

SAMOA

Arrangement of Provisions

- | | |
|-------------------------------------|--|
| 1. Short title and commencement | 6. Insertion of new section |
| 2. Insertion of new section | 7. Appeal rights |
| 3. Substitution of section | 8. Age retirement |
| 4. Breach of the Code of
Conduct | 9. Officers who are surplus to
requirements |
| 5. Insertion of new section | |

2007, No. 9**AN ACT to amend the Public Service Act 2004.***[2nd February 2007]*

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 2007 and shall be read together with and form part of the Public Service Act 2004 (the Principal Act).

(2) This Act commences on the date of assent of the Head of State.

(3) Notice of commencement of this Act must be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

2. Insertion of new section – The Principal Act is amended by inserting after section 35, the following new section:

“35A. Commission’s power of appointment-(1) Notwithstanding section 35, the Commission may in any case fill a vacancy without having to advertise the position where the Commission is of the opinion that the vacancy should be filled.

(2) An appointment under subsection (1) is subject to terms and conditions set out in the regulations or in public service determinations made under section 9.”.

3. Substitution of section - Section 41 of the Principal Act is repealed and the following section substituted:

“41. Temporary employees - The regulations may establish different categories of temporary employees and set out the relevant body responsible for the appointment and termination of employment of the different categories of temporary employees.”.

4. Breach of the Code of Conduct - Section 44 of the Principal Act is amended by omitting subsection (1) and substituting:

“(1) Where a CEO believes that an officer may have breached the Code of Conduct, the CEO or the CEO’s delegate must consider 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.”.

5. Insertion of new section - The Principal Act is amended by inserting after section 44, the following new section:

“44A. Investigation not required - Notwithstanding section 44, where a CEO:

- (a) is of the opinion that an officer has breached the Code of Conduct; and
- (b) the officer has admitted to the CEO to that breach, the CEO may, without any further investigation, impose any of the penalties under section 45.”.

6. Insertion of new section – The Principal Act is amended by inserting after section 48, the following new section:

“48A. Unauthorised absence-(1) Subject to subsection (2), an employee:

- (a) who without permission absents themselves from duty, or fails to return to duty, other than in the circumstances referred to in paragraph (b), and continues to be absent without permission for a period of not less than 5 working days; or
- (b) who absents themselves from duty for the purpose of becoming engaged or involved, whether directly or indirectly, in an industrial action, including a strike,

shall be deemed to have been dismissed from their employment.

(2) If the employee subsequently satisfies the Commission that there was a valid reason for the employee’s absence and for their failure to inform the Commission earlier of that reason, the Commission may reinstate the employee, and in such a case the employee shall be deemed not to have been dismissed from the office, but to have been on leave without pay from the Public Service during the period of absence.”.

7. Appeal rights – Section 49 of the Principal Act is amended by omitting subsection (2) and substituting:

“(2) An officer has the right to appeal against a decision to appoint or promote a person to a position only where:

- (a) the officer was an applicant for that position;
- (b) the movement of the officer to that position would have been a promotion; and

(c) the position is not a contract position.”.

8. Age retirement - Section 57 of the Principal Act is amended by adding at the end:

“(4) Where the Commission is of the opinion that it is appropriate to do so in the circumstances and following consultation with the relevant CEO, the Commission may, on application by an officer, determine that the employment of that officer may be extended beyond the time when the officer has reached 60 years of age.”.

9. Officers who are surplus to requirements - Section 58 of the Principal Act is amended by omitting from subsection (2) “regulations” and substituting “public service determinations made under section 9”.

**The Public Service Amendment Act 2007 is administered by the
Public Service Commission.**