



## SAMOA

# ACCIDENT COMPENSATION ACT 1989

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**ACCIDENT COMPENSATION ACT 1989**

**1989**

**No.36**

**AN ACT** to consolidate and amend the Accident Compensation Act 1978 and its amendments and to continue to make provision for general safety and the prevention of accidents; for the rehabilitation and compensation of workers who suffer personal injury by accident arising out of and in the course of their employment or who contract certain occupational diseases and of persons who in Samoa suffer personal injury by an accident occurring in connection with the use of certain types of conveyances; and for the compensation of certain dependants of those workers and persons where death results from the injury.

*[Assent date: 17 April 1990]*

*[Commencement date: 1 February 1990]*

**PART 1  
PRELIMINARY**

**1. Short title and commencement** – This Act may be cited as the Accident Compensation Act 1989 and is deemed to come into force on 1 February 1990.

**2. Interpretation** – (1) In this Act, unless the context otherwise requires:

“accident” means any of the following kinds of occurrences:

- (a) a specific event or a series of events, other than a gradual process, that—
  - (i) involves the application of a force (including gravity), or resistance, external to the human body; or
  - (ii) involves the sudden movement of the body to avoid a force (including gravity), or resistance, external to the body; or
  - (iii) involves a twisting movement of the body;
- (b) the inhalation of a solid, liquid, gas, or foreign object on a specific occasion, which kind of occurrence

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does not include the inhalation of a virus, bacterium, protozoan, or fungus, unless that inhalation is the result of the criminal act of a person other than the injured person;

- (c) the oral ingestion of a solid, liquid, gas, fungus, or foreign object on a specific occasion, which kind of occurrence does not include the ingestion of a virus, bacterium, or protozoan, unless that ingestion is the result of the criminal act of a person other than the injured person;
- (d) a burn, or exposure to radiation or rays of any kind, on a specific occasion, which kind of occurrence does not include a burn or exposure caused by exposure to the elements;
- (e) the absorption of a chemical through the skin within a defined period of time not exceeding 1 month;
- (f) an exposure to the elements, or to extremes of temperature or environment, within a defined period of time not exceeding 1 month, that—
  - (i) for a continuous period exceeding 1 month, results in a restriction or lack of ability that prevents the person from performing an activity in the manner or within the range considered normal for the person; or
  - (ii) causes death:

**PROVIDED THAT** where a person has suffered a personal injury, this shall not of itself be construed as an indication or presumption that it was caused by an accident;

“accident covered by this Act” means an accident of a kind to which any one (1) or more of sections 15, 16, 17, 18, 25, 35 and 64A refers, and “personal injury by accident covered by this Act” has a corresponding meaning;

“artificial limb or aid” means an artificial limb, hand, foot, denture or eye, any crutches or spectacles or any other artificial aid;

“compensation” means money payable under this Act in respect of the injury of a person whether by way of damages, allowances, expenses, costs or otherwise;

“contract of service” means an agreement, whether oral or in writing, expressed or implied, whereby 1 person agrees to

employ another as a worker and that other agrees to serve such employer as a worker, and includes an apprenticeship contract;

“Corporation” means the Accident Compensation Corporation continued under section 4 and formerly known as the Accident Compensation Corporation;

“death” means death occurring as a consequence of an accident covered by this Act;

“dependant”, in relation to a person, means any other person whom the person had a legal duty to support in whole or in part at the time when the dependency has to be determined; and includes:

(a) any other person whom the person might then reasonably regard or have regarded himself or herself as having a moral duty to support in whole or in part, and whom the person was then supporting in whole or in part; or

(b) a child of the person born after his or her death; – and “dependant”, “totally dependant” and “partially dependant” have corresponding meanings;

“employer” means a person employing a worker or workers and includes the manager or agent of an employer;

“exempted employer” means an employer to whom a certificate of exemption has been granted under section 22;

“injury” means an injury occurring as a consequence of an accident covered by this Act;

“member” or “member of the Corporation” means a member of the board of the Corporation;

“minimum wage” means the minimum wage for an industry prescribed under section 32 of the Labour and Employment Relations Act 2013;

“Minister” means the Minister responsible for Labour;

“partial incapacity” means, where the incapacity is of a temporary nature, such incapacity as reduces the earning capacity of a person in an employment in which the person was engaged at the time of the accident and, where the incapacity is of a permanent nature, such incapacity as reduces the person’s earnings capacity in an employment which the person was capable of undertaking at that time;

“prescribed” means prescribed by regulations made under this Act or determined under section 72(3);

“relevant earnings” means the amount which in the opinion of the Corporation would fairly and reasonable represent the person's normal average weekly wages at the time of the accident;

“self-employed person” means a person who, otherwise than as a worker and whether alone or with another person or other persons, carries on a business in Samoa (whether or not that business is also carried on outside Samoa); and “self-employment” has a corresponding meaning;

“specified conveyance” means:

(a) a motor vehicle (including a motor cycle or other means of conveyance on land which is propelled by means of a motor or engine); or

(b) a seagoing vessel which is propelled by means of a motor or engine where such vessel is travelling between 2 or more points in Samoa or which is intended to return to its point of departure in Samoa without calling at a point or place outside Samoa during the course of its journey;

“total incapacity” means such incapacity, whether of a temporary or permanent nature, as incapacitates a person for employment which he or she was capable of undertaking at the time of the accident resulting in such incapacity;

“wages” means all emoluments or rewards in money or money's worth by way of gross wages, remuneration salary or commissions, including overtime pay, allowances and bonuses and compensation received or receivable in relation to the employment or service of a worker but except as provided in section 35 does not include the value of food housing accommodation allowances or privileges received by a person as a member of an aiga or in respect of service to a matai and except to the extent that section 18 may apply does not include an amount which is derived from employment outside Samoa;

“weekly wages” means:

(a) where employment is by the hour, wages for a 40 hour week; or

(b) where employment is by the day, wages for a 5 day week,

and for both paragraphs (a) and (b), the wages are to be calculated at the ordinary rate of pay for the work which the person was employed at the time of the accident even if the person may not have worked or that an employment may not have continued for a full week;

“work related accident” means an accident covered by this Act to which any of section 16, 17 or 18 applies;

“worker” means a person who has entered into or works under a contract with an employer whether the contract is for manual labour, clerical work or otherwise and whether remunerated by wages, salary or otherwise and whether it is a contract of service or apprenticeship or a contract personally to execute work.

(1A) For the purposes of this Act, a Member of Parliament is taken to be a worker employed by the Government.

(2) For the purposes of this Act, the wife of a deceased male person and his children under the age of 18 years are conclusively presumed to have been dependent on the deceased person at the time of his death, and, if they are ordinarily resident in Samoa, their dependency is taken to be total unless it is proved in fact to be partial only:

**PROVIDED THAT** nothing in this subsection applies to a wife where the Corporation decides that the wife has deserted her husband without just cause and that such desertion was continuing at the date of the husband’s death.

(3) If a child is born to a person after the person’s death, that child is taken for the purposes of this Act to be a dependant of that person in the same manner as if born in that person’s lifetime.

(4) Where by this Act any costs or expenses are payable by the Corporation to or in respect of a person who suffers death or personal injury by accident, the costs or expenses are to be limited to the costs or expenses as are reasonable by Samoa standards whether the costs or expenses are incurred or payable in Samoa or elsewhere.

(5) If a person suffers adverse consequences from a medical treatment for personal injury by accident covered by this Act, those adverse consequences are taken to have been caused by the accident.

(6) In subsection (5), “medical treatment” includes medical surgical or nursing attendances, first aid, hospital care, physiotherapy and any other kind of treatment which the Corporation may consider to have been appropriate in the circumstances of the case.

(7) Despite subsection (1), if a person is employed by his or her spouse to perform work for that spouse, that person shall, for the purposes of this Act, be a worker if:

- (a) the work is performed in connection with a business which is owned or operated by the spouse and is licensed under the Business Licences Act 1998; and
- (b) that person is paid wages in cash on a regular basis.

**3. Application** – (1) This Act binds the Government of Samoa.

(2) Except as provided in subsections (3) and (4), nothing in this Act applies to claims for compensation or other rights in respect of or concerning accidents happening, deaths occurring or incapacities commencing before the coming into force of this Act.

(3) Despite anything to the contrary expressed or implied in this Act, the provisions of this Act which are referred to in subsection (4) shall apply from the date of the coming into force of this Act, have been entitled to compensation under the Accident Compensation Act 1975:

**PROVIDED THAT** in calculating the amount or amounts of compensation to be paid and the duration thereof there shall be taken into account the amount of compensation already paid and the period or periods of time in respect of which compensation has or had been paid.

(4) The provisions of this Act to which subsection (3) applies are subsections 23(4), (5), (6), (7), (8) and (9) and sections 26, 30 and 33.

## **PART 2 ACCIDENT COMPENSATION CORPORATION**

**4. Continuation of Corporation** – (1) There shall continue to be a body corporate called the Accident Compensation Corporation which shall be the same body corporate as the

Accident Compensation Board and a reference to the Accident Compensation Board in a law, instrument or document shall be a reference to the Accident Compensation Corporation unless the context otherwise requires.

(2) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.

*((2A) – (2F) Repealed by section 2 of the Miscellaneous (Boards of Public Bodies) Amendment Act 2020, No 6)*

(3) The Corporation is a body corporate with perpetual succession and common seal and may:

- (a) acquire, hold, and dispose of real and personal property; and
- (b) sue and be sued; and
- (c) do and suffer all other acts and things that bodies corporate may do and suffer.

(4) The powers of the Corporation are not affected by a vacancy in membership.

**5. Terms of office of appointed members** – (1) Subject to subsection (3), a member appointed under section 4 holds office for a term of 3 years and is eligible for reappointment.

(2) An appointed member may at any time resign his or her office by notice in writing to the Corporation.

*(3) Repealed by section 2(c)(ii) of the Composition of Board of Public Bodies Act 2012.*

(4) If an appointed member dies, or resigns, or is removed from office, the Head of State acting on the advice of Cabinet may appoint another person in place of that member to hold office until such first named person's term of office would have expired had he or she not ceased to be a member as aforesaid.

(5) An appointed member, unless the member sooner vacates office, holds office during the term of appointment, and continues in office after the expiry of the term of appointment, until a successor comes into office.

**6. Meetings of members** – (1) Meetings of the Corporation are to be held at such times and places as the Chairperson or the Corporation appoints.

(2) The Chairperson shall call a meeting whenever required to do so in writing by any 3 members.

(3) At a meeting, 4 members shall be a quorum.

(4) The Chairperson shall preside at a meeting at which he or she is present.

(5) If the Chairperson is for any reason absent from a meeting:

(a) the deputy Chairperson shall preside at that meeting if he or she is present; and

(b) if the deputy Chairperson is not present, the members present shall appoint 1 of their number to preside at that meeting.

(6) At a meeting, the Chairperson or other person presiding shall have a deliberative vote, and in the case of an equality of votes he or she shall also have a casting vote.

(7) A question arising at a meeting shall be decided by a majority of the votes recorded on the question.

(8) Subject to the other provisions of this Act, the Corporation may regulate its procedure in such manner as it thinks fit.

**7. Deputies of members** – (1) & (2) *Repealed by section 2(e) of the Composition of Board of Public Bodies Act 2012.*

(3) A deputy, while he or she acts as such, is taken to be a member of the Corporation.

(4) No deputy shall act as Chairperson or deputy Chairperson of the Corporation.

(5) No appointment of a deputy, and no act done by a deputy as such, and no act done by the Corporation while a deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for this appointment had not arisen or had ceased.

**8. Annual report** – (1) Within 6 months after the end of a financial year the Corporation shall send to the Minister for Public Enterprises a report of its proceedings and operations for that year together with a copy of its audited accounts for that year and the report of the Audit Office on those accounts.

(2) A copy of the report and of the accounts of the Corporation together with a copy of the report of the Audit Office on the accounts, shall be laid before the Legislative Assembly within 14 days after their receipt by the Minister, if the

Legislative Assembly is then sitting, or if the Legislative Assembly is not sitting, then within 14 days after the commencement of the next session of the Legislative Assembly.

**9. Remuneration of Corporation Members** – Members of the Corporation:

- (a) may be paid in respect of each day or part of a day of attendance as members of the Corporation such sum as Cabinet shall determine, and may also be paid by way of annual fee such sum and may be granted such other benefits as Cabinet may determine; and
- (b) shall be paid for expenses reasonably incurred by them in respect of their attendance at meetings of the Corporation.

**10. Appointment of agents** – (1) The Corporation may appoint agents for the purpose of enabling it to discharge its functions and powers and may revoke the appointment.

(2) The Corporation shall, as soon as practicable, cause an appointment by it of an agent and a revocation of the appointment to be notified in the Samoa *Gazette* or the Savali.

(3) The Corporation shall pay its agents for services rendered by them, fees and commissions or either at such rates as the parties shall agree or, failing such agreement, at such rate as the Controller and Auditor General shall determine, and may separately reimburse its agents for expenses reasonably incurred in rendering services for the Corporation.

**11. Power to delegate functions** – (1) Subject to sections 52 and 53, the Corporation may, in writing, either generally or particularly, delegate to such agent or agents of the Corporation as it thinks fit all or any of its functions and powers relating to the collection of levies or the refund of amounts of levies paid in excess.

