

**SAMOA**

## Arrangement of Provisions

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|--|---|
| 1. Short title and commencement  | 14. Salary, allowances and other benefits during suspension of a Minister                                 |
| 2. Interpretation  | 15. Period for which salary, allowances and other benefits payable to members of the Legislative Assembly |
| 3. Public offices covered by and application of this Act   | 16. Computation of time for payment of sitting allowances   |
| 4. Establishment of Remuneration Tribunal  | 17. Appropriation of money for certain salaries, allowances and other benefits                            |
| 5. Disclosure of interest by Tribunal Members  | 18. When salaries, allowances and other benefits payable  |
| 6. Functions of Tribunal   | 19. Payment only on certificate of Clerk  |
| 7. Tribunal meetings   | 20. Grant for civil purposes  |
| 8. Tribunal reports to be laid before Parliament   | 21. Consequential amendments  |
| 9. Determination of salaries, allowances and other benefits  | 22. Savings and transitional arrangements   |
| 10. Resignation or removal from Tribunal membership  | 23. Repeal  |
| 11. Fees and allowances for Tribunal members   |   |
| 12. Travelling allowances for the Prime Minister and Ministers   |   |
| 13. Period for which salary, allowances and other benefits are payable to the Prime Minister and other Ministers | Schedule  |

**AN ACT to provide for advice to Government concerning the salaries, allowances and other benefits to be paid to certain holders of public office and other persons and to enable the Head of State to set the salaries, allowances and other benefits to be paid to certain holders of public office and for related purposes.** [29<sup>th</sup> August 2003]

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

**1. Short title and commencement-**(1) This Act may be cited as the Remuneration Tribunal Act 2003.

(2) This Act shall come into force on a date nominated by the Prime Minister.

(3) Notice of commencement of this Act shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

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

"member" means a member of the Tribunal:

"other office" means an office listed in the Schedule to this Act, and the Schedule may be amended from time to time by the Prime Minister by Notice:

"Government" means the Government of the Independent State of Samoa:

"public office" has the meaning given under section 3:

"Samoa" means the Independent State of Samoa:

"Tribunal" means the Remuneration Tribunal established by section 4.

**3. Public offices covered by and application of this Act-**

(1) For the purposes of this Act, the term "public office" means the office of:

- (a) Prime Minister;
- (b) Deputy Prime Minister;
- (c) Minister of State;
- (d) Parliamentary Under Secretary;

- (e) Leader of the Opposition;
- (f) Speaker of the Legislative Assembly;
- (g) Deputy Speaker of the Legislative Assembly;
- (h) Member of Parliament; and
- (i) Komesina o Sulufaiga (Ombudsman) established under the Komesina o Sulufaiga Act 1988;

and includes a position:

- (j) Included in the First Schedule of the Public Service (Special Posts) Act 1989;
  - (k) Of an employee of the Public Service Commission;
  - (l) Declared by the Prime Minister by Notice to be a public office for the purposes of this Act; or
  - (m) Declared by an Act to be a public office for the purposes of this Act.
- (2) This Act binds the Government and, except so far as the contrary intention appears, this Act applies to all Acts.
- (3) For the purpose of removal of doubt, where any Act provides for the salary, allowances and other benefits of an Office to be determined in a manner inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

**4. Establishment of Remuneration Tribunal-**(1) There is established a tribunal known as the Remuneration Tribunal.

(2) The Tribunal consists of three members appointed by the Head of State, acting on the advice of Cabinet.

(3) Of the three members of the Tribunal:

- (a) One member shall have knowledge of the work of the Parliament and parliamentary committees;
  - (b) One member shall be nominated by the Prime Minister as a person with experience and expertise in commerce, industry and the non-government sector; and
  - (c) One member shall have knowledge of the work of the Samoan public service.
- (4) A member of the Tribunal holds office for a period of three years, unless their appointment is terminated sooner.
- (5) A member of the Tribunal is eligible to be re-appointed.
- (6) A person shall not be appointed as a member of the Tribunal if the person is:

- (a) The holder of a public office;
- (b) Employed under the Public Service Act 1977;
- (c) Employed in a body whose chief executive officer is the holder of a public office;
- (d) The holder of any other office; or
- (e) Employed in a body whose chief executive officer is the holder of any other office.

