

SAMOA

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2014, No. 5

AN ACT to ensure the Samoan language is and remains a vibrant language, to declare the Samoan language as an official language, and to establish the Samoan Language Commission to provide its functions, duties and powers, and for related purposes.
[7th April 2014]

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 Samoan Language Commission Act 2014.

(2) This Act commences on a date or dates to be nominated by the Minister.

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

“appointed member” means a member of the Board appointed under section 8(1)(b);

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

“Commissioner” means the Samoan Language Commissioner appointed under section 17;

“Commission” means the Samoan Language Commission established under section 6;

“court” means a District Court, the Supreme Court or the Court of Appeal or any other court established by an Act;

“Executive Director” means the Executive Director of the Office appointed under section 19;

“government agency” means an agency that is accountable, through a Minister, to Parliament for the conduct of its affairs;

“government institution” means:

- (a) a ministry or department of the Government; and
- (b) a government agency established or incorporated under an Act; and
- (c) any board, commission or council, or other body or office established to perform a governmental function by or pursuant to an Act or by or under the authority of the Head of State or the Government; and
- (d) any other body that is specified by an Act to be subject to the direction of the Head of State or a Minister; and
- (e) a tribunal.

“member” means a member of the Board;

“Minister” means the Minister who is directed under Article 35 of the Constitution to be responsible for this Act and the Samoan Language Commission;

“ministry” means a ministry established under the Ministerial and Departmental Arrangements Act 2003 or under another Act;

“translation”, in relation to the Samoan language, means the written expression in English or other languages of words written in Samoan and the written expression in Samoan of words written in English or other languages;

“tribunal” means a body established under an Act to carry out quasi-judicial functions;

“State institution” means the Parliament or court.

3. Act binds Government - This Act binds the Government.

4. Objectives - The objectives of this Act are:

- (a) to ensure respect for the Samoan language as an official language and to ensure that the Samoan language is accorded the status, right and privilege as to its use in all government institutions or State institutions, in particular with respect to its use -
 - (i) in parliamentary proceedings;
 - (ii) in legislative and other instruments;
 - (iii) in communicating with or providing services to the public; and
 - (iv) in carrying out the work of government institution or State institutions; and
- (b) to support the development of Samoan language; and
- (c) to generally advance the status and use of the Samoan language within the Samoan society; and

- (d) to set out the powers, duties and functions of government or State institutions with respect to the official language of Samoa; and
- (e) standardise translation in relation to the Samoan language; and
- (f) to value the use of the Samoan language in all areas of life in Samoa.

PART II RECOGNITION OF SAMOAN LANGUAGE

5. Samoan language to be an official language-(1) The Samoan language is declared to be an official language of Samoa.

(2) The declaration under subsection (1) has the effect of:

- (a) promoting the use of the Samoan language in any records, communication or discussion as determined by the Commission;
- (b) recognising the Samoan language in government budget and other money generating avenues for development;
- (c) promoting equity for all the people of Samoa;
- (d) promoting the development and maintenance of the Samoan language, and, in particular, its use as a living language and as an ordinary means of communication.

PART III SAMOAN LANGUAGE COMMISSION AND THE BOARD

Division 1 - Commission and its functions and powers

6. Establishment-(1) The Samoan Language Commission is established as a body corporate with perpetual succession and common seal, and may:

- (a) sue and be sued;
- (b) enter into contracts;
- (c) acquire, hold and dispose of property both real and personal; and
- (d) do any other act necessary for or incidental to the performance of its functions, duties and powers under this Act or any other law.