(2) The Corporation may, in writing, either generally or particularly, delegate to a member of the Corporation or to an officer or officers or employee or employees appointed under section 58, all or any of its functions and powers including:

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- (a) the hearing or consideration of applications for compensation or other relief and relief and assistance under this Act;
- (b) the handling and payment of a claim;
- (c) the collection of levies, charges or penalties or the refund or remission thereof;
- (d) inquiries, investigations reports and returns concerned with claims for compensation or the payments of levies, charges or penalties; and
- (e) the investment powers of the Corporation under this Act.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Corporation.

(4) Until any such delegation is revoked, it continues in force according to its tenor, despite a change in the membership of the Corporation or in the holder of an office.

**12. Administrative functions and powers – (1)** The Corporation has such functions and powers in relation to the administration of this Act as are conferred upon it by this Act and any regulations made under it, and has such further powers, not inconsistent with this Act or any such regulations, as are reasonably necessary for the effective performance of its functions.

(2) Without restricting subsection (1), the functions of the Corporation includes the following:

- (a) the administration of this Act and of the Funds and Schemes to which it applies;
- (b) causing statements of wages or collections furnished under this Act to be inspected and the correctness of levies and charges paid under this Act to be verified;
- (c) determining the requirements for adequate recording or injuries by accident and of occupational diseases;
- (d) keeping or causing to be kept adequate statistical records in respect of or concerning any or all of its functions;
- (e) specifying forms to be used and procedures to be followed in relation to matters having a bearing upon the functions of the Corporation.

**13. Functions and duties in relation to safety and rehabilitation** – (1) The Corporation shall seek to establish a close and harmonious working relationship with industry, commerce, government Departments, public corporations, and other bodies, organisations and persons in promoting safety and preventing specified conveyance, work related and other accidents, personal injuries and occupational diseases and it shall take all practical steps to promote well co-ordinated and vigorous programme for medical and vocational rehabilitation of persons who become incapacitated as a result of personal injury by accident.

(2) Without restricting subsection (1), the duties and functions of the Corporation include the following:

- (a) stimulating and maintaining interest in safety and the prevention of accidents, personal injuries and occupational diseases by means of education and publicity through all communications media;
- (b) publishing and disseminating safety and rehabilitation literature and information;
- (c) sponsoring and conducting safety campaigns and safety courses;
- (d) sponsoring and fostering organisations and groups concerned with safety and the prevention of accidents, personal injuries and occupational diseases;
- (e) research into and investigation of ways to reduce the number and severity of accidents and personal injuries and the incidents of occupational diseases;
- (f) supporting, stimulating and fostering the interests of all persons concerned with the healing or rehabilitation of accident victims;
- (g) assisting the re-establishment in their previous employment where possible of incapacitated victims of accidents covered by this Act;
- (h) assisting the training or re-training of incapacitated victims of accidents covered by this Act so that they may secure other employment suited to their maximum capacity.

**14. Powers of investigation and inquiry**–(1) For the purposes of carrying out its duties and functions, the Corporation has the same powers and authority to summon witnesses and receive evidence as are conferred upon the Commission of Inquiry by the Commissions of Inquiry Act 1964 and that Act applies accordingly.

(2) An investigation or inquiry which the Corporation is empowered to conduct under this Act may be conducted by the Corporation acting in its own right or by a member of the Corporation or an officer or other person specially appointed by the Corporation to conduct the investigation or inquiry, and for the purpose of any such investigation or inquiry the powers and authority conferred on the Corporation by subsection (1) shall attach to and may be exercised by the member of the Corporation officer or other person so appointed.

### **PART 3 ELIGIBILITY FOR REHABILITATION AND COMPENSATION**

**15. Specified Conveyance accident victims** – Subject to the provisions of this Act, if a person suffers personal injury by accident caused by or through or in connection with the use of a specified conveyance in Samoa, the person is entitled to be paid compensation by the Corporation and given rehabilitation assistance and if the person's death results from such injury, compensation shall be paid to the person's dependant or dependants under section 26.

**16. Workers** – (1) Subject to the provisions of this Act, if a worker employed by an employer other than an exempted employer suffers personal injury by accident arising out of and in the course of the worker's employment, the worker is entitled to be paid compensation by the Corporation and given rehabilitation assistance and if the worker's death results from such accident, compensation shall be paid to his or her dependant, or dependants under section 26.

(1A) Subject to the provisions of this Act, a worker who suffers an injury or death, other than an injury or death arising out of and in the course of the worker's employment, and the worker's dependants is entitled to the same compensation and

rehabilitation as they are respectively entitled to under subsection (1).

(2) This Act applies to the employment of a worker in an occupation, whether or not the employment is in or for the purposes of a trade or business carried on by the employer and whether or not the employment is of a casual nature.

(2A) Despite anything in this provision but subject to subsection (2B), a person who:

(a) has had an accident but had not been a worker within 60 days from the day of the accident; and

(b) had worked for a period of not less than 12 months prior to the accident, –

is taken to be a worker for the purposes of this Act.

(2B) When calculating compensation to be awarded to a person taken to be a worker under subsection (2A), the Corporation shall only issue compensation calculated at the ordinary rate of pay for the work in which the person was last employed, and in relation to dependants, where death occurs, compensation shall only be made payable to dependants of the worker existing at any time between the person's last day of employment and the time of the accident.

(3) Except as provided for in section 18, this section applies only to accidents occurring in Samoa.

**16A. Spouse of worker** – (1) Subject to subsections (2) and (3), if following an accident, caused by or in connection with the use of a specified conveyance in Samoa, the spouse of a worker suffers total or partial incapacity, there shall be paid to the worker by the Corporation during a period of incapacity of the worker's spouse the weekly payment which is equal to 70% of the minimum wage to be in effect as from the time of the accident.

(2) Despite subsection (1), an amount made payable to the spouse of a worker under subsection (1) shall only be made for a period of no longer than 3 months in the aggregate.

(3) A person paid, or entitled to be paid, by the Corporation under section 35 is not entitled to a payment under this section.

(4) In this section, "spouse" means a non-worker who is either a man or woman who:

(a) is legally married to the worker; or

(b) not being married to the worker, has cohabited with the worker immediately preceding the date of the

accident, and in the opinion of the Corporation, has entered a relationship in the nature of marriage with the worker.

**17. Special provisions for work-related accidents – (1)** For the purposes of this Act, if an accident happens to a worker who is an apprentice while the worker is attending at a technical school or other place of training or instruction (whether during ordinary hours of employment or otherwise), the accident is taken to arise out of and in the course of the worker's employment if the worker's attendance at that school or place is required by or under the worker's contract of apprenticeship.

**(2)** For the purposes of this Act, if an accident happens to a worker while the worker is acting in contravention of an enactment or regulations applicable to the worker's employment or of orders given to him or her by or on behalf of his or her employer, the accident would have been deemed so to have arisen had the worker not been acting in contravention as aforesaid or without instructions from his or her employer as the case may be.

**(3)** Where an accident happens to a worker during a temporary interruption of his or her work for a meal or for rest or refreshment, the accident is taken to arise out of and in the course of his or her employment if the accident would have been deemed so to have arisen had it happened at the place of employment and if:

- (a) the accident happens upon premises occupied by the employer; or
- (b) the accident happens upon premises to which the worker has by virtue of his or her employment the right of access during that temporary interruption of the worker's work; or
- (c) the accident happens upon premises to which the worker is permitted to resort during that temporary interruption of the worker's work by the express or implied authorisation of his or her employer.

**(4)** Where an accident happens to a worker while the worker is travelling to or from his or her work by a means of transport, the accident is taken to arise out of and in the course of his or her employment if:

- (a) the employer has provided the means of transport primarily for the purpose of carrying workers employed by the employer; or
- (b) the means of transport has been expressly or impliedly authorised by the employer for the purpose; or
- (c) the employer has arranged with the worker or with a group of workers for the transportation of the worker to or from work by that means of transport and has paid or become liable to pay the whole or a portion of the fare or cost of carriage of the worker by that means of transport.

(5) Where an accident happens to a worker while the worker is travelling to or from his or her work by the most direct practicable route between the place of employment and premises to which the worker has by virtue of his or her employment the right of access or while the worker is upon any such premises, the accident is taken to arise out of and in the course of employment if the accident would have been deemed so to have arisen had it happened at the place of employment.

(6) If subsection (5) does not apply and an accident occurs to a worker while the worker is travelling directly to the worker's place of work or employment from the worker's place of residence or directly from the worker's place of work or employment to the worker's place of residence by route, which having regard to all circumstances was a reasonable one for him or her to follow the accident is deemed for the purposes of this Act to have arisen out of and in the course of the worker's employment.

(7) Where an accident happens to a worker in the course of the worker's employment it is taken to arise out of the worker's employment if the accident is directly or indirectly caused by another person's misconduct, skylarking, or negligence provided that the worker did not directly or indirectly induce or contribute to the happening of the accident by an act not incidental to the worker's employment.

(8) Where a contract of service or apprenticeship under which an injured person was working at the time when the accident causing the injury happened was illegal, the Corporation may, if, having regard to all the circumstances thinks it proper to do so, deal with the matter as if the injured person had at the time of the accident been a person working under a valid contract of service or apprenticeship:

**PROVIDED THAT** where the illegality arose by reason of the injured worker being under a minimum age prescribed by section 51 of the Labour and Employment Relations Act 2013 or by any other law, the Corporation shall deal with the matter as if the injured person had been working under a valid contract of service or apprenticeship.

**18. Accidents occurring outside Samoa – (1)** This Act applies in respect of an accident to which this section relates as if the accident had occurred in Samoa.

**(2)** This section relates to an accident happening outside Samoa to a worker where the worker has left Samoa temporarily and the accident arises out of and in the course of the worker's Samoan employment if at the time of the accident the temporary absence of the worker from Samoa is exclusively or principally for the purposes of the worker's Samoan employment and he or she continues or continued down to the time of the accident to derive earnings from that employment.

**(2A)** Where an accident happens to a worker outside Samoa and that worker continues to receive wages from his or her Samoan employment up to the time of the accident, that worker is entitled to all other compensation payable under this Act as may be incurred by a worker in respect of his or her treatment overseas except for expenses specified under subsection (2B).

**(2B)** Expenses for which workers under subsection (2A) are not entitled to are those under sections 31 and 32, and in relation to expenses under section 27, the workers are only entitled to funeral grants and not medical expenses.

**(3)** For the purposes of this section:

“Samoan employment” means any or all of the following:

- (a) employment engaged in by a worker where the work for which he or she is engaged is substantially to be performed within Samoa;
- (b) employment engaged in by a worker where his or her employer is the Government or is a person ordinarily resident in Samoa and except where the Government is the employer a significant part of the work for which the worker is engaged is to be performed within Samoa;
- (c) employment on an aircraft where that employment was entered into in Samoa and in the ordinary

course of that employment the worker is required to fly into or out of Samoa.

(4) The extended application of the expression “accident which arises out of and in the course of employment” provided for in or required by sections 16, 17 and 25 applies with necessary modifications to this section when determining whether a person has suffered an accident to which this section relates.

**19. Self-inflicted injuries, suicide and criminal conduct – (1)**

Subject to subsection (4), no compensation or other benefit is payable or due under this Act:

- (a) for any personal injury that a person wilfully inflicts upon himself or herself or with intent to injure himself or herself, causes to be inflicted upon himself or herself, except being a personal injury which was the result of a state of mind which itself was the result of an accident covered by this Act; or
- (b) for the death of a person where the death was due to suicide not being suicide which was the result of a state of mind which itself was the result of an accident covered by this Act; or
- (c) to a dependant of a person by reason of the death of that person where the dependant has been convicted by a court in Samoa or elsewhere of the murder or manslaughter of that person; or
- (d) where a person suffers personal injury in the course of committing a criminal offence and the injured person is convicted of the offence concerned.

(2) Where the Corporation has reason to suspect that the death of a person is due to murder or manslaughter and that a dependant of the deceased person was criminally involved in the death of the person, the Corporation may refuse or delay payment of compensation or other benefit to that dependant until the investigation of the death of the person and any prosecution of the dependant for the murder or manslaughter of the person have been completed.

(3) Where the Corporation has paid compensation or other benefit to a dependant and such compensation or benefit was paid by reason of the death of a person the Corporation may recover such compensation or other benefit as a debt in the event that at any

time the dependant is convicted by a court in Samoa or elsewhere of the murder or manslaughter of the person.

(4) The Corporation, in its absolute discretion, may pay compensation and other benefits to a person who is not entitled to compensation or other benefit by reason of subsection (1)(d) if the Corporation forms the view that the person's culpability for such criminal offence was minor and that in all of the circumstances it would be unjust not to pay such compensation and other benefits.

**20. Refusal to submit to treatment** – No compensation or other benefit under the Act becomes due or payable for the death or incapacity of a person if the person's death is caused or if and so far as the person's incapacity is caused, continued or aggravated by an unreasonable refusal to submit himself or herself to medical treatment or to a surgical treatment the risk of which is, in the opinion of the Corporation, inconsiderable in view of the seriousness of the injury or disease.

**21. Persons who are not employers** – (1) A person who is not an employer within the meaning of this Act or concerning whom there may be a doubt as to whether or not the person is such, an employer may, upon such terms and conditions as the Corporation may specify, be granted a certificate of protection which as long as it remains in force defines and determines the extent of a liability which that person has for the payment of a levy imposed under this Act.

(2) A certificate granted under this section comes into force or is taken to come into force on such date as may be specified in the certificate whether before or after the date of the application by a person under this section or the date of the certificate.

(3) A certificate granted under this section may be revoked by the Corporation at any time.

