



SAMOA

PARLIAMENTARY PENSION SCHEME ACT 1998

Arrangement of Provisions

PART 1 PRELIMINARY

1. Short title and commencement
2. Interpretation

PART 2 ESTABLISHMENT OF THE SCHEME

3. Establishment of the Scheme
4. Board of Directors
5. Powers of the Board
6. Meetings of the Board
7. Consideration of urgent matters
8. Remuneration
9. Disclosure of interest
10. Indemnity for directors

PART 3 PENSION PLAN

11. Pension plan
12. Necessary components of the plan
13. Amendments to the plan
14. Administration of the plan

PART 4 ENTITLEMENTS UNDER THE SCHEME

15. Payment of entitlement

PART 5 FUNDS OF THE SCHEME

16. Member's contributions
17. Government's contribution
18. Other funds of the Scheme
19. Investment of Scheme's funds

PART 6 ACTUARIAL VALUATIONS, AUDIT (ETC)

20. Annual actuarial certificate
21. Audit of all funds
22. Annual reports

PART 7 MISCELLANEOUS

23. Regulations

PARLIAMENTARY PENSION SCHEME ACT 1998

1998

No. 30

AN ACT to make provision for a pension Scheme for Members of Parliament.

*[Assent and commencement date: 3 July 1998
Section 15 commences: 16 May 1996]*

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1
PRELIMINARY**

1. Short title and commencement – (1) This Act may be cited as the Parliamentary Pension Scheme Act 1998.

(2) This Act comes into force on the date assented by the Head of State but entitlements under this Act shall commence on 16 May 1996, and to that extent this Act has retrospective effect.

2. Interpretation – (1) In this Act, unless the contrary intention appears:

“Board” means the Board of Directors established under section 4;

“contribution” means the member’s contribution fixed at 10% of the member’s annual salary, and the Government’s contribution being the balance required to provide the benefits under the Scheme;

“credited interest rate” means the interest rate declared by the Board at the beginning of each plan year under section 5(e);

“effective date” means 16 May 1996;

“Government” means the Government of Samoa;

“Government’s contribution” means the amount in excess of the member’s contributions required to provide the entitlements under the plan;

“Member of Parliament” means a Member of Parliament holding that office on or after the effective date;

“member” means a participant in the Scheme;

“member’s contribution” means the amount of 10% per annum of each member’s salary;

“Minister” means the Minister of Finance;

“plan” means the pension plan prescribed by regulations and under this Act;

“plan year” means each year commencing on 1 July and finishing on 30 June of the next calendar year;

“regulations” means regulations made under this Act;

“retirement age” means the age of 65 years or any other age prescribed in the regulations;

“salary” means gross base remuneration excluding any additional allowances or payments;

“Scheme actuary” means the actuary employed or engaged by the Board under section 14(d);

“spouse” means lawfully married husband or wife.

(2) Members of Council of Deputies as defined by Article 25 of the Constitution shall be regarded as members of the Plan.

(3) The Act shall be interpreted and applied, with such adaptations and modifications as necessary, to enable Members of the Council of Deputies to be treated in an equivalent manner to Members of Parliament.

(4) The Board is empowered to make such adaptations and modifications to the Act and the Plan as are necessary to:

(a) ensure that Members of the Council of Deputies contribute to the Plan in an equivalent manner to Members of Parliament; and

(b) enable the Board to pay Members of the Council of Deputies such benefits as the Board deems equivalent to the benefits which Members of Parliament are entitled to under the Plan.

PART 2

ESTABLISHMENT OF SCHEME

3. Establishment of Scheme – A pension scheme for the benefit of Members of Parliament shall be established and administered under this Act and the regulations.

4. Board of Directors – (1) There shall be a Board to be called the Parliamentary Scheme Board of Directors consisting of 5 members appointed by the Head of State acting on the advice of Cabinet.

(2) Subject to subsection (3), members of the Board hold office for 3 years and are eligible for re-appointment.

(3) A director, whenever appointed, holds office at the pleasure of the Head of State, acting on the advice of Cabinet.

