

**SAMOA****Arrangement of Provisions**

1. Short title and commencement
2. Section 55 amended
3. Section 56 amended
4. Consequential amendments

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**2017, No. 4**

**AN ACT to amend the Police Service Act 2009 (“Principal Act”) and other related purposes.**      *[26<sup>th</sup> January 2017]*

**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 Police Service Amendment Act 2017.
- (2) This Act commences on assent of the Head of State.

**2. Section 55 amended:**

Section 55(4)(a) of the Principal Act is amended by substituting "74" with "75".

**3. Section 56 amended:**

Section 56 of the Principal Act is amended by inserting after subsection (7) the following:

- "(8) Despite subsections (1) and (2), if Cabinet is of the opinion the Commissioner or an Assistant Commissioner:
- (a) is not capable of performing the duty of office; or
  - (b) should not in the interests of maintaining the confidence of the community in the Service continue to perform the duties of office,

Cabinet may advise the Head of State that the Commissioner or Assistant Commissioner be suspended or terminated,

**PROVIDED THAT** before a decision of suspension or termination is officiated, Cabinet must give the

Commissioner or Assistant Commissioner an opportunity to be heard or to respond.

(9) The Head of State, acting on the advice of Cabinet under subsection (8), may suspend or terminate the Commissioner or Assistant Commissioner from office.”.

**4. Consequential amendments:**

(1) Section 7 of the Prisons and Corrections Act 2013 is amended by inserting the following new subsection (6):

“(6) Despite subsection (4), the appointment of the Commissioner or Assistant Commissioner may be terminated under subsection (1) if Cabinet is of the opinion the Commissioner or an Assistant Commissioner:

- (a) has behaved in a manner likely to affect the confidence of the community in the ability to perform the duties of office; or
- (b) has failed to keep discipline within the Service or at prison; or
- (c) is unable to perform the duties of office by reason of physical or mental incapacity,

**PROVIDED THAT** before a decision of termination or suspension is officiated, Cabinet must give the Commissioner or Assistant Commissioner an opportunity to be heard or to respond.”.

- (2) Section 11 of the National Prosecution Act 2015 is amended by inserting a new subsection (9) as follows:

“(9) Despite subsections (1) and (3), the Head of State may remove the Director on the advice of the Prime Minister if the Prime Minister:

- (a) has been given confirmation that the Director has been convicted of an offence;
- (b) has been given confirmation that the Director is bankrupt or has committed an act of bankruptcy under an Act regulating bankruptcy;
- (c) is satisfied the Director has become, by reason of physical or mental disability, incapable of performing the functions of the Director;

- (d) is satisfied that the Director has without lawful or reasonable justification, failed to discharge any function of the Director; or
- (e) is satisfied that the Director has engaged in any conduct which places the Director in conflict with the performance of the functions of the Director,

**PROVIDED THAT**, before the Prime Minister advises the Head of State, the Prime Minister shall give the Director an opportunity to respond.”.

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**The Police Service Amendment Act 2017  
is administered by the Ministry of Police.**

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