**22. Exempted employers** – (1) In any case where the Corporation is satisfied that an employer should be exempted from the obligation to pay levies imposed under section 52 in respect of any of his or her workers, it may conditionally or unconditionally grant a certificate exempting the employer wholly or as the case may require partly from such obligation.

(2) A certificate granted under this section shall be known as a certificate of exemption and comes into force or is taken to have

come into force on such date as may be specified in the certificate whether before or after the date of an application by an employer for exemption under this section or the date of the certificate and shall subject to subsection (8) continue in force until such date as may be specified in the certificate.

(3) While a certificate of exemption granted under this section to an employer is in force the employer is exempted wholly or partly as the case may be from the obligation to pay levies under section 52 and his or her exempted workers or their dependants are not entitled under this Act to any compensation or rehabilitation assistance for or in respect of a personal injury or death by accident arising out of and in the course of employment, except to such extent as may be specified in the certificate of exemption.

(4) A certificate of exemption granted under this section may be in respect of all of the employer's workers or a designated class or classes of his or her workers.

(5) Except where in the opinion of the Corporation special circumstances exist, no certificate of exemption shall be granted under this section unless the Corporation is satisfied that there is in effect and will continue to remain in effect a scheme or arrangement approved by the Corporation whereby a worker affected by the proposed certificate of exemption, who suffers personal injury by accident arising out of and in the course of his or her employment during the currency of the certificate will derive greater benefit from such scheme or arrangement than he or she would derive under this Act if a certificate were not granted:

**PROVIDED HOWEVER THAT** no certificate of exemption shall be issued only because the benefit to a worker under such scheme or arrangement would be greater than that which such worker would derive under this Act.

(6) In considering an application for exemption under this section the Corporation shall have regard to the need for the preservation of the integrity of the Accident Compensation scheme administered under this Act and shall not grant any such certificate where in its opinion such grant would be detrimental (whether alone or by a precedental or other effect which might flow from it) to the integrity of the scheme administered under this Act.

(7) Unless otherwise determined by the Corporation, it is a condition of a certificate of exemption that the person to whom it is issued shall at all times while such certificate applies keep in full force and effect such alternative scheme or arrangement as may

have been accepted by the Corporation upon the granting of the certificate and shall at such intervals as the Corporation may determine satisfy the Corporation that such alternative scheme or arrangement continues in full force and effect.

(8) Despite subsection (2), the Corporation may upon giving 14 days' notice in writing to an employer revoke or suspend the certificate of exemption given to that employer or may amend any or all of the conditions thereof.

**22A. Double payment of compensation** – (1) Despite anything in this Act, no person is entitled to receive compensation under this Act where such person is determined by the Corporation to be receiving compensation from a similar scheme in another country.

(2) Where a person is determined to be receiving compensation from a similar scheme overseas, the Corporation is entitled to seek a refund of the monies which have been awarded to the person under this Act and such monies shall be treated as a debt owing to the Corporation.

(3) A person who fraudulently declares, whether in writing or not, to the Corporation that he or she is not receiving compensation from a similar scheme in another country commits an offence and upon conviction is liable to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 5 years, or both.

#### **PART 4 COMPENSATION AND BENEFITS**

**23. Compensation for temporary incapacity resulting in economic loss** – (1) Where as a result of an accident covered by this Act a person suffers temporary total or partial incapacity for work, compensation is payable under this section.

(2) Subject to subsections (3), (4A), (4B), (6) and (7):

- (a) during a period of total incapacity, the weekly payment of compensation is an amount equal to 70% of the person's relevant earnings;
- (b) during a period of partial incapacity, the weekly payment of compensation is an amount equal to 70% of the difference between the person's relevant earnings and the amount which the person actually earns:

**PROVIDED THAT –**

- (i) if the Corporation considers, having regard to the medical and other evidence before it, that the person is not endeavouring to work in paid employment to the extent of the person's capacity, the Corporation may determine the amount of the weekly compensation at such figure as it considers appropriate; and
- (ii) in no case shall the compensation payable exceed \$1,000 per week; and
- (iii) in no case shall the Corporation be required for a period to pay an amount which, when added to any money or money's worth received by the person from an employer, would exceed 100% of the person's relevant earnings for that period.

(3) Despite any other provision of this section or of this Act, if at any time, whether before or after the expiry of the time referred to in subsection (4A) or (4B), the Corporation is of opinion that the degree of incapacity suffered by a person to whom this section applies is likely to be permanent, weekly payments under this section shall (if they have not already ceased by virtue of subsection (4A) or (4B)) thereupon cease and the person shall be paid compensation under section 24.

(4A) Subject to subsection (4B), weekly payments of compensation are not payable in respect of a period after the expiry of 5 years from the date of the accident.

(4B) Despite subsection (4A), where in the opinion of the Corporation special circumstances in case make it just to do so, the Corporation may in its unfettered discretion (whether before or after the expiry of the period of 5 years referred to in that paragraph) extend the period in respect of which compensation is paid under this section to a person.

(5) The proportion of the weekly payment of compensation payable in of incapacity for part of a week shall be the proportion that the number of the person's working hours or days of incapacity during the week (exclusive of overtime) bears to such person's normal working hours or days for the week (excluding overtime).

(6) The Corporation is not liable under this Act in respect of an injury which does not totally or partially incapacitate a person from work for a period of at least 5 consecutive days (which may be the day of the accident and the 4 days next following) at the work at which the person was employed.

**PROVIDED HOWEVER THAT** if the incapacity lasts more than 5 consecutive days, compensation is (subject to subsection (5)) payable in respect of the total period.

(7) For the purposes of the assessment of weekly compensation under this Act:

(a) the amount of a person's relevant earnings are such amount as in the opinion of the Corporation would at the time of the accident fairly and reasonably represent that person's normal average weekly wages; and

(b) the weekly wages of a person are taken to be the wages for a full 40 hour week where employment is by the hour, or for a 5 day working week where employment is by the day, calculated in either case at the ordinary rate of pay for the work in which the person was employed at the time of the accident despite that the person may not have actually worked or that an employment may not have continued for a full week.

(8) In calculating the relevant earnings of a person, except to the extent that the Corporation in its discretion may in any case direct, no account shall be taken of:

(a) a sum that was paid to cover any special expenses imposed on the person by the nature of the person's employment; and

(b) overtime payments.

(9) Despite subsections (1) to (8), the weekly compensation payable to a person under this section shall be not less than 70% of the minimum wage applicable to that person at the time of the accident or an amount equal to the person's relevant earnings, whichever is the less.

**24. Permanent injury compensation – (1)** Where a person suffers personal injury by accident in respect of which the person is or, but for section 36, would be entitled to compensation under this Act and the injury involves the permanent loss or impairment

of a bodily function (including the loss of a part of the person's body) there shall be paid to the person by the Corporation in addition to all other compensation and assistance to which the person is entitled under this Act:

- (a) if the loss or impairment is less than 80% of total bodily function, a lump sum or lump sums not exceeding in the aggregate \$8,000 in respect of such loss or impairment representing the appropriate percentage of \$8,000 specified in Schedule 1; or
- (b) if the loss or impairment is 80% of total bodily function or more, weekly compensation in accordance with subsection (2) for the whole of the person's life, or until the person fully or substantially recovers from the loss or impairment.

(2) The amount of weekly compensation payable under subsection (1)(b) is determined by application of the following formula:

$$\frac{70}{100} \times RE \times L$$

Where:

RE represents the relevant earnings of the injured person; and

L is the percentage of loss or impairment specified in Schedule 1:

**PROVIDED THAT** in any case the total amount payable shall not in any case exceed \$1,000 per week.

(3) The lump sum or weekly compensation to which a person is entitled under this section is payable, or as the case may be, commence to be payable:

- (a) for a person who is entitled to compensation under section 23, when the entitlement (or any extended entitlement granted under section 23(4)(b)) ceases; or
- (b) for any other case, when the Corporation is satisfied that the loss or impairment of bodily function is permanent.

(4) Where a person suffers by the same accident more than 1 of the injuries specified in Schedule 1 the percentage of loss shall be aggregated but shall not exceed 100%.

(5) Where a person suffers the loss of or permanent physical injury to apart of the body or a permanent impairment of bodily function there may be taken into account in assessing compensation payable under this section the amount or apart of the amount previously paid or continuing to be payable to that person in respect of the loss of or an injury to that part of the body or a portion thereof under this section or under a corresponding former provision.

(6) For the purpose of eliminating doubt, where a person in receipt of weekly payments under subsection (2) suffers the loss of or permanent physical injury to apart of the body or a permanent impairment of bodily function as a result of a further accident, the person may be entitled to a lump sum or, as the case may be, weekly payments, as a result of such further accident but in calculating weekly payments the aggregate of the losses or impairments is deemed not to exceed 100%.

(7) For the purposes of Schedule 1, the permanent loss of the sight of one eye by a person who is already without the sight of the other eye is taken to be the permanent loss of both eyes:

**PROVIDED THAT** there may be taken into account any payment by way of compensation which has previously been received by the person under this section or under a corresponding former provision in respect of the permanent loss of the sight of the other eye.

(8) Where as a result of an accident covered by this Act a person suffers a permanent physical injury or impairment that is not specified in Schedule 1, the Corporation may in its discretion after consulting one or more registered medical practitioners allot an appropriate percentage to such injury or impairment and apply this Act as if the injury or impairment had been specified in the said Schedule 1, and such injury or impairment is taken to be a loss or impairment specified in Schedule 1.

(9) No payment shall be made under this section after the death of the injured person.

(10) For the purposes of this section, where the injured person has no relevant earnings, or relevant earnings less than the minimum wage, the minimum wage applying at the time of the accident is taken to be the relevant earnings of that person.

**25. Compensation for occupational diseases – (1)** Where a person's total or partial incapacity for work or death results from a disease which is due to the nature of an employment in which the person is or was employed as a worker, compensation is payable as if the disease was a personal injury by accident arising out of and in the course of that employment.

(2) For the purposes of calculating the relevant earnings of a person in a claim for compensation under this section, the date of the commencement of the incapacity of the person (or the date of his or her death if there has been no previous period of incapacity) shall be treated as the date of the happening of the accident.

(3) Where a person has left the employment to the nature of which the disease was due, such person or his or her dependants, if so required by the Corporation shall furnish the Corporation with such information as to the names and addresses of all other employers who employed him or her in an employment as such person or dependants possess.

(4) In this section, "disease" means any of the diseases listed in Schedule 3.

(5) Schedule 3 may be amended by Notice in writing by the Minister published in the *Savali*.

**26. Compensation in the case of death – (1)** Where the death of a person eligible under Part 3 results from the injury, compensation is payable under this section.

(2) If the deceased person leaves a total dependant or dependants, or the deceased person leaves both total dependants and partial dependants, who were dependent upon the deceased at the time of the accident (or where subsection (6) is applied by the Corporation, at the date of death) such dependants shall be paid:

- (a) where the deceased person was a worker at the time of the accident, weekly compensation at the rate of 70% of the relevant earnings of the deceased person but not exceeding \$1,000 a week, which compensation shall be paid in accordance with subsection (9); and
- (b) whether or not the deceased person was a worker, a lump sum in accordance with subsections (7) and (9).

(3) Where no person was totally dependent on the deceased person at the date of the accident (or where subsection (6) is applied by the Corporation, at the date of death) then a dependant or dependants who were partially dependent at the date of the accident (or at the date of death as the case may be) shall be paid:

- (a) where the deceased person was a worker at the date of the accident, weekly compensation at the rate of 70% of the relevant earnings of the deceased person but not exceeding \$1,000 per week, which compensation shall be paid as is reasonable and proportionate to the loss sustained by those dependants provided that the weekly amount payable to a partially dependent person may be varied by the Corporation;
- (b) whether or not the deceased person was a worker, a lump sum in accordance with subsections (7) and (9).

(4) Where in the opinion of the Corporation a person who was totally dependent on the deceased person at the time of the deceased person's accident (or where subsection (6) applies, at the time of the deceased person's death) would at any time after the death of the deceased person have become partially dependent upon the deceased person had the deceased person remained alive the Corporation may reduce the amount of the weekly payments to that person to an amount which is reasonable having regard to the reduced level of dependency, and may restore that person's full entitlement if such total dependency reoccurs.

(5) Weekly payments of compensation under this section shall be paid to a dependent person during such time or times as in the opinion of the Corporation dependency exists:

**PROVIDED THAT** in no case shall any payment extend beyond the 5<sup>th</sup> anniversary of the date of death of the deceased person.

(6) Where in the opinion of the Corporation special circumstances exist, it may pay weekly compensation under this section to a person who not being dependent on the deceased at the time of the accident was dependent upon the deceased at the time of the deceased's death and may in like circumstances decline or reduce compensation to a person who being dependent upon the deceased at the date of the deceased's accident was not

or not to the same extent dependent upon the deceased at the date of the deceased's death.

(7) The lump sum to be paid under subsection (2) is the sum of \$20,000, or under subsection (3) is such sum not exceeding \$16,000 as the Corporation determines.

(8) In every case where a lump sum or weekly payments of compensation have been paid to a person in the person's lifetime in respect of an accident which subsequently causes the person's death the amount of such lump sum and weekly payments shall be deducted from the compensation payable under subsection (2)(a) and (b) or subsection (3)(a) and (b) but except as aforesaid no part of an amount paid to a person by way of compensation under this Act shall be deducted from the amount of compensation payable in respect of the person's death.

(9) Where more than 1 person was dependent upon the deceased, the Corporation shall, subject to the subsections (2) and (3), determine as to whom and in what proportions weekly compensation and the lump sum shall be paid.