5. Powers of the Board – The Board has the following powers:

- (a) to amend or substitute the Plan by regulation and under Part 3;
- (b) to pay entitlements and pensions under the Scheme under to Part 4;
- (c) to receive and invest funds under Part 5;
- (d) retain the services of actuaries and accountants for the purposes of Part 6;
- (e) declare a credited interest rate at the beginning of each plan year: **PROVIDED THAT** the Board shall not declare a rate that exceeds the rate forming part of the assumptions used by the actuary under this Act; and
- (f) do all things necessary for the effective administration of the scheme and in particular for the approval of the administrative arrangements of the scheme under section 14.

6. Meetings of the Board – (1) The Board shall meet as and when required and a meeting may be called by the Chairman, or by any 2 members of the Board giving written notice to the other members.

(2) The procedure at meetings is to be determined by the Board.

(3) The Board shall ensure that minutes of its deliberations and decisions are kept.

(4) Decisions of the Board are to be made in accordance with a vote of a majority of members.

7. Consideration of urgent matters – Matters requiring urgent consideration may be approved by the Board by obtaining in writing the consent of a majority of members.

8. Remuneration – (1) The directors are entitled to remuneration to be fixed, by Cabinet.

(2) The expenses incurred by a member in attending a meeting of the Board shall be reimbursed from the general account of the Scheme.

(3) Subject to section 9, a director may be entitled to payment for specific services provided by the director to the Board under its decision to retain the director's services in a particular matter.

9. Disclosure of interest – (1) A director who is directly or indirectly interested in an arrangement or agreement entered into, or proposed to be entered into by the Board, or in any other matter under consideration by the Board, shall as soon as possible after the relevant facts have come to his or her notice, disclose the nature of this interest at a meeting of the Board.

(2) A disclosure under this section shall be recorded in the minutes of the meeting of the Board, and the director making the disclosure shall not take part in a deliberation or decision relating to the arrangement, agreement or matter.

10. Indemnity for directors – (1) The directors shall not incur any personal liability as a result of anything done in good faith in the exercise of a power or the performance of a duty under this Act.

(2) Subsection (1) does not apply where a director is in breach of section 9.

PART 3 PENSION PLAN

11. Pension plan – (1) The Board shall ensure that the pension plan is consistent with the provisions of this Act, and specifies the entitlements of the members, and the manner of effecting the payments of their entitlements.

(2) The plan:

- (a) shall be consistent with section 2, and use those definitions;
- (b) shall provide for entitlements that are consistent with section 12; and
- (c) may contain transitional and savings provisions, including entitlement provisions with retrospective application to the effective date.

12. Necessary components of the plan – The plan shall make provision for:

- (a) the payment and amount of an annual pension upon a member reaching retirement age and ceasing to be a Member of Parliament;
- (b) the payment of withdrawal benefits—
 - (i) for current Members of Parliament; and

- (ii) for members who leave parliamentary service prior to the retirement age for any reason other than death;
- (c) the payment of retirement benefits for members retiring on or after the effective date and who have reached the retirement age;
- (d) the payment, upon the death of a member, of a death nominee, or if there is no nominee, to a surviving spouse of the member, or if there is no spouse, to the member's next of kin;
- (da) the payment of a pension to a surviving spouse of a deceased member;
- (e) the calculation of benefits payable to a member who is re-elected to Parliament after he or she has received any part of his or her pension;
- (f) any other special conditions concerning the entitlements of members to receive benefits under the Scheme; and
- (g) any other matter that is consistent with the provisions and the regulations and for which the Board considers provision should be made.

13. Amendments to the plan – (1) The Board may make any regulations to amend or substitute the plan, that are necessary for its efficient administration and which:

- (a) complies with section 11(2); and
- (b) is consistent with the necessary components of the plan under section 12.

(2) If matters of a financial nature require that a review of the plan be undertaken, the Chief Executive Officer of the Ministry of Finance may request that the plan be reviewed, and the Board shall consider amendments to or substitution of, the plan necessary to take account of the matters referred to it by the Chief Executive Officer of the Ministry of Finance.

