



SAMOA

LAW REFORM COMMISSION ACT 2008

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LAW REFORM COMMISSION ACT

2008

No. 8

ANACT to establish the Samoa Law Reform Commission for the review and development of the laws of Samoa.

[Assent and commencement date: 25 March 2008]

BEIT 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 Law Reform Commission Act 2008.

(2) This Act comes into force upon the assent of the Head of State.

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

- “Commission” means the Samoa Law Reform Commission established by section 5;
- “Cabinet” means the Cabinet established under Article 32 of the Constitution;
- “public servant” means any person employed under the Public Service Act 2004;
- “Public Service” means the Public Service as defined in Article 83 of the Constitution.

3. Act to bind the Government – This Act binds the Government.

4. Purpose of the Act – The purpose of this Act is to facilitate the review, reform and development of the laws of Samoa in order to:

- (a) promote Samoan custom and traditions; and
- (b) enhance the social, cultural, economic and commercial development of Samoa; and
- (c) ensure that the laws of Samoa are kept in a modern state which meets the needs of Government and the community.

5. Establishment of the Commission – (1) The Samoa Law Reform Commission is established.

(2) The Commission is a body corporate with perpetual succession and a common seal, and is capable of acquiring, holding, and disposing of real and personal property, of entering into contracts, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may do and suffer.

6. Functions of the Commission – The functions of the Commission are:

- (a) to research and analyse areas of law considered to be in need of reform in accordance with references:
 - (i) made to it by the Prime Minister, Cabinet or the Attorney General; or
 - (ii) self-initiated by the Commission;
- (b) to consult with and advise the public about its work;

- (c) to provide reports providing its recommendations to the Prime Minister, Cabinet and the Attorney General; and arrange for their publication upon Cabinet approval;
- (d) if recommended in its reports and where capacity allows, to draft new or amending laws or proposed legal framework for the approval of the Attorney General;
- (e) to promote awareness of the laws of Samoa;
- (f) to advise government Ministries and agencies on the manner or content of reviews of the law conducted by those Ministries and agencies.

7. Powers of the Commission – (1) The Commission has all such powers as are necessary or expedient to enable it to carry out its functions.

(2) Without limiting subsection (1), the Commission has the following powers:

- (a) to conduct studies, research and carry out reviews to inform law reform projects or reports under this Act;
- (b) to consult any government Ministry or agency concerning the review of any aspect of the law and to request and receive from any government Ministry or agency such information relating to any review as is appropriate;
- (c) to conduct public consultations and seek comments from the public on its law reform projects or reviews; and
- (d) to hire or otherwise obtain the services of suitably qualified persons to assist with its work.
- (e) *repealed by section 4 of Act No.22, 2019.*

8. Procedure of the Commission – Subject to this Act, the Commission may regulate its procedure in such manner as it thinks fit.

9. Reporting Responsibilities – (1) The Prime Minister shall lay a copy of the report approved by Cabinet under section 6(c), before the Legislative Assembly as soon as practicable after receipt of these reports.

(2) The Commission must provide to the Prime Minister, at least once a year, the following documents:

- (a) a forward plan of the Commission's work plan; and
- (b) an annual report of the Commission's operations and expenditure.

(3) The Prime Minister shall lay a copy of a work plan or an annual report under subsection (2)(a) or (b), before the Legislative Assembly as soon as practicable after receipt of such a work plan or an annual report.

(4) The Controller and Auditor General must audit the accounts of the Commission annually.

10. Executive Director – (1) The Executive Director is the administrative head of the Commission and shall supervise and direct the work of the Commission.

(2) The Executive Director must be a person who:

- (a) holds a recognised law degree; and
- (b) has at least 5 years' experience as a barrister or solicitor, or in other legal work (including suitable academic positions); and
- (c) meets any further skill and character requirements required by the Attorney General.

(3) The Executive Director is a public servant and is appointed and holds office in accordance with the provisions and procedures applying to public servants.

(4) The opinion of the Attorney General may be sought on the appointment made under this section.

11. Staff of the Commission – All staff of the Commission are to be appointed and employed in accordance with the laws and practices applying to public servants.

12. Appointment of Commissioners – (1) The Prime Minister, Cabinet, Attorney General, or the Commission may appoint a Commissioner or Commissioners to manage or assist law reform projects.

(2) Any appointment made under subsection (1) must be in accordance with procedures under any law or any regulations made under this Act.

(3) The work of the Commissioner must be undertaken in accordance with any requirements or terms of reference imposed by the Prime Minister, Cabinet or the Attorney General.

13. Appointment of Consultants – (1) The Commission may appoint a Consultant or Consultants to assist the Commission with law reform projects.

(2) Any appointment made under subsection (1) must be in accordance with procedures applying under any law or any regulations made under this Act.

(3) Where the Commission is assisted by a consultant appointed under this section, the consultant must undertake such work and activities as are directed by the Executive Director.

14. Repealed by section 9 of Act, No. 22, 2019.

15. Protection from civil actions – (1) An action or other proceedings for damages does not lie against the Commission (or any member, staff, employee, Commissioner or consultant of or engaged by the Commission) in relation to anything done, or not done in good faith in the performance, or purported performance, of any of the Commission’s functions or powers.

(2) An action or other proceedings for damages does not lie against the Commissioner or any officer or employee of the Commission in relation to anything done, or not done, in good faith by the Commissioner, officer or employee, as the case may be, in the performance, or purported performance, of his or her duties under this Act.

16. Regulations – The Head of State, acting on the advice of Cabinet, may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

17. Repeal – The Samoa Law Reform Commission Act 2002 is repealed.

REVISION NOTES 2008 – 2020/3 March 2021

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division in 2008 – 2020/3 March 2021 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”
 - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” changed to “under”
 - (vii) “it shall be lawful” changed to “may”
 - (viii) “it shall be the duty” changed to “shall”
 - (ix) Numbers in words changed to figures
 - (x) “hereby” and “from time to time” (or “at any time” or “at all times”) removed
 - (xi) “under the hand of” changed to “signed by”.

The following amendments were made to this Act by the:
Audit Act 2013 No 22 (commenced on 27 January 2014):

Section 9 – new subsection (5) inserted.

Law Reform Commission Amendment Act 2019 No 22 (commenced 1 July 2019):

Section 2 - omitted definition of “Advisory Board”;

Section 6 - substituted

Section 7(a) &(c) - substituted

Section 7(e) - repealed

Section 9 - substituted

Section 10(4) - substituted

Section 12 - substituted

Section 13 - substituted

Section 14 - repealed

*This Act is administered by
The Office of the Samoa Law Reform Commission.*