**5. Disclosure of interest by Tribunal Members-**(1) A Tribunal member who has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the Tribunal shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Tribunal.

(2) Subject to subsection (3), a disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Tribunal and the member shall not -

- (a) Be present during any deliberation of the Tribunal with respect to that matter; or
- (b) Take part in any decision of the Tribunal with respect to that matter.

(3) Where as a result of the operation of subsection (2) the Tribunal is unable to maintain a quorum to determine a matter, the Tribunal member or members affected, after complying with subsection (1), may take part in any deliberations of the Tribunal with respect to the matter and may vote on the matter and the minutes of the meeting of the Tribunal shall record the reason for the affected member's or members' participation in any deliberations and vote.

**6. Functions of Tribunal-**(1) The functions of the Tribunal are to:

- (a) Inquire into and report to Cabinet on the salaries, allowances and other benefits to be paid to the holders of public offices; and
- (b) Inquire into and advise the statutory corporations and other bodies set out in the Schedule to this Act

concerning the salaries, allowances and other benefits to be paid to the holders of other offices referred to in the Schedule.

(2) The Tribunal must inquire and report in respect of a public office and other office:

(a) At least yearly; and

(b) Upon the request of the Prime Minister in writing.

(3) Where a public office or other office comes into existence after the commencement of this Act the Tribunal must inquire into and report on the salary, allowances and other benefits to be paid to the holder of that office as soon as practicable after that office comes into existence.

(4) Where the Tribunal provides advice to or a report to a statutory corporation or other body under paragraph 6(1)(b) the Tribunal shall provide a copy of any such advice or report to Cabinet.

(5) In undertaking its functions the Tribunal shall have the powers of a Commission of Inquiry as provided for by the Commissions of Inquiry Act 1964.

(6) For the purpose of inquiry into and reporting on salaries, allowances and other benefits the Tribunal shall have regard to:

(a) The state of the Samoan Economy;

(b) The comparative status and work value of the public offices and other offices; and

(c) The labour market relevant to the public office or other office under consideration.

(7) In carrying out an Inquiry the Tribunal shall seek the advice of the Chief Executive Officer of the Ministry of Finance and the Secretary of the Public Service Commission and the Clerk of the Legislative Assembly, and shall, in preparing its report, take into account any advice provided by those officers.

**7. Tribunal meetings-**(1) The Chairperson may convene meetings of the Tribunal.

(2) The Chairperson shall chair the Tribunal meetings at which the Chairperson is present.

(3) Where the Chairperson is not present at a Tribunal meeting another member nominated by the Chairperson shall chair the meeting.

(4) At a Tribunal meeting:

- (a) The procedure shall be determined by the Tribunal;
- (b) Two members shall be a quorum;
- (c) All questions shall be decided by a majority of votes of the members present and voting; and
- (d) The member chairing the meeting shall have a deliberative vote, and where there is an equality of votes, shall also have a casting vote.

**8. Tribunal reports to be laid before Parliament** - Where the Tribunal provides a report to Cabinet under paragraph 6(1)(a), the Prime Minister shall cause a copy of the report to be laid before Parliament within 14 sitting days after Cabinet receives the report.

**9. Determination of salaries, allowances and other benefits-**(1) Where Cabinet has received a report from the Tribunal in relation to a particular public office or a class of public offices, Cabinet may, subject to subsection (3), after considering that report, advise the Head of State to determine the salary, allowances and other benefits of that office or those offices.

(2) Cabinet, in advising the Head of State, shall not be obliged to accept any recommendations of the Tribunal.

(3) Cabinet shall consult with the Public Service Commission before it advises the Head of State in relation to a public office mentioned in paragraph (j) and (k) of section 3(1).

