



SAMOA

REMUNERATION TRIBUNAL ACT 2003

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REMUNERATION TRIBUNAL ACT 2003

2003

No. 17

AN ACT to provide for advice to Government concerning the salaries, allowances and other benefits to be paid to certain holders of public office and other persons and to enable the Head of State to set the salaries, allowances and other

benefits to be paid to certain holders of public office and for related purposes.

[Assent date: 29 August 2003]

[Commencement date: 12 September 2003]

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

1. Short title and commencement – (1) This Act may be cited as the Remuneration Tribunal Act 2003.

(2) This Act comes into force on a date nominated by the Prime Minister. *(S.R.2003/15)*

(3) Notice of commencement of this Act shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa. *(Sav: 17/09/2003 & S/Ob: 14/09/2003)*

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

“member” means a member of the Tribunal;

“other office” means an office listed in the Schedule to this Act, and the Schedule may be amended from time to time by the Prime Minister by Notice;

“Government” means the Government of the Independent State of Samoa;

“public office” has the meaning given under section 3;

“Samoa” means the Independent State of Samoa;

“Tribunal” means the Remuneration Tribunal established by section 4.

3. Public offices covered by and application of this Act – (1) For the purposes of this Act, “public office” means the office of:

- (a) Prime Minister;
- (b) Deputy Prime Minister;
- (c) Minister of State;
- (d) Parliamentary Under Secretary;
- (e) Leader of the Opposition;
- (f) Speaker of the Legislative Assembly;
- (g) Deputy Speaker of the Legislative Assembly;
- (h) Member of Parliament; and

- (i) (Ombudsman) Komesina o Sulufaiga established under the (Ombudsman) Komesina o Sulufaiga Act 2013;
- (iA) Controller and Auditor General; and includes a position:
- (j) included in Schedule 2 of the Ministerial and Departmental Arrangements Act 2003;
- (k) of an employee of the Public Service Commission;
- (l) declared by the Prime Minister by Notice to be a public office for the purposes of this Act; or
- (m) declared by an Act to be a public office for the purposes of this Act.

(2) This Act binds the Government and, except so far as the contrary intention appears, this Act applies to all Acts.

(3) For the purpose of removal of doubt, where any Act provides for the salary, allowances and other benefits of an Office to be determined in a manner inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

4. Establishment of Remuneration Tribunal – (1) There is an established tribunal known as the Remuneration Tribunal.

(2) The Tribunal consists of 3 members appointed by the Head of State, acting on the advice of Cabinet.

(3) Of the 3 members of the Tribunal:

- (a) One member has knowledge of the work of the Parliament and parliamentary committees;
- (b) One member is nominated by the Prime Minister as a person with experience and expertise in commerce, industry and the non-government sector; and
- (c) One member has knowledge of the work of the Samoan public service.

(4) A member of the Tribunal holds office for a period of 3 years, unless their appointment is terminated sooner.

(5) A member of the Tribunal is eligible to be re-appointed.

(6) A person shall not be appointed as a member of the Tribunal if the person is:

- (a) the holder of a public office;
- (b) employed under the Public Service Act 2004;
- (c) employed in a body whose chief executive officer is the holder of a public office;

- (d) the holder of any other office; or
- (e) employed in a body whose chief executive officer is the holder of any other office.

5. Disclosure of interest by Tribunal Members – (1) A Tribunal member who has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the Tribunal shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Tribunal.

(2) Subject to subsection (3), a disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Tribunal and the member shall not:

- (a) be present during a deliberation of the Tribunal with respect to that matter; or
- (b) take part in a decision of the Tribunal with respect to that matter.

(3) If, as a result of the operation of subsection (2), the Tribunal is unable to maintain a quorum to determine a matter, the Tribunal member or members affected, after complying with subsection (1), may take part in any deliberations of the Tribunal with respect to the matter and may vote on the matter and the minutes of the meeting of the Tribunal shall record the reason for the affected member's or members' participation in any deliberations and vote.

6. Functions of Tribunal – (1) The functions of the Tribunal are to:

- (a) inquire into and report to Cabinet on the salaries, allowances and other benefits to be paid to the holders of public offices; and
- (b) inquire into and advise the statutory corporations and other bodies set out in the Schedule concerning the salaries, allowances and other benefits to be paid to the holders of other offices referred to in the Schedule.

(2) The Tribunal must inquire and report in respect of a public office and other office:

- (a) at least yearly; and
- (b) upon the request of the Prime Minister in writing.

(3) If a public office or other office comes into existence after the commencement of this Act, the Tribunal must inquire into and report on the salary, allowances and other benefits to be paid to the holder of that office as soon as practicable after that office comes into existence.

(4) If the Tribunal provides advice to or a report to a statutory corporation or other body under section 6(1)(b) the Tribunal shall provide a copy of any such advice or report to Cabinet.

(5) In undertaking its functions the Tribunal has the powers of a Commission of Inquiry as provided for by the Commissions of Inquiry Act 1964.

