

SAMOA

Arrangement of Provisions

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2005, No.4**AN ACT to amend the Public Finance Management Act
2001.** *[22nd April 2005]*

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 Public Finance Management Amendment Act 2005 and shall be read with and form part of the Public Finance Management Act 2001 (the Principal Act).

(2) This Act shall commence on the date of assent by the Head of State.

(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 – Section 2 of the Principal Act is amended:

(1) By inserting the expression “(1)” following the heading to the section.

(2) By inserting in subsection (1) in alphabetical order the following definitions:

“budget performance report” means a report comparing original budget figures for a financial year with actual results;

“corporate plan” means the corporate plan referred to in section 22 of the Public Bodies (Performance and Accountability) Act 2001;

“Shareholding Ministers”, in relation to public bodies means the Minister of Finance and the Responsible Minister and, where the Minister of Finance is also the Responsible Minister, a Minister who is approved by Cabinet to be a Shareholding Minister for the purpose;

“subsidiary” has the same meaning as in section 2 of the Companies Act 2001.

3. Specific responsibilities of the Minister – Section 5 of the Principal Act is amended:

(1) By deleting paragraphs (c) and (d) and substituting the following:

“(c) Periodic appraisal of the efficiency with which individual projects and other aspects of economic plans approved by the Legislative Assembly, as well as ongoing activities, are being implemented; and”.

(2) By relettering paragraphs (e) to (h) inclusive so that they are relettered (d) to (g) in alphabetical sequence.

4. General responsibilities of Responsible Minister – Section 7(1) of the Principal Act is amended:

(1) By deleting the word “his” where it first appears and substituting the words “the head of department”;

(2) By deleting the word “his” where it second appears and substituting the words “the head of department’s control”.

5. Specific responsibilities of the Financial Secretary – Section 9 of the Principal Act is amended by deleting the expression “(k)” after the words “modifications to paragraphs” and substituting the expression “(n)”.

6. Responsibilities of heads of departments – Section 13(1)(j) of the Principal Act is amended by deleting the word “Review” and substituting the word “Revenue”.

7. Access to information and removal of authority to deal with public moneys, etc – Section 14(3)(d) of the Principal Act is amended:

(1) By deleting the expression “subsection (3)(b)” and substituting the expression “subsections (3)(a), (b) or (c)”.

(2) By adding after the words “Public Service Commission” the following:

“and if the accountable officer whose authority is suspended is a head of department, a copy of the notice and reasons shall be forwarded to the Responsible Minister and to the Secretary of the Public Service Commission”.

8. Estimates – Section 23 of the Principal Act is amended:

(1) By deleting the heading “Estimates” and substituting the heading “Estimates and Supplementary Estimates”.

(2) By adding the following after subsection 3:

“(4) The Minister shall lay before the Legislative Assembly in accordance with Article 94 (Appropriation of expenditure) of the Constitution and this Act a statement of supplementary estimates for:

- (a) Any expenditure in excess of or without appropriation that cannot reasonably be met within the unforeseen expenditure vote as provided by section 29 (Adjustment for unforeseen expenditure); and
- (b) Any reductions of expenditure; and
- (c) Any increases or decreases in the estimates of receipts, grants and other revenue.”

9. Appropriation required – Section 25 of the Principal Act is amended:

(1) By adding to subsection (1) the words “or supplementary appropriation” after the words “authorised by an appropriation”.

(2) By adding to subsection (5) the words “or Supplementary Appropriation Act” after the words “an Appropriation Act”.

10. Charge for supply of goods or services – Section 27 of the Principal Act is amended by deleting the expression “section 13(1)(I)” and substituting the expression “section 13(1)(k)”.**11. Functions of the Board** – Section 37(1)(e) of the Principal Act is amended by deleting the expression “section 13(1)(k) and (I)” and substituting the expression “section 13(1)(j) and (k)”.**12. Application of this Part** – Section 91 of the Principal Act is amended by adding the following after subsection (6):

“(7) This section shall not apply to the Central Bank of Samoa.”

13. Corporate Plan and Budget – Section 92 of the Principal Act is amended:

(1) By deleting the section heading “Performance and management plan and budget” and substituting the section heading “Corporate Plan and Budget”.

(2) By deleting the words “performance and management plan” wherever such words appear in subsection (1) and (2) and substituting the words “Corporate Plan”.

14. Financial activities – Section 93 of the Principal Act is amended:

(1) By inserting the words “Subject to subsection (3),” immediately after the figure (1); and

(2) By deleting the words “The chief executive” in subsection (1) and substituting the words “chairperson of the Board”; and

(3) By inserting subsection (3) as follows:

“(3) Notwithstanding subsection (1), where the chairperson of the Board is either the Minister or the Responsible Minister, the Board of Directors of the relevant public body shall by ordinary resolution appoint a person, other than the chairperson of the Board, to advise on the financial activities of the public body for the purposes of this section.”