(10) Where the relevant earnings of a deceased worker are less than the minimum wage, the relevant earnings for the purposes of this section are taken to be the minimum wage in force at the time of the person's accident.

**27. Medical and funeral expenses** – (1) Where as a result of an accident covered by this Act a person suffers injury there is payable a sum equal to the reasonable expenses incurred in respect of the person's medical or surgical attendances, including first aid, maintenance as a patient in a hospital, and physiotherapy.

(2) Where the death of a person results from an accident covered by this Act:

- (a) there is payable in addition to any other compensation payable under the Act the sum of \$4,000 by way of funeral grant;
- (b) subject to paragraphs (c) and (d) the Corporation shall determine the person or persons to whom such grant is to be paid and may apportion it between different persons;
- (c) where a parent or spouse of the deceased person survives the deceased person the funeral grant shall be paid to such one or more of the parents

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and spouse as the Corporation may determine of them and shall give preference to a surviving spouse of the deceased person;

- (d) where no such parent or spouse survives the deceased person the Corporation shall determine the person or persons to whom the grant is paid.

**28. Provision of artificial limb or aid – (1)** Where, as the result of any injury caused by an accident covered by this Act, the provision of an artificial limb or aid for that person becomes in the opinion of the Corporation necessary or desirable, the Corporation shall pay, in addition to the compensation otherwise payable under this Act, the reasonable cost of the artificial limb or aid and the reasonable cost of its normal repair or renewal.

**(1A)** Subject to subsection (1), the amount to be paid or contributed by the Corporation is \$150,000 or less but if the amount required exceeds \$150,000, Cabinet approval must be sought.

**29. Damage to or loss of artificial limb or aid – (1)** Subject to subsection (2), where as a result of an accident covered by this Act a person suffers damage to or loses an artificial limb or aid being used or worn by the person at the time of the accident, the Corporation shall pay the reasonable cost of repairing or if necessary, replacing the artificial limb or aid.

**(2)** No payment in respect of any loss or damage so suffered by a person shall be made by the Corporation under this section unless:

- (a) the expense in respect of the repair or replacement is incurred in the lifetime of that person; and
- (b) details of the nature of the damage or loss is given to the Corporation as soon as practicable after the accident.

**30. Special provision for young or mentally defective person.** – Where a person under the age of 15 years or who is a mentally defective person within the meaning of the Mental Health Act 2007 loses or damages an artificial aid which the person requires as a result of a previous personal injury by accident covered by this Act, the Corporation, having regard to all of the circumstances, may in its discretion pay for or

contribute to the cost of a replacement for such aid despite that such damage or loss may not have been as a result of an accident.

**31. Transport of injured persons – (1)** Where an accident happens to a worker arising out of and in the course of employment and an injury caused thereby to the worker necessitates the worker's immediate removal to a hospital, or to a medical practitioner for medical attention and then to the worker's residence or to a hospital, or to the worker's residence (medical attendance away from the worker's residence not being required), the employer shall, forthwith at the employer's own expense, provide or arrange for the necessary transport of that worker.

(2) Where a worker to whom an accident happens has been removed as mentioned in this section, the worker's removal is deemed to have been necessitated by an injury caused to the worker by the accident.

(3) An employer who fails to comply with this section commits an offence and is liable on conviction to a fine not exceeding 10 penalty units.

(4) Where an accident is caused by or through or in connection with the use of a specified conveyance and an injury caused thereby necessitates the immediate removal of the injured person to a hospital or to a medical practitioner for medical attention and then to the injured person's residence or to a hospital or to the injured person's residence (medical attendance away from the injured person's residence not being required) a person may at his or her own expense provide or arrange for the necessary transport of that injured person.

(5) The Corporation shall reimburse any reasonable expenses incurred by the employer or other person arranging or providing the necessary transportation under this section.

**32. Transport for subsequent medical attention – (1)** This section applies where a person suffers personal injury by accident covered by this Act and a registered medical practitioner certifies that he or she is attending the injured person or has examined him or her, and that either the injured person should receive medical or surgical treatment in respect of the injury which is not available at the place where the medical practitioner attends or

examines the injured person or the injured person is required to travel to receive that treatment.

(2) Where the injured person is in Samoa, the Corporation on each occasion on which it is necessary for that injured person to travel to receive that treatment or where it is necessary for that injured person to travel for the purpose of submitting himself or herself to medical examination under an order under section 38(3) shall compensate that injured person by paying him or her the reasonable travelling expenses he or she incurs within Samoa (including the cost of meals and lodging necessarily obtained by him or her):

**PROVIDED THAT** unless the Corporation otherwise approves or a registered medical practitioner certifies that no available public passenger transport service is suitable, the transport expenses so payable are calculated at the lowest rate at which the person can be transported to and from that place by any available public passenger transport service.

(3) Where the injured person is not in Samoa, the Corporation may and upon such terms and conditions as it thinks fit, compensate the injured person by paying him or her the reasonable travelling expenses (including the cost of meals and lodging necessarily obtained by him or her) he or she incurs to receive such treatment, and in determining what amount if any it should pay to the injured person under this subsection the Corporation may have regard to the civil law of the place where the accident occurred and of a statute, award, agreement, or terms and conditions of employment by which the injured person's employer or other person is or may be required to meet such expenses and costs.

**33. Treatment overseas in special cases** – (1) Where the Corporation is of opinion in any case that treatment or rehabilitation training which is not available in Samoa but which is available outside Samoa would be of substantial benefit to an injured person who is entitled to compensation or rehabilitation assistance under this Act, it may pay for or contribute to the costs (including costs of travel accommodation and meals) of that person in obtaining that treatment or rehabilitation training outside Samoa.

(1A) Subject to subsection (1) the amount to be paid or contributed by the corporation must be \$150,000 or less, and if the amount exceeds \$150,000, Cabinet approval must be sought.

(2) In applying subsection (1), the Corporation shall in each case have regard to all of the following:

- (a) the needs of the injured person and of his or her dependants;
- (b) the severity of the injury;
- (c) the probability of success of the treatment or rehabilitation training;
- (d) the extent to which the treatment or rehabilitation training may facilitate an earlier return to normal life of the injured person than would otherwise occur;
- (e) the economics of the particular case and any possible saving to the Corporation in other compensation payments;
- (f) any other circumstances which the Corporation considers relevant.

**33A.Care Living Allowance** – (1) Subject to subsections (4) and (5), the Corporation may award a living allowance for the care needs of a person who has suffered as a result of an accident, whether the person resides alone or with other persons, provided that such assistance per week to that person does not exceed an amount equal to 60% of the minimum wage a week at the time of the accident under section 32 of the Labour and Employment Relations Act 2013.

(2) In awarding a care living allowance under this section, the Corporation must consider whether the person's disability is sufficiently severe for the person to suffer at least one of the following difficulties:

- (a) the person requires assistance with washing, dressing, eating, getting to and using the toilet, or communicating their needs; or
- (b) the person is virtually unable to use both hands, or has no hands, and needs supervision so as to avoid putting him or herself or others in substantial danger.

(3) The Corporation may determine, amend and revoke guidelines relating to the awarding of an allowance under this

section, provided that any guidelines so made are to be made in accordance with subsection (2).

(4) No person is entitled to an allowance under this section:

- (a) where the Corporation has already awarded an allowance under section 33B to the person;
- (b) where the person is receiving compensation under section 23; or
- (c) where the person is being cared for in a hospital.

(5) Despite anything in this section but subject to subsection (6), a care living allowance under this provision shall only be awarded for 10 years for an accident.

(6) Every 10 year period mentioned in subsection (5) shall commence from the date of the first payment of an allowance awarded under this section.

**33B.Mobility Allowance** – (1) Subject to subsection (5), the Corporation may award an allowance for the mobility needs of a person who has suffered as a result of an accident, whether the person resides alone or with other persons:

**PROVIDED THAT** such assistance a week to that person does not exceed an amount equal to 60% of the minimum wage a week at the time of the accident under section 32 of the Labour and Employment Relations Act 2013.

(2) In awarding a mobility allowance under this section, the Corporation must consider the matters set out under subsection (3).

(3) In determining the eligibility of a person to a mobility allowance under this section, the Corporation must consider whether the person's disability is sufficiently severe for the person to suffer at least one of the following difficulties even where the person is wearing or using an aid or equipment to assist with his or her movement:

- (a) the person must be unable to or virtually unable to walk, or have no feet;
- (b) the person is assessed by a registered medical practitioner to be 100% disabled because of the loss of eyesight;
- (c) the person is assessed by a registered medical practitioner to be 100% disabled because of loss of hearing;
- (d) the person is assessed by a registered medical practitioner to be severely mentally impaired so as

to cause severe behavioural problems and requires supervision throughout the day and during the night to avoid the person from putting him or herself or others in substantial danger; or

(e) the person's effort to walk could threaten the person's life or seriously affect the person's health.

(4) The Corporation may determine, amend and revoke guidelines relating to the awarding of an allowance under this section:

**PROVIDED THAT** any guidelines made are to be made under subsection (3).

(5) No person is entitled to an allowance under this section where:

(a) the Corporation has already awarded a care living allowance under section 33A to the person;

(b) the person is receiving compensation under section 23; or

(c) the person is being cared for in a hospital.

(6) Despite anything in this section but subject to subsection (7), a mobility allowance under this section shall only be awarded for 10 years for an accident.

(7) Every 10 year period mentioned in subsection (6) shall commence from the date of the first payment of an allowance awarded under this section.

**34. No abatement of compensation on account of insurance money or friendly society payments** – In assessing compensation, no account shall be taken of:

(a) any money accruing to a person in respect of a life or accident insurance policy effected by the person;

(b) in the case of a claim by or on behalf of a dependant of a deceased person, again, whether to the estate of the deceased worker or to that dependant, that is consequent on the death of the deceased person; and

(c) any money payable by or to a friendly society, provident fund or other organisation of a like nature.

**35. Non-workers** – (1) Where a person who is not a worker suffers personal injury by accident caused by or through or in

connection with the use of a specified conveyance in Samoa or dies as a result of such accident and that person is at the time of the accident ordinarily in receipt of a reward or rewards for services rendered by the person (other than services to which subsection (2) applies) then the Corporation shall:

- (a) assess the value of such reward or rewards and the weekly value so assessed is deemed for the purposes of this Part to be his or her relevant earnings and to that extent the injured person is deemed to be a worker; and
- (b) pay the injured person or his or her dependants under this Part insofar as they are applicable.

(2) Except where the Corporation determines in any case or class of cases that special circumstances exist this section shall not apply to a reward or rewards for services rendered by a person to a relative of that person.

(3) In this section:

“relative” in respect of a person means his or her spouse, father, mother, grandfather, grandmother, stepfather, stepmother, foster father, foster mother, child, grandchild, stepchild, foster child, brother, sister, half-brother or half-sister;

“reward” includes food housing accommodation and benefits of a like nature and also includes money and gifts;

“spouse” means either of a man or a woman who:

- (i) are married to each other; or
- (ii) not being married to each other, have cohabited immediately preceding the date of the accident to the injured or deceased person, and in the opinion of the Corporation, have entered a relationship in the nature of marriage.

(4) Where subsection (1) is applicable to a person such other provisions of this Act, as are applicable to injured persons, apply, with necessary modifications, to the person or person’s dependants.

**36. Non-residents** – (1) Subject to subsections (2) and (3), no payment of compensation under sections 23, 26 and 35 shall be made to a person or to the dependants of a person who suffers personal injury or death by accident and who is not at the time of

the accident either a citizen of Samoa or lawfully and ordinarily resident in Samoa.

(2) Despite subsection (1), where a person to whom that subsection applies is at the time of his or her accident lawfully employed in Samoa compensation is payable under sections 23 and 26 as if his or her only wages were his or her wages as a worker in Samoa.

(3) Subsection (1) does not apply in respect of an accident to which section 18 relates.

## **PART 5 PROCEDURE**

**37. Notification of accidents** – (1) Whenever a work related accident happens which causes personal injury to or the death of a worker, the employer shall, within 5 days or within any further period as may be allowed by the Corporation, give notice of the accident to the Corporation stating:

- (a) the name of the worker affected thereby;
- (b) the address of the worker;
- (c) the worker's age;
- (d) wages paid;
- (e) type of employment of the worker;
- (f) whether the accident arose in the course of the worker's employment;
- (g) the circumstances of the accident;
- (h) particulars of the injury and probable duration of a disablement resulting there from; and
- (i) any other particulars as may be prescribed by regulations.

(2) On the happening of an accident to which section 15 refers causing personal injury to or the death of a person, the Commissioner of Police Service shall within 5 days of the accident or within such further period as may be allowed by the Corporation give notice thereof to the Corporation stating:

- (a) the name of a person injured or killed;
- (b) the address of the injured or deceased person;
- (c) the age of the injured or deceased person;
- (d) the name of the owner of the specified conveyance;
- (e) the address of the owner of the specified conveyance;

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- (f) the name (if any) and the registration number of the specified conveyance;
- (g) the name of the driver pilot or master of the specified conveyance;
- (h) the address of the driver pilot or master of the specified conveyance;
- (i) the age of the driver pilot or master of the specified conveyance;
- (j) the circumstances of the accident;
- (k) the place of the accident;
- (l) particulars of the injury and probable duration of a disablement resulting therefrom; and
- (m) any other particulars as may be prescribed by regulations.

