

**SAMOA**

## Arrangement of Provisions

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| 1. Short title and commencement | 3. Breach of the Code of Conduct |
| 2. Interpretation               |                                  |

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**2009, No. 12****AN ACT to amend the Public Service Act 2004.***[1<sup>st</sup> September 2009]*

**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 Service Amendment Act 2009 and shall be read together with and form part of the Public Service Act 2004 (“Principal Act”).

(2) This Act commences on the date that it is assented to by the Head of State.

**2. Interpretation** – Section 3 of the Principal Act is amended by deleting the definition of “head of a Constitutional authority” and replacing it with the following:

““head of a Constitutional authority” means:

- (a) the Attorney General; or
- (b) the Controller and Chief Auditor;”.

**3. Breach of the Code of Conduct** – The Principal Act is amended by deleting subsections (1) to (5) inclusive of section 44 and inserting the following:

**“44. Breach of the Code of Conduct-(1)** Where a Chief Executive Officer suspects that an officer may have breached the Code of Conduct, the Chief Executive Officer or the Chief Executive Officer’s delegate must carry out a preliminary investigation of the matter and:

- (a) charge the officer in writing with a breach of the Code of Conduct; or
- (b) give the officer a warning; or
- (c) take no further action.

(2) Where an officer has been charged with a breach of the Code of Conduct, the relevant Chief Executive Officer must appoint an officer or a contract employee from a Ministry other than the Ministry in which the charged officer works, to carry out a complete investigation of the charge and to make recommendations to the Chief Executive Officer.

(3) A person must not be appointed for the purpose of subsection (2) unless the Commission has certified that the person is qualified to carry out an inquiry and appears to be impartial.

(4) A person appointed for the purposes of subsection (2) may do any or all of the following -

- (i) amend a charge;
- (ii) withdraw a charge;
- (iii) lay an additional charge,

and must without delay, inform the officer of any amendment, withdrawal or additional charge.

(5) The procedure for investigating and determining a charge against an officer is specified in the regulations, but as a minimum, the procedure must provide that:

- (a) the officer must be informed of the charge against the officer and any evidence in support of the charge; and
- (b) the officer has a right to respond, either in writing or orally, to:

(i) confirm or to contradict the charge and any evidence in support of the charge; and

(ii) make a submission on a penalty to be imposed on the officer if the Chief Executive Officer is satisfied that the charge is true.”.

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**The Public Service Amendment Act 2009 is administered  
by the Public Service Commission.**

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