

SAMOA

Arrangement of Provisions

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2006, No. 6

**AN ACT to provide for the Research and Development
Institute of Samoa.** *[3rd March 2006]*

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 Research and Development Institute of Samoa Act 2006.

(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 - In this Act, unless the context otherwise requires:

“Board” means the Board of Directors established under section 8;

“Chief Executive Officer” means the Chief Executive Officer of the Institute appointed under section 10;

“Institute” means the Research and Development Institute established under section 3;

“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 and items:

“investor” means a person who invests in funding or sponsoring a research program, a research development, scientific development, innovation or any other developments for the purposes of this Act;

“Minister” means the Minister responsible for the administration of this Act;

“research programme” means a research programme determined and approved by the Board under section 9 to be conducted by or under the authority of the Institute.

3. Establishment of Institute-(1) There is established the Research and Development Institute of Samoa.

(2) The Institute 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 the acts and things which bodies corporate may lawfully do and suffer.
- (3) The common seal may be affixed only:
 - (a) with the authority of the Board; and
 - (b) with a witnessing signature of a director or other person where the director or other person is so authorised in writing by the Board.

4. Objectives of the Institute - The Institute's objectives are:

- (a) to promote the national economy of Samoa based on research and development;
- (b) to undertake scientific and technical research with the primary aim of adding value to local resources or services;
- (c) to develop functional prototypes of products and processes based on scientific and technical research for the local or overseas markets;
- (d) to establish partnership with the private sector and commercial interests to support the Institute's activities; and
- (e) to support the teaching of science and technology.

5. Functions of the Institute-(1) The functions of the Institute shall be:

- (a) to advance scientific and technical research and to disseminate and maintain the same;
- (b) to initiate, plan and implement scientific and technical research;
- (c) to collect and disseminate scientific and technical information including the publication of scientific reports and journals for the Institute;
- (d) to advise the government of research and development that would benefit the Institute; and
- (e) to undertake research and provide advisory services to the government on technical and scientific matters.

(2) In performing its functions the Institute shall take into account relevant Government policy as communicated to the Institute by the Minister or the Chief Executive Officer.

6. Scope of Institute's activities – The Institute's activities are restricted to:

- (a) applied research in science;
- (b) innovations;
- (c) development of products based on research findings;
- (d) development of recognition and award on innovations generated in conjunction with other recognised Institutes or organizations;
- (e) publications;
- (f) seminars.
- (g) entering into partnership or any joint venture arrangement in any research and innovations conducted by or under the authority of the Institute for the purposes of commercial development; and
- (h) any other activities carried out for the purposes of expanding research and development.

7. Powers of the Institute - The Institute shall have power for carrying out its objectives and functions and all the acts as appear to the Institute to be requisite, advantageous or convenient for or in connection with the carrying out of the Institute's purposes and functions or to be incidental to their proper discharge and may carry on any activities in that behalf either alone or through or in association with any other person or body.

8. Board of Directors-(1) There shall be a Board of Directors for the Institute which shall, subject to this Act, be responsible for the policy, control and governance of the Institute.

- (2) Subject to subsection (13), the Board shall consist of:
- (a) the Chairperson, who shall be the Minister;
 - (b) the Chief Executive Officer; and

- (c) seven other directors who shall be appointed by Cabinet, acting on the advice of the Minister.
- (3) In appointing directors under paragraph (2)(c) the Minister and Cabinet shall take into account:
- (a) the need of the Institute to have directors with qualifications, experience and expertise in various areas of science, renewable energy, information technology, engineering, finance, commerce, management, ethics and such other qualifications, experience and expertise appropriate to the Institute's purposes and functions; and
 - (b) the desirability of gender equality and the representation of consumers and their families.
- (4) Subject to this section, directors appointed under paragraph(2)(c) shall hold office for a term of 3 years and may be reappointed.
- (5) Any director appointed under paragraph (2)(c) may be removed from office by Cabinet, acting on the advice of the Minister, for inability, inefficiency, bankruptcy, neglect of duty, misconduct or permanent departure from Samoa, or may resign in writing to the Minister.
- (6) The Office of a director shall become vacant if the director dies or resigns or is removed from office or completes their term of appointment under subsection (4), and the vacancy shall be filled in the manner in which the original appointment was made.
- (7) Meetings of the Board shall be called by the Chairperson or, in the absence or unavailability of the Chairperson, on a request in writing from at least four directors.
- (8) In the absence or unavailability of the Chairperson, the directors shall appoint a director to chair a meeting of the Board.
- (9) The quorum for any meeting of the Board shall be five directors.
- (10) Every question before any meeting of the Board shall be determined by a majority of directors 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.