(3) Whenever a worker has an accident, other than an accident referred to in subsections (1) and (2), which causes personal injury to or the death of the worker, the worker or where the worker is unable by reason of the accident a relative or dependant of the worker, shall within 5 days of the date of the accident or within any further period as may be allowed by the Corporation give notice in writing to the Corporation stating:

- (a) the name, address and age of the worker;
- (b) the name and address of the worker's employer;
- (c) the wages paid to the worker;
- (d) the place, time and circumstances of the accident;
- (e) particulars of the worker's injury and probable duration of a disablement resulting from the accident; and
- (f) any other particulars as may be prescribed by regulations.

**38. Medical certificates and examination—(1)** Where an accident covered by this Act happens to a person whereby the person suffers incapacity, the person shall, as soon as practicable, cause to be delivered to the Corporation by a registered medical practitioner a medical certificate in the prescribed form duly signed by the registered medical practitioner.

(2) Thereafter while the incapacity continues and has not been certified by a registered medical practitioner to be permanent, the injured person shall cause to be delivered a certificate at any time as may be required by the Corporation.

(3) Where a person claims compensation under this Act the person shall, if and so often as required by the Corporation, submit himself or herself at the expense (if any) of the Corporation (whether for medical expenses, transport, or loss of earnings) for examination by a registered medical practitioner nominated and to be paid by the Corporation.

(4) If the injured person at any time without sufficient justification fails to comply with this section or refuses or neglects to submit himself or herself to a medical examination as may be required by the Corporation under subsection (3) or in any way obstructs or delays the medical examination, the person's rights under this Act in respect of the accident to which the examination relates:

- (a) are suspended until the certificate is produced or the examination takes place; and
- (a) are absolutely cease if the person fails without sufficient justification to submit himself or herself for examination within 1 month after being required so to do.

(5) If the right to compensation is suspended under subsection (4), no compensation is to be payable in respect of the period of suspension.

(6) This section applies whether the person is, at the time when the person is required to submit for examination, resident in Samoa or elsewhere but if the person is resident elsewhere than in Samoa the person is required to submit himself or herself for examination by a duly qualified medical practitioner of the country where the person is resident.

**39. Report, claims or anything required to be done on behalf of incapacitated persons** – If a person is incapable of reporting an accident, or making a claim or doing anything required under this Act in connection the accident, claim or anything, the report or claim may be made or the thing may be done on the person's behalf by the person's representative or person's guardian or any of the person's dependants or by any other person acting for the person in the matter.

**40. Submission of claims** – (1) A claim to compensation or a rehabilitation assistance under this Act is to be made in writing in a form approved by the Corporation, and the claimant shall supply

or cause to be supplied to the Corporation any further information relevant to the claim as the Corporation may require.

(2) The claimant shall, if so required by the Corporation, support his or her claim by a statutory declaration verifying the information which the claimant is required to supply.

(3) If the claimant fails or neglects to supply to the Corporation any information which, by this section the claimant is required to supply, the Corporation may withhold or discontinue the provision or rehabilitation assistance or the payment of compensation to that claimant.

**41. Limitation of time for submitting claims** – No claim for compensation shall be considered by the Corporation unless the claim is made:

- (a) within 10 years from the date of the accident causing injury; or
- (b) for death, within 10 years after the date of death.

**42. Consideration and determination of claims** – (1) Subject to the provisions of this Act and any regulations made under it, the Corporation or any officer of the Corporation duly authorised in that behalf:

- (a) shall consider any claim to compensation or any rehabilitation assistance under this Act; and
- (b) may—
  - (i) allow the claim upon the statement or statutory declaration alone; or
  - (ii) if it thinks fit, call for any other evidence as it may require from the claimant or from any other person before allowing the claim.

(2) After consideration of a claim under this section the Corporation shall promptly cause notice of its decision to be given in writing to the claimant.

(3) A person who, without reasonable excuse, refuses or fails to comply with a request for evidence under subsection (1) commits an offence and is liable on conviction to a fine not exceeding 10 penalty units.

**43. Application for review** – (1) A person who is dissatisfied with a decision of the Corporation or of an officer of the Corporation under section 42 may, within 2 months after notice of

the decision has been given to the person apply by notice in writing to the Corporation for a review of that decision.

(2) In hearing an application for review under this section the Corporation:

- (a) may delegate its powers and duties of review to a single Corporation Member or the General Manager if the matter the subject of review involves a claim for less than \$10,000; and
- (b) shall itself hear the application in all other cases.

(3) The hearing is to be held as expeditiously as possible, and section 14(1) applies to the hearing.

(4) The hearing is to be held at a time and place that is:

- (a) agreed to by the applicant or the representative (if any) of the applicant and the Corporation; or
- (b) specified in a notice given by the Corporation not less than 7 clear days before the day appointed for the hearing.

(5) The applicant, either personally or by a representative, or personally with a representative is, entitled to be present at the hearing and be heard and to present any relevant evidence or submissions in support of the application.

(6) The Corporation may receive any other relevant evidence and make any other inquiries as it thinks fit, and may for that purpose appoint a medical committee. All evidence and information so received or ascertained (otherwise than at the hearing) are to be disclosed to a party to the review and a party may comment upon the information or present evidence in respect of it.

(7) The Corporation may receive any relevant evidence under subsection (5) or (6), whether or not the evidence would be admissible in a court of law.

(8) On the completion by the Corporation of the hearing of an application, the Corporation shall give a decision on the application.

(9) Notice of the decision is to be given to the applicant by the Corporation, and if a decision against which the applicant may appeal is given under subsection (8), the reasons for the decision are to be stated and shall, if so requested by the applicant, be delivered in writing.

(10) Subject to this section and to any rules of procedure laid down by the Corporation, the procedure at a hearing is to be determined by the Corporation.

(11) If the Corporation delegates its powers and duties of review under this section, the person to whom the powers and duties of review are delegated is entitled to exercise the powers and duties of the Corporation under this section and a decision, direction, action or omission by the person shall be taken for all purposes as a decision, direction, action or omission of the Corporation.

**44. Appeal to Supreme Court – (1)** A party who is dissatisfied with a decision of the Corporation under section 43 as being erroneous in point of law, may appeal the decision to the Supreme Court on a question of law only.

(2) An appeal is made by giving notice of appeal to the Supreme Court and to the Corporation within 28 days after the date on which the appellant was notified of the decision appealed against or within such further time as the Court may allow on application made either before or after the expiration of those 28 days.

(3) In its determination of an appeal, the Court may confirm, modify, or reverse the decision appealed against and the decision of the Court is final.

(4) Subject to this section, the procedure for an appeal shall be in accordance with the rules of the Court.

**45. Employers to maintain records – (1)** An employer who employs a worker to whom this Act applies shall keep a record in writing showing all of the following for each worker:

- (a) the workers' full name;
- (b) the workers' address;
- (c) the workers' age;
- (d) date or dates of employment;
- (e) the occupation in which the worker is employed;
- (f) the time worked;
- (g) the wages paid to the worker.

(2) An employer shall whenever required by the Corporation so to do:

- (a) produce the records required to be maintained under subsection (1); or

(b) provide written information from the records.

(3) The records required to be kept by an employer under this section are to be retained and preserved by the employer for a period of 5 years after the expiry of the end of the period to which they refer.

**46. Employers to submit statements** – (1) An employer shall submit to the Corporation statements of wages which are in a form and contain any particulars and are submitted by any time or times, as the Corporation may determine.

(2) The Corporation may by notice published in the *Samoa Gazette* or the *Savali* specify all or any of the matters determined by it under subsection (1).

(3) If notice has been given by publication in the *Samoa Gazette* or the *Savali* under subsection (2), a person who fails to comply with the requirements of the Corporation as set out in the notice commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units.

(4) In any case and whether or not notice has been given under subsection (2), the Corporation may:

(a) by written notice directed to a person, inform that person of its requirements under subsection (1); and

(b) call upon that person on or before a date specified in the notice (not being a date less than 21 days after the receipt of the notice by that person) to satisfy those requirements.

(5) A person who fails to comply with a notice given under subsection (4) commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units.

**47. Records of fuel brought into Samoa** – (1) A person who:

(a) imports into Samoa any fuel; or

(b) being the owner or agent for the owner of a specified means of conveyance enters fuel into Samoa for home consumption, –

shall maintain records for the entry and usage of that fuel as may be prescribed by regulations made under this Act.

(2) A person to whom subsection (1) applies shall whenever required by the Corporation so to do produce the records required

to be maintained under that subsection or provide written information therefrom.

(3) In this section and any regulations made in connection with this section, “fuel” means fuel of the kind specified in section 52, and includes motor spirits.

## **PART 6 FINANCE AND ADMINISTRATION**

**48. Sources and application of funds – (1)** For the purposes of this Act, the Corporation shall derive its funds from the following sources:

- (a) from levies payable by employers under section 52;
  - (b) from levies payable under section 53;
  - (c) from premiums or levies paid by self-employed persons under a scheme established under section 64;
  - (ca) from premiums or levies paid under a scheme established under section 64A;
  - (d) from—
    - (i) all interest and other income derived from money and investments held by the Corporation;
    - (ii) all fines payable under this Act;
    - (iii) all other income or funds not being funds derived under paragraph (a), (b) or (c).
- (2) The Corporation shall apply its funds as follows:
- (a) all levies paid under sections 52 and 53 shall be pooled and used to pay such compensation and rehabilitation as provided by this Act (save for compensation and rehabilitation payable under sections 64 and 64A) together with the costs incurred by the Corporation in carrying out all functions and powers conferred on the Corporation by this Act save for the costs incurred by the Corporation in carrying out all functions and powers concerning sections 64 and 64A;
  - (b) all premiums or levies paid by self-employed persons under a scheme established under sections 64 and 64A shall be used to pay compensation and rehabilitation together with the

costs of the Corporation in carrying out all functions and powers concerning sections 64 and 64A;

- (ba) all premiums or levies paid under a scheme established under section 64A shall be used to pay compensation and rehabilitation assistance given to an injured person eligible under this scheme;
- (c) all other monies received by the Corporation shall be used to meet the costs of the Corporation in carrying out all functions and powers conferred on the Corporation by this Act as the Corporation deems fit.

(3) The Corporation shall, in preparing the financial statements referred to in section 50, specify with particularity the source and application of the funds.

(4) All money held by the Corporation at the date of commencement of this Act in the accounts known as the Workers Compensation Fund, the Motor Vehicle Compensation Fund and the Accident Compensation General Fund, shall be applied by the Corporation for the purposes of this Act.

**49. Accounts** – The Corporation shall at all times keep full and correct records and accounts of money received and expended by it and of all transactions, assets, liabilities, and funds in accordance with the Public Finance Management Act 2001 and the Public Bodies (Performance and Accountability) Act 2001.

**50. Annual Report and accounts** – (1) The Corporation shall prepare an Annual Report and annual accounts in accordance with the Public Finance Management Act 2001 and the Public Bodies (Performance and Accountability) Act 2001.

(2) The Controller and Auditor General will audit the annual accounts of the Corporation under the Public Finance Management Act 2001 and the Public Bodies (Performance and Accountability) Act 2001.

(3) The Corporation shall provide its Annual Report, annual accounts and the audit report of those accounts to the Minister for Public Enterprises in accordance with the Public Finance Management Act 2001 and the Public Bodies (Performance and Accountability) Act 2001 and, upon receipt of the Annual Report,

annual accounts and audit report on those accounts, the responsible Minister shall table the reports and accounts under those Acts.

**51. Advances by Government** – If the Corporation is at a time unable to pay a sum which is required to be paid under this Act, the sum required shall be advanced to the Corporation by the Government and the Corporation shall as soon as practicable repay to the Government any sum advanced by the Government to the Corporation.

**52. Payment of levies by employers** – (1) An employer shall pay a levy as follows:

- (a) by way of contribution by the employer a levy of 1 sene for every complete tala of wages paid by the employer to the employer's workers; and
- (b) by way of contribution by the employee a levy of 1 sene out of every complete tala of wages received by the employer's workers.

(2) The manner and time of payment of the levy may be prescribed by regulations and unless the regulations are made, payment is to be made at the times and in the manner, as the Corporation may determine.

(3) The Corporation may by notice published in the *Samoa Gazette* or the *Savali* specify all or any of the matters determined by it under subsection (2).

(4) If notice has been given by publication in the *Samoa Gazette* or the *Savali* under subsection (3), a person who fails to comply with the requirements of the Corporation, as set out in the notice, commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units.

(5) In any case and whether or not notice has been given under subsection (3), the Corporation may by written notice directed to a person inform that person of its requirements under subsection (1) and call upon that person on or before a date specified in the notice (being a date not less than 21 days after the receipt of the notice by that person) to satisfy those requirements.

(6) A person who fails to comply with a notice given under subsection (5) commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units.

**52A. Surcharge on late payment – (1)** If any levies which an employer is liable to pay under section 52(1) are not paid within 14 days from and after the date on which the levies are payable, the employer is liable to pay a surcharge on any levy not so paid to the Corporation by the employer at the rate of 1/20% in respect of a day or part of a day after the expiration of 7 days from and after the date on which the wage to which that levy relates was paid:

**PROVIDED THAT:**

- (a) if the amount of surcharge so calculated is less than \$1 the surcharge payable is \$1;
  - (b) if the amount of surcharge exceeds \$1 the surcharge payable is calculated to the next highest multiple of \$1; and
  - (c) the Corporation may in any case in which it thinks fit remit in whole or in part the payment of a surcharge due under this section.
- (2) A sum due to the Corporation by way of surcharge under this section is to be paid to the Corporation within 14 days of a demand for such payment signed by the manager or other authorised officer of the Corporation being sent to the employer.