(2) The Commission consists of all of the following:

- (a) the Commissioner;
- (b) the Board;

- (c) the Executive Director;
 - (d) officers, employees of the Commission and other persons employed or engaged for the purpose of this Act.
- (3) The Commission must affix its common seal:
- (a) in accordance with its resolution; and
 - (b) in the presence of and with the signatures of the Chairperson or the Executive Director and one (1) other appointed member.
- (4) A document to which the Commission is a party, other than those required by law to be under seal, may be signed on behalf of the Commission by the Chairperson, the Executive Director, an appointed member or an officer of the Commission.
- (5) A court must:
- (a) take judicial notice of a seal affixed under subsection (3) to a document; and
 - (b) presume that the seal was properly affixed, unless the contrary is proved.

7. Functions and powers-(1) The Commission has the following functions:

- (a) to initiate, develop, co-ordinate, review, advise upon, and assist in the implementation of policies, procedures, measures, and practices designed to give effect to the declaration in section 5 of the Samoan language as an official language of Samoa;
- (b) generally to promote the Samoan language, and, in particular, its use as a living language and as an ordinary means of communication;
- (c) to develop a strategic plan and a corporate plan for the Commission;
- (d) to monitor and advise the implementation of its policies and corporate plan;
- (e) to consider and report to the Minister upon any matter relating to the Samoan language that the Minister may refer to the Commission for its advice;
- (f) to advise the Government and the Parliament on Samoan language matters through the Minister;
- (g) to carry out consultations on policy development, publicise policies and decisions on the Samoan language;
- (h) to monitor developments or changes in the Samoan language;

- (i) to provide interpretation and translation services;
 - (j) to carry out other functions conferred on it under this Act or any other Act.
- (2) The Commission may do any other thing necessary for the Commission to carry out its functions.
- (3) Without limiting subsection (2), the Commission may:
- (a) conduct, hold, or attend any inquiries, hearings, or meetings as the Commission thinks desirable to enable it to determine the views and wishes of the public in relation to the promotion and use of the Samoan language; and
 - (b) undertake or commission research into the use of the Samoan language; and
 - (c) consult with and receive reports from ministries and other bodies on the use of Samoan language in the course of the conduct of the business of the ministries or other bodies, whether by their staff or by persons with whom the ministries have official dealings; and
 - (d) publish information relating to the use of the Samoan language; and
 - (e) report to the Minister on any matter relating to the Samoan language that the Commission considers should be drawn to the Minister's attention.
- (4) The Minister may refer any matter relating to the Samoan language to the Commission for its consideration and advice.
- (5) As an exception to this Act, the Chief Justice may issue guidelines for the purpose of taking progressive measures to implement policies and procedures for the use of Samoan language in the courts.

Division 2 - The Board and its functions and powers

8. Board of the Commission-(1) The Board of the Commission is established consisting of the following members:

- (a) the Commissioner, as Chairperson;
 - (b) nine (9) members appointed by the Head of State, acting on the advice of Cabinet.
- (2) For the purpose of subsection (1)(b), Cabinet must take into account:
- (a) the suitability of a person for appointment to the Board;
 - (b) the person's personal attributes; and
 - (c) the person's knowledge and experience in the use of the Samoan language; and

- (d) any other matters likely to come before the Board; and
- (e) the views of the Minister after the Minister consults with the following -

- (i) a representative of the Samoa National Council of Churches; and
- (ii) a representative of the Special Committee on Traditional Salutation and Legends; and
- (iii) a representative of the Samoa National Council of Women; and
- (iv) a representative of the Centre for Samoan Studies at the National University of Samoa; and
- (v) Chief Executive Officer, Ministry of Education, Sports and Culture; and
- (vi) Chief Executive Officer, Ministry of Justice and Courts Administration; and
- (vii) Clerk of the Legislative Assembly.

- (3) An appointed member:

- (a) holds office for a term not exceeding three (3) years; and
- (b) is eligible for reappointment; and
- (c) when the term of office expires, continuing in office until the appointed member is reappointed or replaced.

9. Powers of the Board - The Board has the following powers:

- (a) to carry out the functions and duties of the Commission under this Act;
- (b) to raise finance and to obtain assets for the purposes of this Act;
- (c) to determine fees for the purpose of this Act;
- (d) to determine partnerships or other arrangements to be entered into for the purpose of this Act;
- (e) to review and propose amendments to this Act.