14. Administration of the plan – The Board shall take all steps necessary to ensure the efficient administration of the Scheme, and may:

- (a) make arrangements with the National Provident Fund to undertake its administration;

- (b) engage the services of an experienced and reputable administrator of such schemes; and
- (c) employ an administrator for the purpose of exercising the day to day administration of the Scheme; and
- (d) employ or engage the services of an actuary for the Scheme whose duties include giving actuarial advice to the Board in relation to the plan.

PART 4 ENTITLEMENTS UNDER THE SCHEME

15. Payment of entitlement – (1) The Board may authorise the payment of entitlements to members that are in accordance with the plan.

(2) The Board shall ensure that all payments are made to members as they arise under the plan.

(3) No payments shall be made to members unless the payments are entitlements under the plan and no member is entitled to borrow monies from the funds of the Scheme.

(4) A payment made in contravention of subsection (3) is immediately repayable to the Scheme and is recoverable by the Board regardless of the terms upon which the payment was purported to have been made.

(5) The contributions to the Fund and the benefits paid from it are exempt from taxation.

PART 5 FUNDS OF THE SCHEME

16. Member's contributions – (1) Members' contributions are to be automatically deducted from their salaries and paid into the scheme.

(2) A member is taken to consent and agree to the deduction of his or her member's contribution from his or her salary.

17. Government's contribution – (1) In each plan year, the Board shall take advice from the Scheme actuary for the purpose of making a determination as to the amount, if any, to be contributed by the Government to the Scheme.

(2) The Government shall guarantee the Scheme and contribute an amount, if any, as is determined by the Board under subsection (1).

18. Other funds of the Scheme – (1) The Government shall fund the administrative cost of the scheme if the income from the investment of the scheme's funds are insufficient to meet such costs.

(2) Funds paid by the Government under subsection (1) may be regarded as an advance to the scheme and may later be recoverable by the Government from income from the investment of the scheme's funds.

19. Investment of Scheme's Funds – (1) Subject to subsection (2), the Board shall within 3 months of the date of the commencement of this Act, determine and approve an investment policy to guide the investment of the scheme's funds and such policy may be reviewed as the Board sees fit.

(2) Subject to subsections (4) and (5), the Board may authorise the investment of the contributions to the Scheme:

- (a) in any Samoa Government securities, or in any of the stock, funds, or other securities of a Commonwealth government;
- (b) on deposit in a bank within Samoa;
- (c) in any securities authorised for the investment of money subject to a trust to which the Trustee Act 1975 applies, by an Order of the Head of State, acting on the advice of Cabinet; and
- (d) in any specific investment or class of investment, prescribed by, or as authorised in the manner prescribed by, the regulations.

(3) An investment may be varied.

(4) The Board shall ensure that an investment made under this section is done in such a manner as to permit the payment of the benefits payable under the Scheme as and when they fall due.

(5) When the liability to pay benefits under the Scheme at any given time is such as to permit investment of a certain proportion of the funds for 6 months or less, the Board may authorise the investment of that proportion of the Scheme's funds in a bank in New Zealand, Australia or the United States, if those banks offer

a better rate of interest than that which is available at banks within Samoa.

PART 6
ACTUARIAL VALUATIONS, AUDIT ETC.

20. Annual actuarial certificate – (1) In each plan year the Board shall commission the Scheme actuary to provide a certificate as to the following:

- (a) the financial position and performance of the Scheme;
- (b) the amount of any contributions to the Scheme required from the Government; and
- (c) any other matters considered relevant by the Scheme actuary.

(2) The Scheme actuary shall provide the certificate to the Board within a reasonable time from the date of the commission.

21. Audit of all funds – (1) The Controller and Auditor General must audit the accounts of the Scheme annually, within 4 months of the end of each plan year.

(2) The Controller and Auditor General may also conduct a performance audit to examine and report on any aspects of the Scheme or of its operations.