(4) The Head of State, acting on the advice of Cabinet under subsection (1), may, by Order in writing, determine the salary, allowances and other benefits of a public office or class of public offices.

(5) An Order of the Head of State shall be published, as soon as is practicable, in Samoan and English in the Savali and one other newspaper circulating in Samoa.

**10. Resignation or removal from Tribunal membership-**

(1) A member may resign by writing signed by the member and delivered to the Head of State.

(2) The Head of State, acting on the advice of the Prime Minister, may remove a member for misbehaviour or physical or mental incapacity.

(3) A member ceases to hold office if the member becomes a person mentioned in subsection 4(6).

**11. Fees and allowances for Tribunal members -** The Head of State, acting on the advice of Cabinet, may, by Order, determine the fees and allowances payable to members of the Tribunal.

**12. Travelling allowances for the Prime Minister and Ministers-**(1) For the purposes of this section, the Town Area of Apia means an area within a radius of 5 kilometres from the intersection of Vaitele Street and Vaea Street, and references to Ministries or subjects of the Government extend to and include any executive instrument of the Government and any body corporate or other body or subject established by statute or executive act of the Government if any Minister is charged with responsibility for that Ministry, body or subject.

(2) There shall be paid to the Prime Minister and each Minister a travelling allowance at a rate determined by Order of the Head of State, acting on the advice of Cabinet after Cabinet has received a report from the Tribunal, for each day on which the Prime Minister or Minister, as the case may be, is absent from their office in Apia on official business in any place in Samoa outside the Town Area of Apia, together with the expenses actually incurred by the Prime Minister or Minister whilst travelling on official business:

**Provided that** such allowance shall not be payable when the Prime Minister or a Minister is not required to be absent overnight, nor shall such allowance be payable when the Prime Minister or a Minister travels between the Town Area of Apia and their home or between their home and the Town Area of Apia.

(3) The allowances and expenses paid to the Prime Minister and Ministers pursuant to subsection (2) shall be borne by the Ministry or subjects (if more than one) of the Government for whose benefit or in whose interests the official business is undertaken and, whenever any allowance or expense is to be borne by two or more Ministries or subjects, the amount shall be apportioned between the several Ministries or subjects in such manner as the Chief Executive Officer of the Ministry of Finance shall direct.

**13. Period for which salary, allowances and other benefits are payable to the Prime Minister and other Ministers** - The salaries, allowances and other benefits of the Prime Minister and each Minister shall be payable in respect of the period commencing on the day of their appointment by the Head of State by instrument under the Public Seal and ending on the day on which their appointment is terminated or their office becomes vacant pursuant to Article 33 of the Constitution.

**14. Salary, allowances and other benefits during suspension of a Minister** - No salary, allowances or other benefits shall be payable to a Minister in respect of any period during which the Minister is suspended pursuant to Article 33 (6)(b) of the Constitution:

**Provided that**, following and as a result of the finding at an investigation or inquiry into the Minister's conduct, the Minister's appointment is not revoked and the Minister does not resign, the Minister shall be entitled to receive in respect of the period of suspension the Ministerial salary, allowances and other benefits which the Minister would have been entitled to had the Minister not been suspended less the Minister's salary as a member of the Legislative Assembly in respect of that period.

**15. Period for which salary, allowances and other benefits payable to members of the Legislative Assembly** - The salary, allowances and other benefits of each member of the Legislative Assembly shall be payable in respect of the period commencing on the day on which:



- (a) A warrant declaring the member's election is signed by the Head of State; or
- (b) A certificate determining that the member was elected or returned, instead of the person named on the warrant, is executed by the Supreme Court-

and ending on the day on which the member ceases to be a member of the Legislative Assembly by dissolution of the Assembly or on which the member is declared by any law not to be eligible to sit or vote in the Assembly or to be disqualified from holding their seat, or on which the member's seat becomes vacant by death or otherwise, as the case may be.