10. Meetings and Secretary of the Board-(1) The Board may convene its meetings at least four (4) times in a year.

- (2) As an exception to subsection (1), the Chairperson:

- (a) must convene the first meeting of the Board;
- (b) may at any time convene a special meeting of the Board.

- (3) The following rules apply to a meeting of the Board:

- (a) the Chairperson or if the Chairperson is absent for any reason, a member appointed by the members present at the meeting, presides;
- (b) the quorum is four (4) members;

- (c) a question is to be determined by majority votes of the members present;
- (d) the presider has a deliberative and, if there is equality of votes, a casting vote.
- (4) Subject to this Act, the Board may regulate its own procedures.
- (5) An act or decision of the Board is valid even if:
 - (a) a member's appointment is defective or irregular; or
 - (b) a vacancy exists in the Board.
- (6) The Executive Director or if he or she is absent a person authorised by the Executive Director or the Board, acts as Secretary of the Board.

11. Minutes of meetings-(1) The Board must keep a record of all resolutions passed at a meeting.

(2) The Board must approve the minutes at its next or a later meeting; and the presider must sign the approved minutes.

(3) The Board must give a copy of the minutes to all the members.

12. Remuneration and allowances-(1) An appointed member is entitled to the same remuneration and allowances approved by Cabinet for members and directors of government boards and commissions.

(2) The remuneration and allowances are to be paid from the funds of the Commission.

13. Disclosure of conflict of interest-(1) A member who has a direct or indirect interest in any arrangement or agreement entered into, or proposed to be entered into, by the Commission must as soon as is practicable after the relevant facts have come to the member's notice, disclose the nature of that interest at a meeting of the Board.

(2) A disclosure under this section must be recorded in the minutes of the meeting.

(3) After the disclosure, the member must not take part in the deliberation or decision relating to the arrangement or agreement, without affecting the quorum of that meeting.

14. Board to have regard to government policy - The Board must have regard to any government policy when carrying out its functions, duties and powers.

15. Delegation-(1) The Board may, in writing, delegate any of its functions, duties and powers under this Act to a person ("delegate").

- (2) A delegation under this section:
 - (a) may be subject to conditions or be specific or general delegation;
 - (b) must not include the power to delegate under this section;
 - (c) for the function, duty or power delegated, is taken as having been carried out by the Board when the delegate carries out the function, duty or power;
 - (d) does not prevent the Board from carrying out the function, duty or power delegated;
 - (e) may be varied, suspended or revoked.
- (3) A document signed by a delegate:
 - (a) is evidence in a court as if the document were executed by the Board; and
 - (b) is taken to be signed by a delegate of the Commission, until the contrary is proved.
- (4) A person aggrieved by a decision of a delegate may make a written request to the Board within 14 days from the date of the decision, requiring the Board to reconsider the decision of the delegate.
- (5) The Board may:
 - (a) dismiss the request and confirm the decision; or
 - (b) determine the request and confirm or reverse the decision;
or
 - (c) if it reverses the decision, make a new decision.

16. Resignation and removal of members-(1) An appointed member may resign from office by giving a notice in writing to the Minister.

- (2) The Cabinet may remove an appointed member from office, if Cabinet is satisfied that the appointed member:
 - (a) has become permanently incapable of carrying out the duties of the office; or
 - (b) is guilty of misconduct in the performance of the duties of the office; or
 - (c) has been absent from three (3) or more consecutive meetings of the Board, without a valid excuse;
 - (d) has been declared bankrupt; or
 - (e) has been convicted of an offence involving dishonesty or which is of such a nature or seriousness that renders it inappropriate, in the opinion of Cabinet for the member to continue to hold the office.