**53. Imposition, collection and remittance of fuel levies – (1)** A levy of 5 sene per imperial gallon is imposed and subject to subsection (4) is to be collected by and paid to the Comptroller of Customs as agent for the Corporation upon all motor spirit or other fuel which is ordinarily used for the purpose of providing propulsion to a specified conveyance and which is:

- (a) imported into Samoa; or
  - (b) entered therein for home consumption.
- (2) The Comptroller of Customs shall, at any time or times and in any manner, as may be agreed upon between the Comptroller and the Corporation, remit to the Corporation any sums as may be collected from levies imposed under subsection (1).

(3) If the Corporation is satisfied that a purchaser has paid the levy referred to in subsection (1) and that the motor spirit or other fuel purchased was for a purpose other than the propulsion of a specified conveyance, the Corporation shall on application, refund the levy so paid:

**PROVIDED THAT** the application is made in the manner and at the time or times not exceeding 1 year after the date of purchase as may be specified by the Corporation.

(4) Despite subsection (1) the Corporation may arrange for or accept payment to itself of a levy or may in a particular case or in any particular circumstances appoint an agent other than the Comptroller of Customs in that case or in those circumstances.

**54. Inspection of records kept by Customs Department and Ministry of Transport** – The Corporation is entitled to peruse or obtain from the Comptroller of Customs and the Chief Executive Officer of the Ministry responsible for transport any records and information, as may be reasonably necessary, to enable the Corporation to exercise its functions under this Act and the Comptroller of Customs, or the Chief Executive Officer of the Ministry responsible for transport as the case may be, shall to the best of his or her ability to do so, supply the information or make available the records upon request by the Manager or his or her deputy.

**55. Exemption from income tax** – The income of the Corporation is wholly exempted from income tax.

**56. Financial functions and powers** – (1) The Corporation has the functions and powers in relation to financial matters as are conferred upon it by this Act, and also has any further powers not inconsistent with this Act, as are reasonably necessary for the effective performance of its functions.

(2) Without limiting subsection (1), the functions and powers of the Corporation include:

- (a) the payment of all compensation, costs, and rehabilitation assistance in accordance with this Act;
- (b) the purchase of such personal property as in the opinion of the Corporation may be necessary or desirable for the performance of its functions or the performance of his or her duties by a member of the Corporation;
- (c) the sale, transfer, lease, hire, or other disposition of any of its real or personal property;
- (d) the making of contributions towards the expenses of Government departments and other bodies which and persons who assist the Corporation in the discharge of its functions; including the provision

of transport facilities and the use of motor vehicle and whether on a permanent or temporary basis;

- (e) the management and administration of the Fugalei Saleufi market in a manner the Corporation determines to be economically appropriate.
- (3) Any money belonging to the Corporation may be invested:
- (a) in Government securities; or
  - (b) on deposit in an approved bank or banks; or
  - (c) in the purchase, taking on lease, or acquisition of any land, building, plant, and equipment, and the construction and alteration of the buildings, as in the opinion of the Corporation may be desirable; or
  - (d) in the purchase of any personal property as in the opinion of the Corporation may be desirable for investment purposes.
- (4) The Corporation may at any time or times open at an approved Bank or Banks or at a branch or agency of any such Bank, such accounts (including imprest and subsidiary accounts) as it considers necessary or desirable for the conduct of its business.
- (5) An account opened under subsection (4) is operated upon by cheque or other instrument (not being a promissory note or bill) signed by such person or persons as may be authorised in that behalf by the Corporation.
- (6) The Corporation may borrow money (whether by way of overdraft or otherwise) and mortgage or charge any of its property or rights.
- (7) In a financial year the Corporation may expend for purposes not authorised by this or any other Act any sum or sums not amounting in the aggregate to more than \$20,000.
- (8) In this section “approved bank” includes ANZ Bank, National Bank of Samoa, Westpac Bank and a bank or lending institution approved by the Corporation.

**57. Insurance** – The Corporation may at its discretion insure or reinsure any of its properties or liabilities.

**58. General Manager and staff of Corporation** – (1) The Head of State, acting on the advice of Cabinet, shall appoint a General Manager of the Corporation.

(2) The General Manager is the Chief Executive Officer of the Corporation and shall be responsible to the Corporation for the efficient administration of the operations of the Corporation.

(3) The General Manager shall be in attendance at a meeting of the Corporation unless in a particular case he or she is excused by the Corporation from attendance.

(4) The Corporation shall appoint and employ any other officers and employees as it may consider necessary or desirable for the due performance of its functions.

(5) Subject to subsection (1) and to any regulations made under this Act, the General Manager and other officers and employees of the Corporation shall hold office or employment at such remuneration and on terms and conditions as the Corporation shall determine.

(6) The salaries and remuneration of the officers and employees of the Corporation shall be paid out of its funds.

(7) The power to appoint under this section includes the power to discipline, suspend or terminate the General Manager and other officers and employees of the Corporation.

(8) The General Manager, an officer or employee suspended under this section, is entitled to receive a salary for one (1) month only effective from the date of suspension.

(9) If the General Manager, an officer or employee of the Corporation is acquitted of the charge for which he or she is suspended and cleared of all allegations or any investigation relating to the subject of his or her suspension, the General Manager, an officer or employee of the Corporation must be reinstated without loss of any benefit or status and be paid the salary he or she lost as a result of any suspension duty.

(10) A person is not entitled to his or her salary if, as a result of the investigation relating to the subject of his or her suspension, he or she is not reinstated.

**59. Staff benefits** – The Corporation may, with the approval of the Minister responsible for the Corporation and the Financial Secretary, provide assistance and other benefits (other than salaries and remuneration provided for in section 58) for officers, employees and directors of the Corporation.

**60. Secrecy** – (1) A member of the Corporation and a person appointed under section 58 and an agent of the Corporation and an officer and employee of each such agent shall regard and deal with all matters which come to its knowledge in the performance or discharge of his or her duties and functions under this Act as secret and shall not either while he or she is or after he or she ceases to be a member of the Corporation or an officer or employee thereof communicate any such matter to a person:

- (a) other than a person to whom he or she is authorised by the Minister or the Corporation to communicate it; or
- (b) otherwise than for the purposes of carrying out the functions of the Corporation; or
- (c) otherwise than by or in accordance with the directions of a court.

(2) A person who wilfully acts in contravention of this section commits an offence and is liable on conviction to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**61. Protection for bona fide acts** – No member of the Corporation or officer or employee of the Corporation is personally liable for a liability of the Corporation or for an act done or omitted by the Corporation or by a member, officer or employee of the Corporation in good faith under or intended under the powers, duties or functions of the Corporation.

**62. Contracts of Corporation** – (1) Subject to section 11, a contract which if made between private persons must be by deed shall, if made by the Corporation, be in writing under the seal of the Corporation.

(2) A contract which, if made between private persons, must be in writing signed by the parties to be charged with the contract shall, if made by the Corporation, be in writing either under the seal of the Corporation or signed by a person acting on behalf of and under the express or implied authority of the Corporation.

(3) A contract which, if made between private persons, may be made orally may be made in the manner specified in subsection (1) or (2) or may be made orally by or on behalf of the Corporation by a person acting under the express or implied authority of the Corporation.

(4) Despite subsections (1) to (3), a contract made by or on behalf of the Corporation is not invalid by reason only that it was not made in manner provided by this section, if it was made under a resolution of the Corporation or to give effect to a resolution of the Corporation in relation to contracts generally or in relation to that particular contract.

**63. Particular powers to provide for funds for specialised education** – In addition to all other powers which the Corporation has under this Act, the Corporation has power to provide for or contribute towards scholarships, education endowments, or training schemes whether in Samoa or overseas where such scholarships endowments or schemes involve the training of persons in skills which will be of benefit in Samoa and assist in the fulfilment of the purposes of this Act.

## **PART 7 SELF-EMPLOYED PERSONS**

**64. Insurance for self-employed persons** – (1) It is a function of the Corporation to investigate and if practicable to implement a scheme of insurance for self-employed persons.

(2) The scheme may provide either for the voluntary or compulsory insurance of self-employed persons.

(3) The scheme may provide for minimum and maximum weekly benefit payments and may also provide for the provision of any or all other benefits that are available under this Act to workers.

(4) The scheme may provide for an arbitrary level of compensation or for a level of compensation to be determined having regard to the actual or assumed earnings from self-employment by the injured person.

(5) The premium or levy for the scheme of insurance is to be fixed at a level or levels as will be sufficient to fund the scheme and to provide a proper contribution towards the cost of the administration of this Act without recourse to other money.

(6) The rate of premium or levy may be a fixed rate or may vary according to the apparent risk of injury or death attaching to the work done by the insured person in his or her self-employment.

(7) The scheme or insurance envisaged by this section is brought into force by regulations made by the Head of State acting on the advice of Cabinet.

**PART 7A**  
**SPORTS INJURY COMPENSATION SCHEME**

**64A. Sports injury compensation scheme** – (1) The Corporation may establish and implement a scheme to provide for the compensation of any person who:

- (a) suffers a prescribed injury from a sport registered under this scheme; and
  - (b) is registered according to the prescribed requirements; and
  - (c) pays a premium or levy to the Corporation for the purpose of this scheme; and
  - (d) meets any other prescribed requirements.
- (2) The criteria for eligibility, conditions and requirements for the purposes of this scheme are to be prescribed by regulations.
- (3) The premium or levy for the scheme is to be prescribed by regulations.
- (4) The Corporation in implementing this scheme has the following functions:
- (a) compile and maintain all data and information pertaining to sports related activities and incidence of injuries that would assist in the performance of duties and functions;
  - (b) co-operating with relevant offices for the purpose of initiating, developing, encouraging and implementing programmes that are likely to eliminate or reduce the incidence of injuries resulting from a sport related activity;
  - (c) perform any other function as are given to it under this Act or as prescribed by regulations.
- (5) The scheme envisaged by this section is brought into force by regulations made by the Head of State acting on the advice of Cabinet under section 73.

**PART 8**  
**MISCELLANEOUS**

**65. Remedies and common law** – (1) Nothing in this Act affects any civil liability of an employer or other person where the injury was caused by the negligence, breach of statutory duty or other fault of the employer (including the employer's employees or agents) or of any other person.

(2) A person entitled to claim under this Act may proceed both under this Act and independently of this Act.

(3) If a person claims independently of this Act and recovers a sum or sums for the claim, the person shall refund to the Corporation an amount, as the Corporation may decide is reasonable having regard to the nature and amount of compensation paid by it to the injured person and to the nature and amount of the sum or sums so recovered; and may likewise reduce or cancel subsequent payments which but for this section would have been payable by way of compensation to such person:

**PROVIDED THAT** in no case shall the amount payable to the Corporation together with the value of subsequent compensation so cancelled or reduced exceed the sum or sums so recovered.

(4) An amount to be refunded under subsection (3) is payable at a time and in a manner as the Corporation may determine and constitutes a debt due from such person to the Corporation.

(5) The rights of review and appeal granted by sections 43 and 44 apply to a decision or determination made under this section.

**66. Civil Proceedings** – All levies or charges payable under this Act may without prejudice to any other remedy be recoverable by the Corporation as a debt due to the Corporation.

**67. Compensation not assignable** – No money paid or payable by way of compensation under this Act is capable of being assigned, charged, taken in execution or attached nor shall a claim be set off against it nor shall it be an asset in bankruptcy of the person entitled thereto.

**68. Ex gratia payments** – If a person suffers personal injury by accident, or dies as a result of personal injury so suffered and:

- (a) the accident happens in Samoa and the person is not entitled to compensation for the injury; or
- (b) despite that the person is entitled to compensation for the injury, the Corporation is satisfied that there are special circumstances as to make it reasonable

and proper that *ex gratia* provision is made additional to a compensation or rehabilitation assistance that would otherwise be available, – the Corporation may pay and provide, on an *ex gratia* basis, compensation and rehabilitation assistance on terms and conditions and of an amount and nature as, having regard to all the circumstances of the case, it considers appropriate: **PROVIDED THAT** in no case shall the compensation exceeds the maximum amount or amounts provided for elsewhere in this Act.

**68A. Special payment upon death without accident or injury – (1)** Despite any other provision of this Act, there shall be paid to an approved family member of a deceased worker an amount not exceeding the sum of \$4,000 upon the death of the worker.

(2) In this section:

“approved family member” means a member or members of the deceased worker’s family approved by the Corporation;

“deceased worker” means a worker who has died of natural causes and not as a result of an accident or injury arising from an accident which would be compensable under this Act.

**69. Unclaimed Compensation – Where:**

- (a) a person to whom compensation is due fails to uplift the same within 6 months of the date upon which it fell due; or
- (b) a cheque issued in favour of a person in respect of compensation has not been negotiated within 6 months of the date of issue,

then if the Corporation is satisfied that reasonable efforts have been made to locate the person to whom compensation is due or the payee of the cheque as the case may be the Corporation may direct that the entitlement of that person to receive the compensation or of the payee to receive the benefit of the cheque shall be extinguished and it shall be extinguished accordingly:

**PROVIDED THAT** the Corporation may in its unfettered discretion and upon such conditions as it may impose at any time thereafter reinstate that person's or payee's entitlement.

**70. Payments due and unpaid at time of death of an injured person** – Subject to section 24(6), if an amount has become payable to a person in the person's lifetime for rehabilitation assistance or compensation under this Act but has not been paid to the person before his or her death, it is to be paid to a dependant or dependants of the deceased or to any other person or persons as the Corporation may determine.