(6) For the purpose of inquiry into and reporting on salaries, allowances and other benefits the Tribunal shall have regard to:

- (a) the state of the Samoan Economy;
- (b) the comparative status and work value of the public offices and other offices; and
- (c) the labour market relevant to the public office or other office under consideration.

(7) In carrying out an Inquiry the Tribunal shall seek the advice of the Chief Executive Officer of the Ministry of Finance and the Secretary of the Public Service Commission and the Clerk of the Legislative Assembly, and shall, in preparing its report, take into account any advice provided by those officers.

7. Tribunal meetings – (1) The Chairperson may convene meetings of the Tribunal.

(2) The Chairperson shall chair the Tribunal meetings at which the Chairperson is present.

(3) If the Chairperson is not present at a Tribunal meeting another member nominated by the Chairperson shall chair the meeting.

(4) At a Tribunal meeting:

- (a) the procedure is determined by the Tribunal;
- (b) two members shall be a quorum;
- (c) all questions are decided by a majority of votes of the members present and voting; and
- (d) the member chairing the meeting has a deliberative vote, and where there is an equality of votes, shall also have a casting vote.

8. Tribunal reports to be laid before Parliament – When the Tribunal provides a report to Cabinet under section 6(1)(a), the Prime Minister shall cause a copy of the report to be laid before Parliament within 14 sitting days after Cabinet receives the report.

9. Determination of salaries, allowances and other benefits – (1) If Cabinet has received a report from the Tribunal for a particular public office or a class of public offices, Cabinet may, subject to subsection (3), after considering that report, advise the Head of State to determine the salary, allowances and other benefits of that office or those offices.

(2) Cabinet, in advising the Head of State, shall not be obliged to accept any recommendations of the Tribunal.

(3) Cabinet shall consult with the Public Service Commission before it advises the Head of State in relation to a public office mentioned in section 3(1)(j) and (k).

(4) The Head of State, acting on the advice of Cabinet under subsection (1), may, by Order in writing, determine the salary, allowances and other benefits of a public office or class of public offices.

(5) An Order of the Head of State shall be published, as soon as is practicable, in Samoan and English in the *Savali* and 1 other newspaper circulating in Samoa.

10. Resignation or removal from Tribunal membership – (1) A member may resign by writing signed by the member and delivered to the Head of State.

(2) The Head of State, acting on the advice of the Prime Minister, may remove a member for misbehaviour or physical or mental incapacity.

(3) A member ceases to hold office if the member becomes a person mentioned in section 4(6).

11. Fees and allowances for Tribunal members – The Head of State, acting on the advice of Cabinet, may, by Order, determine the fees and allowances payable to members of the Tribunal.

12. Travelling allowances for the Prime Minister and Ministers – (1) For the purposes of this section, the Town Area

of Apia means an area within a radius of 5 kilometres from the intersection of Vaitele Street and Vaea Street, and references to Ministries or subjects of the Government extend to and include any executive instrument of the Government and a body corporate or other body or subject established by statute or executive act of the Government if any Minister is charged with responsibility for that Ministry, body or subject.

(2) There shall be paid to the Prime Minister and each Minister a travelling allowance at a rate determined by Order of the Head of State, acting on the advice of Cabinet after Cabinet has received a report from the Tribunal, for each day on which the Prime Minister or Minister, as the case may be, is absent from their office in Apia on official business in any place in Samoa outside the Town Area of Apia, together with the expenses actually incurred by the Prime Minister or Minister whilst travelling on official business:

PROVIDED THAT such allowance shall not be payable when the Prime Minister or a Minister is not required to be absent overnight, nor shall such allowance be payable when the Prime Minister or a Minister travels between the Town Area of Apia and their home or between their home and the Town Area of Apia.

(3) The allowances and expenses paid to the Prime Minister and Ministers under subsection (2) are borne by the Ministry or subjects (if more than one) of the Government for whose benefit or in whose interests the official business is undertaken and, whenever any allowance or expense is to be borne by 2 or more Ministries or subjects, the amount is apportioned between the several Ministries or subjects in such manner as the Chief Executive Officer of the Ministry of Finance shall direct.

13. Period for which salary, allowances and other benefits are payable to the Prime Minister and other Ministers – The salaries, allowances and other benefits of the Prime Minister and each Minister are payable in respect of the period commencing on the day of their appointment by the Head of State by instrument under the Public Seal and ending on the day on which their appointment is terminated or their office becomes vacant under Article 33 of the Constitution.

14. Salary, allowances and other benefits during suspension of a Minister – No salary, allowances or other benefits are payable to a Minister in respect of any period during which the Minister is suspended under Article 33 (6)(b) of the Constitution:

PROVIDED THAT following and as a result of the finding at an investigation or inquiry into the Minister's conduct, the Minister's appointment is not revoked and the Minister does not resign, the Minister is entitled to receive in respect of the period of suspension the Ministerial salary, allowances and other benefits which the Minister would have been entitled to had the Minister not been suspended less the Minister's salary as a member of the Legislative Assembly in respect of that period.