**16. Computation of time for payment of sitting allowances** - Where sitting allowances are provided for members of the Legislative Assembly and such payments are based upon an hourly rate, in the computation of the number of hours for the payment of such allowances the following shall apply:

- (a) Any fraction of an hour less than half an hour shall not be counted; and
- (b) Any fraction of half an hour or more shall be counted as a full hour.

**17. Appropriation of money for certain salaries, allowances and other benefits**-(1) The appropriation by Parliament of money for the purpose of providing salaries, allowances and other benefits for the Prime Minister, Ministers, the Leader of the Opposition, Parliamentary Under-Secretaries, the Speaker, the Deputy Speaker, members and former members of the Legislative Assembly, or for the spouses or children of such persons shall be sufficient authority for the grant of any such salaries, allowances or other benefits, and where money is so appropriated it shall be lawfully expended without any statutory authority other than this section and the Act by which it is appropriated.

(2) Nothing in this section shall authorize the payment of any money to any of the persons mentioned in subsection (1).

(3) The operation of this section shall not be affected merely by any express statutory authority other than this section for the conferring of specified salaries, allowances and other benefits:

**Provided that** nothing in this section shall be construed to authorize the expenditure of any money contrary to the provisions of any Act.

**18. When salaries, allowances and other benefits payable**

(1) The salaries, allowances (other than sitting allowances) and other benefits payable to the persons referred to in subsection 17(1) pursuant to this Act shall be paid by equal fortnightly installments.

(2) Sitting allowances shall be payable weekly.

**19. Payment only on certificate of Clerk** - No payment of salary, allowances or other benefits under the provisions of this Act to the persons referred to in subsection 17(1) shall be made except upon the certificate of the Clerk of the Legislative Assembly.

**20. Grant for civil purposes** - The several sums authorized to be paid as salaries, allowances and other benefits under the provisions of this Act to the persons referred to in subsection 17(1) shall be payable in every year out of the Treasury Fund as statutory expenditure.

**21. Consequential amendments**-(1) Section 7 of the Komesina o Sulufaiga (Ombudsman) Act 1988 is repealed and replaced with the following provision:

**“7. Salary, allowances and other benefits of Komesina o Sulufaiga (Ombudsman)**-(1) The salary, allowances and other benefits of the Komesina o Sulufaiga (Ombudsman) shall be determined under the Remuneration Tribunal Act 2003.

(2) The salary, allowances and other benefits referred to in subsection (1) shall be paid as statutory expenditure out of the Treasury Fund, without further appropriation than this section.”

(2) Section 7 of the Parliamentary Under-Secretaries Act 1988 is repealed and replaced with the following provision:

**“7. Salaries, allowances and other benefits** - The salaries, allowances and other benefits for each Parliamentary Under-Secretary shall be determined under the Remuneration Tribunal Act 2003.”

(3) Section 7 of the Public Service (Special Posts) Act 1979 is repealed and replaced with the following provision:

**“7. Salaries, allowances and other benefits for special posts** – The salaries, allowances and other benefits of special posts shall be determined under the Remuneration Tribunal Act 2003.”

**22. Savings and transitional arrangements-**(1) Despite the other provisions of this Act and subject to this section, the salaries, allowances and other benefits payable to the holder of any public office as at the date of commencement of this Act are saved and shall continue to be paid in accordance with the terms and conditions of any Act, Regulation, Order or other lawful authority which authorized such payments, irrespective of whether such Act, Regulation, Order or other lawful authority is repealed or amended by the operation of this Act.

(2) Any salaries, allowance or other benefits referred to in subsection (1) may be amended in accordance with the provisions of this Act and upon such amendment any Act, Regulation, Order or other lawful authority which authorized such salary, allowance or other benefits, where necessary, shall be amended accordingly.

(3) Any reference to the Civil List Act 1964 in any other Act, Regulation, Order or other act of authority shall be a reference to the Remuneration Tribunal Act 2003, unless the context requires otherwise.

**23. Repeal** - The Civil List Act 1964 is repealed.

SCHEDULE (section 6(1)(b))

Other Offices

Body

Office

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