**71. Corporation to implement policy of Government** – In the exercise of its functions and powers under this Act or under any other Act the Corporation shall give effect to the policy of the Government as communicated to it in writing by the Minister for Public Enterprises.

**72. Offences and penalties** – (1) A person who:

- (a) for a purpose connected with this Act or any regulations made under this Act—
    - (i) knowingly makes a false statement, or
    - (ii) produces or furnishes or causes or knowingly allows to be produced or furnished a document which he or she knows to be false in any material particular;
  - (b) fails to make any payment by the due date of an amount which under this Act or regulations made thereunder he or she is liable or required to pay by such due date;
  - (c) obstructs an officer or employee of the Corporation in the discharge of his or her functions as such;
  - (d) fails to maintain any records required to be maintained by this Act or by any regulations made thereunder; and
  - (e) fails to submit any returns, documents, medical report or information required to be submitted under this Act or by any regulations made thereunder, –
- commits an offence and upon conviction is liable to a fine not exceeding 60 penalty units or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

(2) If a person, with intent to evade, evades or attempts to evade or does an act with intent to evade a duty imposed on him or her by this Act or any regulations made thereunder he or she is guilty of

an offence and on conviction is liable to a fine not exceeding 60 penalty units.

(3) In any proceedings under this section the Court may in addition to or instead of imposing a fine impose a penal charge not exceeding the amount of a levy or deficient levy and every such penal charge shall be recoverable as a fine.

**73. Regulations** – (1) The Head of State, acting on the advice of Cabinet, may make such regulations as are necessary or expedient for giving full effect to this Act and for the due administration thereof.

(2) Without limiting subsection (1), regulations may be made for any of the following purposes:

- (a) prescribing forms and registers required in connection with the reporting notification and recording of accidents and in connection with claims for and the provision or payment of rehabilitation assistance and compensation under this Act;
- (b) prescribing forms of medical certificates and reports;
- (c) prescribing requirements in respect of the information to be supplied in support of claims for rehabilitation assistance and compensation and in relation to the personal injuries to which the claims relate and the accidents by which they were caused;
- (d) prescribing the respective responsibilities of employers and workers for supplying statements and reports (including confirmatory statements and reports) in respect of accidents;
- (e) providing in a special class or classes of cases for the modification of the procedures prescribed by or under this Part, or the substitution of different procedures, in connection with the reporting, notification, and recording of accidents and in connection with the manner of making claims for rehabilitation assistance or compensation under this Act;
- (f) providing for such other matters as are expedient in connection with the procedure for the reporting, notification, and recording of accidents and in

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connection with the manner of making claims for rehabilitation assistance and compensation under this Act;

- (g) providing for the inspection of the records of an employer;
- (h) providing for the maintenance of records by a person importing fuel or bringing the same into Samoa for home consumption and for the inspection of such records;
- (i) providing for the establishment regulation and control of a scheme established under section 59;
- (j) providing for any or all matters necessary or desirable in connection with a scheme of insurance for self-employed persons effected or to be effected under section 64;
- (k) providing for the appointment of an agent or agents for the collection of levies and other dues and for payment of commissions or fees to such agent or agents;
- (l) prescribing the manner and time of payment of levies and other dues;
- (la) providing for any other matter necessary to giving effect to a scheme under section 64A;
- (m) providing for the establishment of special, standing or advisory committees consisting of members of the Corporation and persons other than members and the delegation to such committees of any of its duties; and
- (n) providing for such matters as are contemplated by, or necessary for giving full effect to this Act and for the due administration thereof.

(3) In the absence of any such regulations, or so far as any such regulations do not extend, the Corporation may, subject to this Act, determine the forms and registers to be used and the procedure to be followed for or in connection with all or any of the purposes specified in subsection (2).

**74. Repeal and Savings**—(1) Subject to subsections (2) and (3) the enactments specified in Part I of Schedule 2 are repealed.

(2) Without limiting the Acts Interpretation Act 1974, the repeal of sections 49 and 62 of the Accident Compensation Act 1978, does not affect the amendments made by those sections.

(3) Parts III and IV and sections 29, 30, 31, 32, 33, 34, and 35 of the Accident Compensation Act 1978 shall continue in force and shall apply in respect of personal injury by accident occurring on or after the 20th March 1978, and before the commencement of this Act as if those provisions had not been repealed by subsection (1).

(4) All proceedings in respect of offences committed or alleged to be committed before the commencement of this Act against an enactment repealed may be instituted or continued as if this Act had not been passed, and all levies or charges which were payable under the Accident Compensation Act 1978 may be recovered as if this Act had not been passed.

(5) All applications for review, and appeals to the Supreme Court commenced under Part V of the Accident Compensation Act 1978 may be continued under the corresponding provisions of Part V of this Act.

(6) The Order specified in Part II of Schedule 2 is revoked.

**75. Further savings and transitional arrangements—(1)**

All things lawfully done by or in the name of the Accident Compensation Board as at the date of commencement of the Accident Compensation Amendment Act 2003 are saved.

(2) The Corporation is entitled to the benefit of and is subject to all laws, contracts, entitlements, agreements, actions, prosecutions, legal proceedings, liabilities, obligations and other arrangements which the Accident Compensation Board was lawfully entitled to or subject to, as the case may be, as at the commencement of the Accident Compensation Amendment Act 2003.

(3) All criminal and civil proceedings involving or affecting the Accident Compensation Board as at the commencement of the Accident Compensation Amendment Act 2003 are saved and, despite this Act and the Accident Compensation Amendment Act 2003, such proceedings may continue and be completed in accordance with this Act as if the Accident Compensation Amendment Act 2003 had not commenced.

(4) All levies, charges, debts and other monies lawfully owing to the Accident Compensation Board as at the

commencement of the Accident Compensation Amendment Act 2003 are saved and are recoverable by and in the name of the Corporation under this Act.

(5) All accidents and other compensible events which occurred prior to the date of commencement of the Accident Compensation Amendment Act 2003 shall be dealt with and decided in accordance with the Accident Compensation Act 1989 as if the Accident Compensation Amendment Act 2003 had not become law and all accidents and other compensible events which occur from the date of commencement of the Accident Compensation Amendment Act 2003 shall be dealt with and decided in accordance with the Accident Compensation Act 1989 as amended by the Accident Compensation Amendment Act 2003.

## **SCHEDULES**

### **SCHEDULE 1**

#### **(Section 24)**

#### **COMPENSATION FOR PERMANENT LOSS OR IMPAIRMENT OF BODILY FUNCTION**

<b>Nature of Permanent Loss or Impairment of Bodily Function or Loss of Part of body:</b>	<b>Percentage of \$8,000 Payable</b>
1. Total loss of an arm or the greater part of an arm	80
2. Total loss of a hand or of the lower part of an arm	70
3. Total loss of a thumb	38
Total loss of distal segment of a thumb	25
Loss of a pulp of a thumb	8
4. Total loss of an index finger	14
Total loss of distal segment of an index finger	12
Total loss of 2 segments of an index finger	13
Loss of the pulp of an index finger	4
5. Total loss of the middle finger	12
Total loss of distal segment of a middle finger	9
Total loss of 2 segments of a middle finger	10
Loss of the pulp of a middle finger	3
6. Total loss of a ring or small finger	8
Total loss of distal segment of a ring or small finger	5
Total loss of 2 segments of a ring or small finger	6
Loss of the pulp of a ring or small finger	2

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7.	Total loss of all fingers, thumb intact (Treat as 95 percent of loss of a hand)	66.5
8.	Total loss of a leg	75
	Total loss of a foot or of the lower part of a leg	60
9.	Total loss of a great toe	10
	Loss of one segment of a great toe	5
10.	Total loss of a lesser toe	2.5
11.	Total loss of both legs by above-knee or below-knee amputation	100
12.	Loss of both arms, above-elbow or below-elbow amputation	100

### **NOTES**

For the purposes of section 24 of this Act, when applying the foregoing provisions of this Schedule for the purpose of assessing permanent loss or impairment of bodily function affecting the hand and its digits, if multiple digits are involved assessment shall be made both by summing the individual losses specified in the foregoing provisions of this Schedule, and on the basis specified in section 24 in relation to the permanent loss or impairment of bodily function affecting the hand or lower arm as a whole as a gripping organ.

In relation to the last-mentioned method of assessment, complete loss of finger/palm grip in all its components shall be treated as constituting 60% loss of function of the hand, and complete loss of opposition or pincers grip shall be treated as constituting 40% loss of function of the hand, these figures to be apportioned into 4equal parts for the individual digits.

**Example:                      Finger/Palm Grip**

<b>Index</b>	<b>Middle</b>	<b>Ring</b>	<b>Little Finger</b>
15%	15%	15%	15% loss of function of hand, equaling altogether 60% of loss of function of hand.

### **Opposition or Pincers Grip**

<b>Index</b>	<b>Middle</b>	<b>Ring</b>	<b>Little Finger</b>
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10%	10%	10%	10% loss of function of hand equaling altogether 40% of loss of function of hand.
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The higher figure arrived at after assessment by both these methods shall be the figure awarded.

If in the case of injury to a limb or part of a limb it is considered desirable in order to obtain the best functional result that the limb or portion of the limb be amputated at a more proximal level than the part injured, the disability shall be assessed as if the injury itself had necessitated the amputation at the more proximal level.

#### **Assessment of Arthrodeses:**

The following figures are to be used for a sound arthrodesis in the position of optimum function; partial joint stiffness's to be proportionally assessed under section 24 of this Act.

Shoulder	:Treat as 35% loss of function of the arms	28
Elbow	:Treat as 40% loss of function of the arm	32
Wrist	:Treat as 30% loss of function of the lower arm	21
Hip	:Treat as 50% loss of function of the leg	37.5
Ankle	:Treat as 35% loss of function of the lower leg	30
Triple (foot arthrodesis)	:Treat as 30% loss of function of the lower leg	18

#### **Assessment of Shortening:**

0-1/2 in	:Treat as 5% loss of function of the leg	3.75
1/2-1 in	:Treat as 10% loss of function of the leg	7.5
1-1 1/2 in	:Treat as 15% loss of function of the leg	11.25
1 1/2-2 in	:Treat as 20% loss of function of the leg	15

#### **Pattelectomy:**

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Where there is full extension of the knee and full flexion in the knee with minimal quadriceps thigh muscle wasting, treat as 15% loss of function of the leg, this figure to be varied in less successful results related to residual joint stiffness.

11.25

**Excision of Head of Radius:**

Where full elbow extension and flexion movement is regained with full forearm rotation movement in either direction, treat as 15% loss of function of the arm, this basic figure to be varied in less successful cases related to residual joint stiffness.

12

**Excision of lower end of Ulna Forearm Bone:**

Where full forearm rotation movements are preserved and the wrist is normal, treat as 10% loss of function of the lower arm, this figure to be varied in less successful cases related to residual joint stiffness.

7

**Ligamentous injuries of the Knee Joint with Residual Instability and including Quadriceps Insufficiently with Comparable Instability:**

Moderate laxity :Treat as 15% loss of function of the leg - 11.25

**Multiple Disabilities:**

If the disability affects more than one limb the assessment shall be made by summing the figures, but if the disabilities involve the one limb the method of progressive extraction of losses, i.e., regarding the limb as a whole shall be used.

**Spinal Disability and other Disabilities:**

**1. Cervical Spine:**

- (a) Persistent muscle spasm, rigidity, and pain substantiated by loss of anterior curve revealed by X-Ray, although no demonstrable structural pathology, moderate referred shoulder/arm pain.

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	(b) In cases similar to those mentioned in the immediately preceding paragraph, but with gross degenerative changes consisting of narrowing of intervertebral spaces and osteoarthritic lipping of vertebral margins.	20
<b>2.</b>	<b>Thoracic Spine:</b>	
	(a) Spinal strain related to trauma with persistent discomfort, moderate degenerative changes with osteoarthritic lipping, no X-ray evidence of structural trauma.	10
	(b) <b>Fracture:</b>	
	(i) Compression 25% involving one or 2 vertebral bodies, no fragmentation, healed, no neurologic manifestations.	10
	(ii) Compression 50% with involvement posterior elements, healed, no neurologic manifestations, persistent pain	
<b>3.</b>	<b>Lumbar Spine:</b>	
	(a) Mild to moderate persistent muscle spasm with pain, with moderate degenerative lipping revealed by X-ray.	10
	(b) <b>Fracture:</b>	
	(i) Vertebral compression 25% one or 2 adjacent vertebral bodies, little or no fragmentation, no definite pattern or neurologic change	1 5
	(ii) Vertebral compression 50% one or 2 adjacent vertebral bodies, little or no fragmentation, no definite pattern or neurologic change	20
	(iii) In cases similar to those mentioned in the immediately preceding subparagraph, but with successful fusion, mild pain	25

- 4. Neurologic Low-Back Pain - Disc Injury:**
- (a) Surgical excision of disc, no fusion, good result, no persistent sciatic pain 10
  - (b) Surgical excision of disc, no fusion, moderate persistent pain and stiffness aggravated by heavy lifting with necessary modification of activities 20
  - (c) Surgical excision of disc with fusion, activities of lifting moderately modified 15
  - (d) Surgical excision of disc with fusion, persistent pain and stiffness aggravated by heavy lifting necessitating modification of all activities requiring heavy lifting 25
- 5. Tetraplegia and Paraplegia: 100**
- 6. Blindness:**
- (a) Total blindness 100
  - (b) Total loss of vision in one eye (normal vision in the other eye) 30
- 7. Deafness:**
- (a) Total deafness 100
  - (b) Total deafness in one ear (normal hearing in the other ear) 17

**NOTE:**

Where there are subjective symptoms of pain without demonstrable clinical findings of abnormality or demonstrable structural pathology, no assessment should be made under section 24 of the Act.