(3) Without limiting subsection (2)(b), an appointed member is deemed to be guilty of misconduct if:

- (a) the member knowingly votes on any matter before the Board in which the member has, a direct or indirect pecuniary interest; or
- (b) takes part in, or is present at the discussion of a matter before the Board without disclosing a direct or indirect pecuniary interest to the Board.

PART IV ADMINISTRATION

17. Appointment and removal of the Commissioner-(1) The Head of State may, acting on the advice of Cabinet, appoint a Samoan Language Commissioner.

(2) The Commissioner:

- (a) may be appointed for a term not exceeding three (3) years, and on such terms and conditions as approved by Cabinet; and
- (b) is eligible for reappointment; and
- (c) must not hold any other office or engage in any other employment, except as a member of a board, committee or commission established under an Act; and
- (d) may resign by giving 30 days' notice in writing addressed to the Minister who must inform the Head of State and the Cabinet about the resignation; and
- (e) when the term of office expires, continues in office until he or she is reappointed or replaced.

(3) The Cabinet may remove the Commissioner from office on any of the following grounds:

- (a) has failed to carry out his or her functions, duties and powers or a direction of the Board;
- (b) is guilty of misconduct in carrying out his or her functions, duties and powers;
- (c) has been convicted of an offence involving dishonesty or which is of such a nature or seriousness that renders it inappropriate, for the person to continue to hold the office;
- (d) has breached a term or condition of his or her appointment or employment.

(4) When the removal proceeding begins under subsection (3), the Commissioner is taken to be suspended, subject to conditions imposed by Cabinet.

18. Duties of the Commissioner - The Commissioner has the following duties:

- (a) to do all such things necessary to achieve the objectives under section 4;
- (b) to develop policies for the Commission;
- (c) to advise on all issues concerning the Samoan Language;
- (d) to advise the Government on any proposal to amend this Act;
- (e) to monitor together with the Board the work and performance of the Executive Director and staff of the Commission;
- (f) to develop promotional and awareness programmes to advance the evolution of the Samoan Language;
- (g) to engage only in the duties of the Commissioner.

19. Appointment and removal of the Executive Director-(1)
This section establishes the position of Executive Director of the Commission.

(2) The Head of State, on the advice of Cabinet, may appoint a suitable and qualified person as the Executive Director.

(3) The Minister must, in consultation with the Board, submit to Cabinet the name of the person to be appointed as the Executive Director.

(4) The Executive Director:

- (a) may be appointed for a period not exceeding three (3) years, and on such other terms and conditions as approved by Cabinet; and
- (b) is eligible for re-appointment; and
- (c) is entitled to remuneration and allowances determined by the Board in accordance with government policies and salary scale; and
- (d) must devote the whole of his or her services to the Office of the Commission; and
- (e) must not hold any other office or employment, whether remunerated or not, except for appointment as a director of a board, committee or commission established by an Act; and
- (f) when the term of office expires, continues in office until he or she is reappointed or replaced; and
- (g) may resign by giving 30 days' notice in writing addressed to the Minister who must inform the Head of State and the Cabinet about the resignation.

(5) The Cabinet may remove the Executive Director from office, if the Executive Director:

- (a) fails to carry out his or her functions, duties and powers under this Act or a lawful direction given by the Board or Commissioner; or
- (b) is guilty of misconduct in carrying out his or her functions, duties and powers; or
- (c) has been convicted of an offence involving dishonesty or which is of such a nature or seriousness that renders it inappropriate, for the Executive Director to continue to hold the office; or
- (d) has breached a term or condition of his or her appointment.

(6) When the removal proceedings begin under subsection (5), Executive Director is taken to be suspended, subject to conditions imposed by Cabinet.

20. Functions of Executive Director-(1) The Executive Director:

- (a) is to be the administrative head of the Commission and must be responsible to the Board for the effective and efficient management of the Commission, and for the execution of the Commission's functions under this Act or directions of the Board; and
- (b) subject to this Act and any resolution of the Board, may do all things necessary or convenient to be done in connection with the performance of his or her duties under this Act or any other Act.