(11) Except as otherwise provided by this Act, the Board may regulate its procedure as the Board thinks fit.

(12) The directors shall be paid such fees and allowances as approved by Cabinet.

(13) Where a director is incapacitated by a temporary illness or due to unforeseen circumstances cannot attend a meeting of the Board, the director may nominate in writing, addressed to the chairperson of such meeting, a suitable alternate to attend on behalf of the director, and such alternate shall be deemed to be a director for such meeting.

(14) The Board may co-opt other persons from time to time to attend and participate in the Board's deliberations, but such persons shall not have the power to vote on any matter.

(15) The Board may appoint a member of its staff to act as secretary to the Board but such staff member shall not:

- (a) be a member of the Board; or
- (b) have a right to vote; or
- (c) have the right to speak at or otherwise participate in a Board meeting without leave of the Board.

9. Powers of the Board - The powers of the Board include but are not limited to:

- (a) recruitment and appointment of a Chief Executive Officer and staff of the Institute;
- (b) raising finance for the purposes of the Institute;
- (c) determining fees to be charged on the services carried out by the Institute;
- (d) determining partnerships to be entered into by the Institute;
- (e) determining intellectual property rights of the Institute;
- (f) determining and approving research programmes to be conducted by or under the authority of the Institute;
- (g) obtaining and owning assets for the development of the Institute;

- (h) initiating amendments to this Act from time to time where appropriate; and
- (i) promoting the economy of Samoa through the national research and development projects carried out by the Institute.

10. Chief Executive Officer of the Institute-(1) There shall be a Chief Executive Officer of the Institute who shall be appointed by the Board under section 9.

(2) The Chief Executive Officer shall be responsible to the Minister and the Board:

- (a) for the efficient, effective and economical administration of the Institute in accordance with its related legislation;
- (b) for the efficient and competent leadership and management of all employees of the Institute in accordance with requirements determined by the Board, related legislation and policies determined by the Board.

11. Functions of the Chief Executive Officer - The Chief Executive Officer shall have the following functions:

- (a) manage the Institute subject to resolutions by the Board;
- (b) develop work plans to identify research priorities for the Institute;
- (c) formulate the annual budget of the Institute;
- (d) supervise staff and programmes of the Institute;
- (e) facilitate involvement of private and business sectors in the Institute's programmes;
- (f) explore investment opportunities in activities undertaken by the Institute;
- (g) encourage and facilitate publication of the Institute's findings; and
- (h) promote public awareness, support and participation in research and development.

12. Staff and other personnel-(1) Following consultation with the Chief Executive Officer of the Public Service

Commission, the Board may employ staff on terms and conditions as the Board determines.

(2) Staff employed by the Institute other than staff regarded as members of the Institute under subsection (4) shall not be regarded as officers or employees of the Public Service.

(3) With the consent of the Public Service Commission and the Chief Executive Officer of the relevant Government Ministry or Agency, the Institute may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of any government Ministry or Agency.

(4) For the purposes of this Act, any staff subject to subsection (3) shall be regarded as a member of the staff of the Institute.

(5) The Institute may engage consultants or other persons to undertake any task or work for or on behalf of the Institute on such terms and conditions as the Board determines.

13. Taxation-(1) In this section.

“capital equipment” means the raw material or other material or equipment imported for the purposes of the Institute and to allow the Institute to meet its objectives and perform its functions under this Act.

(2) For the purposes of the Customs Act 1977 and the VAGST Act 1992/1993, all capital equipment of the Institute shall be exempted from import duty and goods and services tax.