**8. Total loss of Natural Permanent Teeth:**

*Accident Compensation Act 1989***(1) Anterior teeth**

Loss of 1,2, or 3 teeth	4
Loss of 4, 5, or 6 teeth	5
Loss of 7, to 12 teeth	6

**(2) Posterior Teeth:**

Loss of 1 tooth	1
Loss of 2 to 5 teeth	2
Loss of 6 to 16 teeth	4

**GENERAL NOTE:**

An assessment under this Schedule should be made only when the Corporation is satisfied that the condition of the claimant is sufficiently stabilised but an assessment should not on that account be delayed for more than 2 years.

**SCHEDULE 2**  
**(Section 74(1) and (6))**

**PART I**  
**ENACTMENTS REPEALED**

- 1978 - No.1: The Accident Compensation Act 1978
- 1988 - No.5: The Accident Compensation Amendment Act 1988
- 1988 - No.13: The Accident Compensation Amendment (No.2) Act 1988

**PART II**  
**ORDER REVOKED**

- 1978/2 The Accident Compensation Act (Commencement) Order 1978

**SCHEDULE 3**  
**(Section 25(4) and (5))**

**DISEASES**

1. Pneumoconiosis caused by sclerogenetic mineral dust (silicosis, anthraco-silicosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death.

2. Lung cancer or mesothelioma diagnosed as caused by asbestos.
3. Diseases of a type generally accepted by the medical profession as caused by beryllium or its toxic compounds.
4. Diseases of a type generally accepted by the medical profession as caused by phosphorus or its toxic compounds.
5. Diseases of a type generally accepted by the medical profession as caused by chrome or its toxic compounds.
6. Diseases of a type generally accepted by the medical profession as caused by manganese or its toxic compounds.
7. Diseases of a type generally accepted by the medical profession as caused by arsenic or its toxic compounds.
8. Diseases of a type generally accepted by the medical profession as caused by mercury or its toxic compounds.
9. Diseases of a type generally accepted by the medical profession as caused by lead or its toxic compounds.
10. Diseases of a type generally accepted by the medical profession as caused by carbon bisulfide.
11. Diseases of a type generally accepted by the medical profession as caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series.
12. Diseases of a type generally accepted by the medical profession as caused by benzene or its toxic homologues.
13. Diseases of a type generally accepted by the medical profession as caused by nitro- and amido-toxic derivatives of benzene or its homologues.
14. Diseases of a type generally accepted by the medical profession as caused by ionising radiations.
15. Primary epitheliomatous cancer of the skin diagnosed as caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products, or residues of these substances.
16. Anthrax infection.
17. Leptospirosis diagnosed as caused by working with animals or their carcasses.
18. Brucellosis diagnosed as caused by working with animals or their carcasses.
19. Orff diagnosed as caused by working with animals or their carcasses.

20. Streptococcus suis diagnosed as caused by working with animals or their carcasses.
21. Angiosarcoma of the liver diagnosed as caused by vinyl chloride monomer.
22. Byssinosis diagnosed as caused by working with cotton, flax, hemp, or sisal dust.
23. Pneumoconiosis diagnosed as caused by tin, iron oxide, barium, or cobalt.
24. Diseases of a type generally accepted by the medical profession as caused by tungsten.
25. Hand-arm vibration syndrome diagnosed as caused by hand and/or arm vibration.
26. Sino-nasal carcinoma diagnosed as caused by working with wood dust.
27. Diseases of a type generally accepted by the medical profession as caused by ethylene oxide.
28. Extrinsic allergic alveolitis diagnosed as caused by work involving the inhalation of organic dusts.
29. Naso-pharyngeal carcinoma diagnosed as caused by formaldehyde.
30. Laryngeal carcinoma diagnosed as caused by sulphuric acid mists or organic solvents.
31. Lung cancer diagnosed as caused by bis (chloromethyl) ether (and chloromethyl methyl ether), cadmium, coke oven emissions, nickel, radon, silica, or soot.
32. Primary epitheliomatous cancer of the skin diagnosed as caused by shale oil.
33. Bladder carcinoma diagnosed as caused by 2-naphthylamine, benzidine, 4-aminobiphenyl, N, N-Bis (2-chloroethyl)-2-naphthylamine, other aromatic amines, or poly-cyclic aromatic hydrocarbons.
34. Hodgkin's lymphoma diagnosed as caused by wood dust.
35. Chronic solvent-induced encephalopathy diagnosed as caused by organic solvents, particularly styrene, toluene, xylene, trichloroethylene, methylene chloride, or white spirit.
36. Peripheral neuropathy diagnosed as caused by organic solvents such as n-hexane, carbon disulphide, or trichloroethylene; pesticides such as organophosphates; acrylamide.

37. Occupational asthma diagnosed as caused by recognised sensitising agents inherent in the work process such as, but not limited to, isocyanates, certain wood dusts, flour dusts, animal proteins, enzymes, and latex.
38. Chronic obstructive pulmonary disease diagnosed as caused by coal, silica, cotton dust, or grain dust.
39. Chronic renal failure diagnosed as caused by metals such as cadmium or copper, including via welding fumes.
40. Occupational allergic contact dermatitis diagnosed as caused by recognized sensitising agents inherent in the work process such as, but not limited to, nickel and other metals, rubber additives, resins, petroleum distillates, solvents, soaps, detergents, and plant allergens.
41. Vitiligo diagnosed as caused by para-tertiary-butylphenol, para-tertiary-butylcatechol, para-amyphenol, hydroquinone, or the monobenzyl or monobutyl ether of hydroquinone.
42. Subcutaneous cellulites hand (Beat hand) as caused by manual labour causing severe or prolonged friction or pressure on the hand.
43. Subcutaneous cellulitis or acute bursitis arising at or about the knee (Beat knee) as caused by manual labour causing severe or prolonged friction or pressure at or about the knee.
44. Subcutaneous cellulitis or acute bursitis arising at or about the elbow (Beat elbow) as caused by manual labour causing severe or prolonged friction or pressure at or about the elbow.
45. Inflammation of the synovial lining of the wrist joint and tendon sheaths as caused by manual labour, or frequent or repeated movement of the hand or wrist.
46. Tuberculosis as caused by an occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment:
  - (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis or in a service ancillary to such treatment or nursing;
  - (b) in attendance upon a person or persons suffering from tuberculosis, where the need for such attendance arises by reason of physical or mental infirmity;

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- (c) as a research worker engaged in research in connection with tuberculosis;
- (d) as a laboratory worker, pathologist or post mortem worker where the occupation involves working with material which is a source of tuberculosis infection or in an occupation ancillary to such employment.

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**REVISION NOTES 2008 – 2024**

This is the official version of this Act as at 31 December 2024.

This Act has been revised by the Legislative Drafting Division from 2008 – 2024 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) “shall be deemed” changed to “is taken”
  - (ii) “shall be punishable” deleted and replaced with “is liable”
  - (iii) “from time to time” and “hereby” deleted
  - (iv) “member” or “member of board” changed to “director”
  - (v) “shall have” changed to “has”
  - (vi) “notwithstanding” changed to “despite”
  - (vii) “the provisions of” deleted where appropriate
  - (viii) “each”, and “every” changed to “a” or “an” where appropriate
  - (ix) “pursuant to” or “pursuance of” changed to “under”
  - (x) “etc.” deleted and provided complete sentences
  - (xi) Numbers in words changed to figures.
  - (xii) Reference to the Minister is generalised to refer to the Minister responsible for Labour.
  - (xiii) Corrected renumbering of subsections.
  - (xiv) Reference to section 11 of the Shops Ordinance 1961 has been deleted as that section was repealed by section 9 of the Public Holidays Act 2008
  - (xv) “foregoing” deleted and replaced with specific reference to the foregoing provisions
  - (xvi) Section 23(4) has been restructured for clarity – now there is a subsection (4A) and (4B)
  - (xvii) For clarity, “he or she” and “his or her” deleted from several sections and replaced with “the worker’s” or “the person’s” or

“the employer’s” or the “the injured person’s” where appropriate.

- (xviii) References to “Labour and Employment Act 1972” were changed to “Labour and Employment Relations Act 2013”.
- (xix) Paragraphed sections 38(4), 41, 42(1), 45(2) and 46(4)
- (xx) Sections 38(5), 40(1), 43(3), (9) and (10), 44(1) and (3), 46(1) and 47(3) revised.

The following amendments have been made to specific sections of the Act to incorporate amendments made by Acts of Parliament passed since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

*By the Accident Compensation Amendment Act 2009 –*

- Section 2(1)** - Deleted and replaced the definition of “Accident” or “personal injury by accident” with a new definition.
- Section 2(1A)** - A new subsection (1A) was inserted after section 2(1).
- Section 4(2)(f)** - Deleted and replaced with a new section 4(2)(f).
- Section 4(2A)** - A new subsection (2A) was inserted after section 4(2).
- Section 13(1)** - Deleted and replaced the words “motor vehicle” with the words “Specified Conveyance”.
- Section 16(2A) & (2B)** - New subsections (2A) and (2B) were inserted after section 16(2).
- Section 16A** - A new section 16A was inserted after section 16.
- Section 18(2A) & (2B)** - New subsections (2A) and (2B) were inserted after section 18(2).
- Section 22A** - A new section 22A was inserted after section 22.
- Section 23(2)(b)(ii)** - Deleted and replaced “\$400” with “\$1,000” wherever it appeared.
- Section 24(2)** - Deleted and replaced “\$400” with “\$1,000” wherever it appeared.
- Section 25(4) & (5)** - Inserted new subsections (4) and (5) after subsection (3).
- Section 26** - Deleted and replaced “\$200” with “\$1,000” in subsection (2)(a).

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- Deleted and replaced “\$200” with “\$1,000” in subsection (3)(a).
- Deleted and replaced “fourth” with “fifth” in subsection (5)
- Section 27(2)(a)** - Deleted and replaced “\$2,000” with “\$4,000”.
- Section 28** - Deleted and replaced “\$15,000” with “\$150,000”.
- Section 33(1)** - Deleted and replaced “\$15,000” with “\$150,000”.
- Section 33A:** - New sections 33A and 33B were inserted after section 33.
- Section 41** - Deleted and replaced entirely with a new section 41.
- Section 68A** - A new section 68A was inserted after section 68.
- Schedule** - Schedule 3 was inserted after Schedule 2

Sections 1-13 and 16-19 commenced on 27 October 2009, and sections 14 and 15 commenced on 1 September 2003 with retrospective effect.

*By the Composition of Boards of Public Bodies Act 2012, commenced on 16 March 2012:*

- Section 2** - After the definition of “Injury”, a new term and definition of “Member” or “Member of the Corporation” has been inserted.
- Section 4** - subsection (2) and (2A) are deleted and new subsections (2), (2A), (2B), (2C), (2D), (2E) and (2F) have been inserted.
- Section 5** - In subsection (1), reference to “section 4(2)(f)” has been deleted and replaced with “section 4”.  
- Subsection (3) has been repealed.
- Section 6(3)** - Reference to “5” has been deleted and replaced with “4”.
- Section 7** - Subsections (1) and (2) are repealed.

*By the Accident Compensation Amendment Act 2012, commenced on 13 March 2012.–*

- Section 56(3)-** After paragraph (c), a new paragraph (d) was inserted as follows:

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“(d) in the purchase of such personal property as in the opinion of the Corporation may be desirable for investment purposes.”.

*By the Audit Act 2013, No.22*      References to the “Chief Auditor” in this Act changed to “Controller and Auditor General”

*By the Public Bodies (Performance and Accountability) Amendment Act 2015, commenced on 25 April 2014 which has retrospective effect –*

**sections 8 & 71**      after “Minister” delete and substitute with “for Public Enterprises”.

**section 50(3)**      delete “Responsible Minister” and substitute with “Minister for Public Enterprises”

*By the Accident Compensation Amendment Act 2019 No. 12 (commenced on 21 March 2019):*

**Section 28**      renumbering of the section as subsection (1) and *proviso* omitted;  
new subsection (1A) inserted.

**Section 33**      omitted *proviso* in subsection (1);  
new subsection (1A) inserted.

*By the Miscellaneous (Boards of Public Bodies) Amendment Act 2020 No.6, (commenced on 28 January 2020):*

**Section 4**      subsection (2) substituted and subsections (2A) - (2F) repealed.

*By the Miscellaneous (Salary Conditions Upon Suspension) Amendment Act 2021 No. 6 (commenced on 3 March 2021):*

**Section 58**      new subsections (7) – (10) inserted.

*By the Accident Compensation Amendment Act 2023 No.6 (commenced on 1 February 2024))*

**Section 2**      amended by substituting definition of the term “accident covered by this Act”;

**Section 48**      (i) subsection (1) amended by inserting new paragraph (ca);  
(ii) subsection (2) amended by substituting references to “section 64” with “sections 64 and 64A” wherever occurring;  
(iii) insertion of new paragraph (ba);

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New Part 7A

New Part 7A inserted "PART 7A –SPORTS INJURY  
COMPENSATION SCHEME";

Section 73

section 73 amended by inserting new paragraph (*la*).

*This Act is administered by  
the Accident Compensation Corporation.*