(2) The Executive Director must make a report at each meeting of the Board in relation to any of the following:

- (a) any contract, agreement or arrangement entered into by or on behalf of the Commission since the last meeting;
- (b) the activities and other affairs of the Commission since the last meeting;
- (c) any other matter on which the Executive Director is required by the Board to submit a report.

(3) If, for any reason (such as vacancy of office, illness or absence) the Executive Director is unable to perform his or her functions, duties and powers, the Board may appoint one (1) or more of the officers of the Commission to perform the functions, duties and powers.

21. Appointment of officers and employees - All officers and employees of the Commission (including any person that the Commission may engage) are to be employed or engaged under the laws and practices applying to the Public Service.

PART V
FINANCE

22. Funds of the Commission-(1) The funds of the Commission which consists of moneys appropriated by Parliament for the purpose of this Act.

(2) The Minister of Finance may give written directions as to the amounts in which, and the times at which, moneys referred to in subsection (1) are to be paid to the Commission.

(3) The Public Finance Management Act 2001 and the Audit Office Ordinance 1961 applies to the funds of the Commission.

(4) Without limiting subsection (3), the Commission is taken to be a public body for the purposes of Part XIII of the Public Finance Management Act 2001.

23. Accounts and annual reports-(1) The Commission must keep proper accounts and records of the transactions and affairs of the Commission and do all things necessary to ensure that:

(a) all funds received by the Commission are accounted for; and

(b) all payments by the Commission are properly authorised and correctly made and accounted for; and

(c) there are adequate controls over the Commission's -
(i) expenses, assets and liabilities; and
(ii) property under the Commission's control.

(2) The Commission must prepare and submit to the Minister, within six (6) months from the end of the financial year of the Commission an annual report ("annual report") containing:

(a) financial statements for the financial year ("financial statement");

(b) performance indicators and such information as may be directed by the Minister of Finance;

(c) a report on the operations of the Commission during the preceding financial year; and

(d) such other information as Cabinet may require.

(3) The financial statements must be prepared on an accrual accounting basis and must consist of:

(a) a statement of financial transactions of the Commission for the financial year; and

- (b) a statement of the financial position of the Commission at the end of the financial year; and
 - (c) proper and adequate notes to the financial statements.
- (4) The financial statements must:
- (a) present fairly the financial transactions of the Commission during the financial year to which they relate; and
 - (b) present fairly the financial position of the Commission at the end of the financial year.
- (5) The Commission must, within four (4) months after the end of each financial year, submit to the Controller and Chief Auditor for audit the financial statements and other information referred to in subsection (2) who must prepare an audit report.
- (6) The financial year of the Commission is from 1 July to 30 June.
- (7) The Minister must, within 14 sitting days of receiving the audit report, table the annual report and the audit report in Parliament pursuant to its Standing Orders.

PART VI MISCELLANEOUS

24. Protection against personal liability-(1) This section applies to the following persons:

- (a) the Head of State;
- (b) the Minister;
- (c) the Commissioner;
- (d) an appointed member of the Board;
- (e) an officer or employee, including a consultant or persons seconded under this Act;
- (f) any other person authorised to carry out a function, duty or powers under this Act.

(2) A person to whom this section applies is not personally liable for an act or omission done honestly, in good faith and without negligence in carrying out a function, duty or power under this Act.

25. Regulations - The Head of State may, acting on the advice of Cabinet, make regulations to give effect to or for the purpose of this Act, and in particular may make the following regulations:

- (a) to prescribe fees for the purposes of this Act; or

- (b) to prescribe procedures necessary for the Commission to carry out its functions, duties and powers under this Act;
- (c) for matters required to be prescribed under this Act.

**The Samoan Language Commission Act 2014 is administered
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