22. Annual reports – (1) Within 6 months of the end of a plan year, the Board shall send to the Minister of Finance and the Clerk of the Legislative Assembly a report of its proceedings and operations for that year together with at least 2 copies of its duly audited accounts for that year.

(2) The Minister of Finance shall lay copies of the report and of the audited accounts before the Legislative Assembly within 14 days after receiving them, if the Legislative Assembly is then in session, and if it is not then in session, within 14 days after the commencement of the next session of the Legislative Assembly.

PART 7
MISCELLANEOUS

23. Regulations – The Head of State, acting on the advice of Cabinet, may make regulations as are necessary or expedient to give full effect to this Act and for its due administration.

REVISION NOTES 2008 – 2019

This is the official version of this Act as at 31 December 2019.

This Act has been revised by the Legislative Drafting Division from 2008 to 2019 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Insertion of the commencement date
- (c) References to the male gender made gender neutral
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:
 - (i) “Every” and “any” changed to “a/an”
 - (ii) Present tense drafting style:
 - “shall be” changed to “is/are” or “is/are to be”
 - “shall have” changed to “has”
 - “thereafter” and “from time to time” removed
 - (iii) Use of plain language:
 - “pursuant to” or “in accordance with” changed to “under”
 - “deemed” changed to “taken”
 - “in the event that” changed to “if”
 - (iv) Numbers in words changed to figures
 - (v) Correction of cross referencing in the Act – in section 13 reference to section 11(3) replaced with section 11(2) as amended; and deleted the repetition of wording “comply with section 11(2)”
 - (vi) Section 15(5) reference to amendment to the Income Tax Act 1974 deleted, as that Act is now repealed. Exemption is now covered under Schedule 2 of the Income Tax Act 2012.
 - (vii) Part numbers changed to decimal

Since the publication of the *Consolidated and Revised Statutes of Samoa 2007* the Act has been amended–

By the Parliamentary Pension Scheme Amendment Act 2010, No.20 (commenced 11 October 2010):

Section 2(1) - A new section 2(1) was substituted

- Section 3** - The words “and the regulations” were inserted after the word “this Act”.
- Section 4** - In subsection (2), the word “Members” was deleted and substituted “Subject to subsection (3), members”.
- A new subsection (3) was inserted after subsection (2).
- Section 5(a)** - A new paragraph (a) was substituted.
- Section 9(2)** - Reference to “; and the matter shall be considered in the presence of an Alternate Director appointed under section 7” was deleted.
- Section 11** - A new section 11 was substituted.
- Section 12** - Reference to “(1)” and the words “adopted under section 11” were deleted.
- New paragraphs (a) and (b) were substituted.
- In paragraph (d), the words “surviving spouse of the member” were deleted and substituted “nominee, or if there is no nominee, to a surviving spouse of the member, or if there is no spouse, to the member’s next of kin”.
- A new paragraph (da) was inserted after paragraph (d).
- In paragraph (g), the words “and the regulations” were inserted after the word “Act”.
- Section 13** - A new subsection (1) was substituted.
- In subsection (2), the words “to or substitution of, the Plan” were inserted after the word “amendments”.
- Section 14** - A new paragraph (d) was inserted after paragraph (c).
- Section 17** - A new section 17 was substituted.
- Section 19** - In subsection (1), the word “plan” was deleted and substituted “policy”.
- In subsection (2), reference to “(3) and (4)” was deleted and substituted “(4) and (5)”. A new paragraph (d) was inserted after paragraph (c).
- The second reference to “(2)” was deleted and substituted “(3)” so that the subsection becomes subsection (3) instead of subsection (2) as it was before.

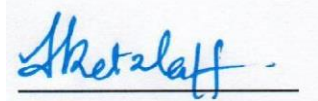
- Subsections (3) and (4) were renumbered as (4) and (5) respectively.

Section 20 - A new section 20 was substituted.

Part VII - A new Part VII was substituted.

By the Audit Act 2013:

- *S21 replaced.*



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Attorney General of Samoa

*This Act is administered by
the Samoa National Provident Fund.*