15. Period for which salary, allowances and other benefits payable to members of the Legislative Assembly – The salary, allowances and other benefits of each member of the Legislative Assembly is payable in respect of the period commencing on the day on which:

- (a) a warrant declaring the member's election is signed by the Head of State; or
- (b) a certificate determining that the member was elected or returned, instead of the person named on the warrant, is executed by the Supreme Court–

and ending on the day on which the member ceases to be a member of the Legislative Assembly by dissolution of the Assembly or on which the member is declared by any law not to be eligible to sit or vote in the Assembly or to be disqualified from holding his or her seat, or on which the member's seat becomes vacant by death or otherwise, as the case may be.

16. Computation of time for payment of sitting allowances – Where sitting allowances are provided for members of the Legislative Assembly and such payments are based upon an hourly rate, in the computation of the number of hours for the payment of such allowances the following shall apply:

- (a) a fraction of an hour less than half an hour shall not be counted; and

- (b) a fraction of half an hour or more is counted as a full hour.

17. Appropriation of money for certain salaries, allowances and other benefits – (1) The appropriation by Parliament of money for the purpose of providing salaries, allowances and other benefits for the Prime Minister, Ministers, the Leader of the Opposition, Parliamentary Under-Secretaries, the Speaker, the Deputy Speaker, members and former members of the Legislative Assembly, or for the spouses or children of such persons is sufficient authority for the grant of any such salaries, allowances or other benefits, and where money is so appropriated it shall be lawfully expended without any statutory authority other than this section and the Act by which it is appropriated.

(2) Nothing in this section authorises the payment of any money to any of the persons mentioned in subsection (1).

(3) The operation of this section is not affected merely by any express statutory authority other than this section for the conferring of specified salaries, allowances and other benefits: **PROVIDED THAT** nothing in this section authorises the expenditure of any money contrary to the provisions of any Act.

18. When salaries, allowances and other benefits payable – (1) The salaries, allowances (other than sitting allowances) and other benefits payable to the persons referred to in section 17(1) is to be paid by equal fortnightly instalments.

(2) Sitting allowances are payable weekly.

19. Payment only on certificate of Clerk – No payment of salary, allowances or other benefits under the provisions of this Act to the persons referred to in section 17(1) is made except upon the certificate of the Clerk of the Legislative Assembly.

20. Grant for civil purposes – The several sums authorised to be paid as salaries, allowances and other benefits under this Act to the persons referred to in section 17(1) are payable in every year out of the Treasury Fund as statutory expenditure.

21. Consequential amendments – (1) Section 7 of the Komesina o Sulufaiga (Ombudsman) Act 1988 is repealed and replaced with the following provision:

“7. Salary, allowances and other benefits of Komesina o Sulufaiga (Ombudsman)-(1) The salary, allowances and other benefits of the Komesina o Sulufaiga (Ombudsman) shall be determined under the Remuneration Tribunal Act 2003.

(2) The salary, allowances and other benefits referred to in subsection (1) shall be paid as statutory expenditure out of the Treasury Fund, without further appropriation than this section.”

(2) Section 7 of the Parliamentary Under-Secretaries Act 1988 is repealed and replaced with the following provision:

“7. Salaries, allowances and other benefits
- The salaries, allowances and other benefits for each Parliamentary Under-Secretary shall be determined under the Remuneration Tribunal Act 2003.”

(3) Section 7 of the Public Service (Special Posts) Act 1979 is repealed and replaced with the following provision:

“7. Salaries, allowances and other benefits for special posts –The salaries, allowances and other benefits of special posts shall be determined under the Remuneration Tribunal Act 2003.”.

22. Savings and transitional arrangements – (1) Despite the other provisions of this Act and subject to this section, the salaries, allowances and other benefits payable to the holder of any public office as at the date of commencement of this Act are saved and shall continue to be paid in accordance with the terms and conditions of any Act, Regulation, Order or other lawful authority which authorised such payments, irrespective of whether such Act, Regulation, Order or other lawful authority is repealed or amended by the operation of this Act.

(2) Any salaries, allowance or other benefits referred to in subsection (1) may be amended under this Act and upon such amendment any Act, Regulation, Order or other lawful authority which authorised such salary, allowance or other benefits, where necessary, are amended accordingly.

(3) Any reference to the Civil List Act 1964 in any other Act, Regulation, Order or other act of authority is a reference to the Remuneration Tribunal Act 2003, unless the context requires otherwise.

23. Repeal – The Civil List Act 1964 is repealed.

SCHEDULE
(Section 6(1)(b))

OTHER OFFICES

Body

Office

(The Schedule to this Act was blank and was at the time of its enactment)

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) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “Every” and “any” changed to “a/an” or “each” where appropriate
 - (ii) Present tense drafting style where appropriate:
 - “shall be” and “has been” changed to “is/are” or “is/are to be”
 - “shall have” changed to “has”
 - “pursuant to” or “in accordance with the provisions of” changed to “under”
 - (iii) Use of plain language
 - “where” changed to “if”
 - “in relation to” changed to “for”

- (iv) Numbers in words changed to figures
- (v) Removal of superfluous words
 - “the provisions of”

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

By the Audit Act 2013, commenced on 27 January 2014:

section 3 *insert “(iA) Controller and Auditor General”.*



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Public Service Commission.*