15. Private treaty loans – Section 98 of the Principal Act is amended:

(1) By deleting from subsection (1) the words “with the consent of the Minister”.

(2) By deleting from subsection (3) the words “by virtue of the Minister’s consent”.

16. Contract for works, supplies and services – Section 102 of the Principal Act is amended by deleting subsection (2) and substituting the following:

“(2) Notwithstanding subsection (1), the Financial Secretary may issue procurement guidelines by way of a

Treasury Instruction which shall be binding on public bodies.”

17. Reports and financial statements – The Principal Act is amended by deleting section 104 and substituting the following:

“104. Reports and financial statements–(1) Notwithstanding the provisions of any other Act, a public body shall prepare and furnish to the Shareholding Ministers and to Treasury, within four months after the end of the public body’s financial year, an annual report on the operations of the public body and a budget performance report for that financial year, together with financial statements.

(2) Before furnishing financial statements to the Shareholding Ministers and Treasury, a public body shall submit them to the Controller and Chief Auditor who shall report on the extent to which they present fairly the public body’s financial transactions and position and comply with its Corporate Plan.

(3) On receipt, the Responsible Minister shall cause the reports and financial statements, together with the report of the Controller and Chief Auditor, to be laid before the Legislative Assembly forthwith if it is in session, and if not, at the commencement of the next ensuing session.

(4) When a public body’s annual report is reproduced for publication or for other purposes, the financial statements and the report of the Controller and Chief Auditor shall be included in the reproduction.”

18. Powers of inspection of the Financial Secretary – Section 105 of the Principal Act is amended:

(1) By deleting the words “performance and management plan as submitted under section 92 (Performance and management plan and budget)” in subsection (1) and substituting the following:

“corporate plan as submitted under section 92 (Corporate plan and budget) or that there is or may have been an

irregularity in the management of money or property in the ownership or custody of the public body”.

(2) By inserting in subsection (4) the word “in” after the words “other than”.

19. Reporting of Suspected Offence – The Principal Act is amended by inserting the following after section 105:

“105A. Reporting of suspected offence-(1) A person who has knowledge of any circumstances which may cause the person to consider that a public body has or may have failed to implement the corporate plan as submitted under section 92 (Corporate plan and budget) or that an irregularity in the management of money or property in the ownership or custody of a public body may have occurred shall report those circumstances to the Financial Secretary and to a Shareholding Minister or to both Shareholder Ministers.

(2) A person who in good faith alleges a breach of the Act to the Financial Secretary or to a Shareholding Minister shall be immune from civil suit and shall not be penalised in any way (whether the allegation is proved or not) because of the person’s actions in reporting the matter.”

20. Disciplining of heads of departments and chief executives in certain circumstances – Section 117(3)(i) of the Principal Act is amended by deleting the word “approval” and substituting the word “approved”.

21. Ex-gratia payments – Section 119 of the Principal Act is amended by adding the following after subsection (5):

“(6) This section does not apply to ex-gratia payments approved under Public Service Commission regulations.”

22. Write-off of losses – Section 120 of the Principal Act is amended by deleting subsections (2), (3) and (4) and substituting the following:

“(2) The Financial Secretary shall, following any investigation that the Financial Secretary thinks necessary in

a particular case, take such action as is provided in Treasury Instructions.

(3) All amounts approved for write-off shall be reported in the financial statements.”

23. Public Bodies – Schedule 4 of the Principal Act is amended:

(1) By deleting “Special Projects Development Corporation” and its empowering Act the “Special Projects Development Corporation Act 1972”.

(2) By deleting “Samoa Visitors Bureau” and its empowering Act the “Western Samoa Visitors Bureau Act 1984” and inserting in alphabetical order the “Samoa Tourism Authority” and its empowering Act the “Samoa Tourism Authority Act 2002”.

(3) By deleting “Samoa Communication Ltd” and substituting “SamoaTel Ltd”.

(4) By inserting in alphabetical order “South Pacific Games Authority” and its empowering Act the “2007 South Pacific Games Authority Act 2002”.

(5) By deleting “Accident Compensation Board” and substituting “Accident Compensation Corporation”.

(6) By deleting “Televise Samoa” and its empowering Act the “Televise Samoa Corporation Act 1994” and inserting in alphabetical order “Samoa Broadcasting Corporation” and its empowering Act “Samoa Broadcasting Corporation Act 2003”.

**The Public Finance Management Amendment Act 2005 is
administered in the Ministry of Finance**