(3) A person who invests in a research programme under this Act shall be entitled to prescribed tax credits under this Act.

14. Intellectual Property Rights held by the Institute-(1)

Despite the provisions of any other law, the Institute holds the intellectual property rights to all research and innovations conducted by or under the authority of the Institute.

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

15. Breach of Intellectual Property Rights-(1) Any person who knowingly infringes the intellectual property rights of the Institute 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 to a fine of up to 1000 penalty units or imprisonment for one year or both a fine and imprisonment.

16. Seizure of material produced in breach of the Institute's Intellectual Property Rights-(1) Despite the provisions of any law, a police officer, acting on a written request from the Institute, 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 15.

(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 15.

(4) Any item or object or material seized under this section 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 an item, 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 15, whichever event applies, such item or object or material shall be forfeited to Samoa.

17. Accounts and Annual Reports-(1) The Institute shall cause to be kept proper accounts and records of the transactions and affairs of the Institute and shall do all things necessary to ensure that:

- (a) all funds received are brought to account;
- (b) all payments are properly authorised and correctly made and accounted for; and
- (c) there are adequate controls over the Institute's:
 - (i) assets;
 - (ii) property under the Institute's control;
 - (iii) expenditure; and
 - (iv) liabilities.

(2) The Institute shall be subject to the provisions of the Public Finance Management Act 2001 and for this purpose, despite the provisions of such Act, the funds received by the Institute shall be deemed public money and the assets and property of the Institute shall be deemed public property.

(3) The Institute shall cause to be prepared and submitted to the Minister, within six (6) months of the end of the financial year of the Institute, 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 Institute during the preceding financial year; and
- (d) such other information as Cabinet may require.

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

- (a) a statement of financial transactions of the Institute for the financial year;
- (b) a statement of the financial position of the Institute at the end of the financial year; and
- (c) proper and adequate notes to the financial statements.

(5) The financial statements referred to in subsection (3) shall:

- (a) present fairly the financial transactions of the Institute during the financial year to which they relate; and
- (b) present fairly the financial position of the Institute at the end of the financial year.

(6) The Institute shall, within four months after the end of each financial year, cause to be submitted to the Controller and Chief Auditor for audit the financial statements and other information referred to in subsection (3).

(7) The financial year of the Institute shall be from 1st July to 30th June.

(8) The Minister shall table the annual report of the Institute together with the Controller and Chief Auditor's report on the Institute's financial statements before Parliament within 14 sittings days of receiving the Controller and Chief Auditor's audit report.

18. Protection from liability-(1) Despite any other law, the Institute, the Board, the directors and employees of the Institute shall not be civilly liable for any act or omission made or done in good faith.

(2) Where, but for the provisions of subsection (1), the Institute, the Board, the directors or the employees of the Institute would be civilly liable for any act or omission. Samoa shall be civilly liable for any such act or omission as if the Institute was the Government, and all of the provisions of the Government Proceedings Act 1974 shall apply with such modifications, adaptations and alterations to that Act as necessary to enable that Act to apply.

(3) Save for subsections (2), and 12(2) and (3) for all purposes the Institute, the Board, the directors and the employees of the Institute shall not be regarded as the employees or agents of Samoa, the Government, the Minister, or the Chief Executive Officer.

19. Delegation-(1) The Institute and the Board may, in writing, delegate to any person any function or power of the Institute or Board, as the case may require, other than this power of delegation.

(2) A delegation under subsection (1) may be:

(a) made subject to conditions, qualifications and exceptions; and

(b) revoked or varied at will.

(3) The Institute and the Board, as the case may require, may exercise a function or power notwithstanding that they had delegated its exercise to some other person.

20. Regulations-(1) The Head of State, acting on the advice of Cabinet, may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, without limiting the generality of the foregoing, may make regulations concerning the following matters:

- (a) for prescribing fees or a basis for calculating fees on services carried out by the Institute; or
- (b) for prescribing tax credits and tax benefits which an investor under this Act may be entitled to.

**The Research and Development Institute of Samoa Act 2006 is
administered in the Ministry of Natural Resources and
Environment**