offence.

(3) Any person convicted of an offence under subsections (1) or (2) shall be liable to a fine of up to 1000 penalty units or imprisonment for one (1) year or both a fine and imprisonment.

16. Seizure of unlawful media materials-(1) Despite the provisions of any law, a police officer, acting on a written request from the Authority, may –

(a) Seize any document, photograph, recording, electronic record, film or other material from any person where such document, photograph, recording, electronic record, film or other material is believed on reasonable grounds to have been created or brought into existence as part of or as a consequence of a person committing an offence under section 15; or

(b) Seize any camera, recording device, computer, microphone or any piece of equipment from any person where such camera, recording device, computer, microphone or piece of equipment is believed on reasonable grounds to have been used or involved with the commission of an offence under section 15.

(2) Any item or object seized under this section shall be held in safe keeping by the Commissioner of Police Service and shall be disposed of in accordance with subsection (4).

(3) Any item or object seized under this section may be used in connection with a prosecution for an offence under section 15.

(4) Any item or object seized under this section which is found by the Court to have been used or involved with the commission of an offence under section 15 or to have been created or brought into existence as part of or as a consequence of a person committing on offence under section 15 shall be forfeited to the Independent State of Samoa and in all other cases such item or object shall be made available by the Commissioner of Police Service for collection by the person

from whom the item or object was seized and in the event that no person claims such item or object within one month after any court proceedings have been concluded or within one month after determination by the Attorney General that no charge shall be laid or prosecuted under section 15, whichever event applies, such item or object shall be forfeited to the Independent State of Samoa.

PART V
PROTECTION OF INTELLECTUAL PROPERTY

17. Intellectual Property Rights held by the Authority-

(1) Despite the provisions of any other law, the Authority holds the intellectual property rights to the Games.

(2) The Authority may grant a licence or other right, in writing, to a part or the whole of the intellectual property rights held by the Authority to any person on such terms as the Authority, in its absolute discretion, may determine.

18. Breach of Intellectual Property Rights-(1) Any person who knowingly infringes the intellectual property rights of the Authority commits an offence.

(2) Any person who knowingly aids or abets or counsels or procures another person to commit an offence under subsection (1) commits an offence.

(3) Any person convicted of an offence under subsections (1) or (2) shall be liable a fine of up to 1000 penalty units or imprisonment for one (1) year or both a fine and imprisonment.

19. Seizure of material produced in breach of the Authority's Intellectual Property Rights-(1) Despite the provisions of any law, a police officer, acting on a written request from the Authority, may seize any item or object or other material where such item or object or other material is believed on reasonable grounds to have been created or brought into existence as part of or as a consequence of a person committing an offence under section 18.

(2) Any item or object or material seized under this section shall be held in safe keeping by the Commissioner of Police

Service and shall be disposed of in accordance with subsection (4).

(3) Any item or object or material seized under this section may be used in connection with the prosecution for an offence under section 18.

(4) Any item or object or material seized under this section which is found by the Court to have been created or brought into existence as part of or as a consequence of a person committing an offence under section 15 shall be forfeited to the Independent State of Samoa and in all other cases such item or object or material shall be made available by the Commissioner of Police Service for collection by the person from whom the item or object or material was seized and in the event that no person claims such item or object or material within one month after any court proceedings have been concluded or within one month after determination by the Attorney General that no charge shall be laid or prosecuted under section 18, whichever event applies, such item or object or material shall be forfeited to the Independent State of Samoa.

20. Protection from liability - A matter or thing done or omitted by:

- (a) The Authority, its servants or agents, or
- (b) The Commissioner of Police Service, or
- (c) Any police officer, or
- (d) Any person acting in an official capacity in connection with Parts IV and V of the Act,

does not subject the Authority, its servants and agents or any person referred to in (b) or (c) or (d) to any action, liability, claim or demand, if the matter or thing was done or omitted in good faith for the purpose of executing Parts IV or V of the Act.

PART VI MISCELLANEOUS

21. Power to delegate-(1) The Authority may delegate to any person any function or power of the Authority, other than this power of delegation.

(2) A delegate may sub-delegate to any person any function or power delegated by the Authority if the delegate is authorized in writing to do so by the Authority.

22. Disclosure and misuse of information-(1) A person must not disclose any information obtained in connection with the administration or execution of this Act unless the disclosure is made:

- (a) With the consent of the person from whom the information was obtained; or
- (b) In connection with the administration or execution of this Act; or
- (c) For the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) In accordance with a requirement of the Komesina o Sulufaiga (Ombudsman) Act 1988 or the Public Finance Management Act 2001; or
- (e) With lawful excuse.

(2) Any person who breaches subsection (1) commits an offence and upon conviction is liable to a penalty of up to 100 penalty units.

(3) A person must not use, either directly or indirectly, commercial information acquired by the person in the administration or execution of this Act for the purpose of gaining either directly or indirectly any financial advantage for the person, the person's spouse or de facto partner, a relative of the person or any other associate of the person.

(4) Any person who breaches subsection (3) commits an offence and upon conviction is liable to a penalty of up to 1000 penalty units.

(5) For the purposes of subsection (3) commercial information is information that is not generally known but if generally known might reasonably be expected to affect the market value of any land or to influence materially any contract with or tender for a contract with the Authority.

23. Regulations-(1) The Head of State, acting on the advice of Cabinet, may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act including, but not limited to, the prescribing of offences for which the penalty may include a fine of up to 100 penalty units or imprisonment for up to one (1) year or both a fine and imprisonment.

24. Expiry of the Act - This Act shall expire on the 30th June 2008.

SCHEDULE

(see section 2)

INTELLECTUAL PROPERTY RIGHTS

1. 2007 South Pacific Games
2. South Pacific Games 2007
3. 2007 Samoa – South Pacific Games
4. South Pacific Games – Samoa 2007
5. South Pacific Games
6. South Pacific Games – Samoa
7. Samoa – South Pacific Games

**The 2007 South Pacific Games Authority Act 2002 is
administered by the 2007 South Pacific Games Authority.**

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