

SAMOA

Arrangement of Provisions

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2007, No. 28

AN ACT to amend the Public Trust Office Act 1975.

[21st November 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 Trust Office Amendment Act 2007.

(2) This Act shall come into force on the date of assent of the Head of State.

2. Principal Act - In this Act, “Principal Act” means the Public Trust Office Act 1975.

3. Interpretation – Section 2 of the Principal Act is amended by inserting in the proper alphabetical position the following definition:

“senior management level officer” means officer and employee positions designated as senior management level officers by the Investment Board acting on the advice of the Public Trustee, and such officer and employee positions shall be deemed officers and employees for the purposes of this Act;”.

4. Repeal and substitution – Section 4 of the Principal Act repealed and the following sections substituted:

“4. Public Trustee-(1) The Head of State, acting on the advice of Cabinet shall appoint the Public Trustee who shall administer the Public Trust Office.

(2) Before advising the Head of State on an appointment to be made under subsection (1), Cabinet shall consult the Investment Board concerning the appointment.

(3) The criteria for the selection and procedures for the appointment of a Public Trustee shall be in accordance with the applicable law and Government policies.

(4) The Public Trustee shall be appointed for three years but shall be eligible for reappointment.

(5) The salary and allowances of the Public Trustee shall reflect Cabinet policies and be determined in writing by the Investment Board.

(6) Subject to Cabinet directives, the Investment Board shall prepare a contract of employment for the Public Trustee to include the following:

(a) terms and conditions of employment; and

(b) the grounds and procedure for termination.

(7) The Public Trustee is a corporation sole with perpetual succession and a seal of office.”.

4A. General responsibilities of the Public Trustee-(1) Under the direction of the Minister, the Public Trustee is responsible for the effective and efficient management of the Public Trust Office.

(2) As soon as practicable, but not later than three months after the end of each financial year, the Public Trustee must provide a report to the Minister and the Investment Board on the operations of the Public Trust Office.

4B. Appointment of Assistant Public Trustees-(1) The Investment Board, acting on the advice of the Public Trustee, shall appoint Assistant Public Trustees for a contractual period of three years.

(2) The remuneration, salary, and other terms and conditions of appointment of the Assistant Public Trustees are to be set out in a contract made between the Investment Board and the Assistant Public Trustees.

(3) On the occurrence of a vacancy in the office of the Public Trustee or due to the absence from duty of the Public Trustee, the Investment Board may appoint an Assistant Public Trustee who shall have and may exercise all the powers, duties and functions of the Public Trustee during such vacancy or absence.”

5. Appointment of other officers and employees - Section 5 of the Principal Act is amended by omitting subsection (1) and substituting –

“(1) The Investment Board, acting on the advice of the Public Trustee, may appoint such senior management level officers as are necessary.

(1A) Subject to subsection (1), the Public Trustee may appoint such officers and employees of the Public Trust Office as are necessary.

(1B) A person who is an officer or employee of the Public Trust Office is entitled to lodge a grievance with the Public Trustee and to have that grievance determined.

(1C) The regulations shall set out the subject matter in relation to which a grievance may be lodged and the procedure for determining grievances.”.

6. Delegation by Public Trustee – Section 6 of the Principal Act is amended by omitting subsection (1) and substituting -

“(1) Subject to subsections (1A) and (1B), the Public Trustee may, with the written consent of the Investment Board, by signed instrument, delegate to an officer or employee of the Public Trust Office all or any of the Public Trustee’s powers or functions under this or any other Act including this power of delegation.

(1A) The Public Trustee can only delegate the power to use the seal of the Public Trust Office to an Assistant Public Trustee.

(1B) In exercising powers or functions under a delegation, the delegate shall comply with any directions of the Public Trustee.”.

7. Balance sheet etc – Section 17 of the Principal Act is amended by omitting from paragraph (1)(a) “advances” (twice occurring) and substituting “grants”.

8. Deficiency payable out of Treasury Fund – Section 20 of the Principal Act is amended -

- (a) by omitting from subsection (1) “advanced” and substituting “granted”; and
- (b) by omitting subsection (2) and substituting:

“(2) If the Minister of Finance determines that any money granted to the Public Trustee under subsection (1) shall be repaid to the Treasury Fund, the Public Trustee shall comply with such determination as soon as there are balances in the Public Trustee’s Account available for the repayment.

(3) If a grant under subsection (1) is not required to be repaid in accordance with the provisions of subsection (2), the grant shall be transferred into the Assurance and Reserved Fund or the General Legal Expenses Reserve Fund or any other Reserve Fund constituted under

subsection 17(2) as the Public Trustee acting on the instructions of the Investment Board directs.”.

9. Power of Public Trustee to elect to administer small estates without grant of administration-(1) Section 65 of the Principal Act is amended by -

(a) omitting from subsections (1) and (6) the figure of “3,000” and substituting the figure of “\$75,000”;
and

(b) inserting after subsection (6) the following -

“(7) The Minister may by Notice in the Savali vary the figure \$75,000 in subsections (1) and (6) where fiscal and economic circumstances require.”

10. Transitional-(1) The persons holding office or appointed at the commencement of this Act as Public Trustee and Assistant Public Trustee shall be deemed to have been appointed to those offices under the Principal Act as amended by this Act.

(2) All other persons who at the commencement of this Act are officers and employees of the Public Trust Office and have been so appointed under the Principal Act shall be deemed to have been so appointed under the Principal Act as amended by this Act.

**The Public Trust Office Amendment Act 2007 is administered
by the Public Trust Office**

**Printed by the Clerk of the Legislative Assembly,
by authority of the Legislative Assembly.**