



SAMOA

**FIRE AND EMERGENCY SERVICE
ACT 2007**

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FIRE AND EMERGENCY SERVICE ACT 2007

2007 **No. 10**

AN ACT to restructure the Fire Service and provide for the prevention, suppression and control of fires and other emergencies and establish the Samoa Fire and Emergency Service Authority.

[Assent and commencement date: 15 February 2007]

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

**PART 1
PRELIMINARY**

1. Short title and commencement – (1) This Act may be cited as the Fire and Emergency Service Act 2007.

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

(3) Notice of commencement of this Act is to be published in Samoan and English in the *Savali* and one other newspaper circulating in Samoa.

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

- “alarm” means a call for assistance at a fire, accident, explosion or other emergency;
- “Authority” means the Samoan Fire and Emergency Service Authority established under section 3;
- “Board” means the Board of directors of the Authority;
- “brigade” means a brigade established under section 17;
- “career member” means a member of a brigade who is employed by the Samoan Fire and Emergency Service Authority and registered under section 18;
- “Commissioner for Fire and Emergency Service” or “Commissioner” means the Commissioner for Fire and Emergency Service appointed under section 16;
- “dangerous goods” means explosives, combustible liquids having a flashpoint below 61° Celsius, or a substance or article prescribed as dangerous goods by the regulations;
- “emergency” means an actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of a person, which destroys or damages, or threatens to destroy or damage a property or endangers or threatens to endanger the environment or an element of the environment and, without limiting the generality of the foregoing, includes:
 - (a) a cyclone, tsunami, flood, wind storm, earthquake or other natural event;
 - (b) a fire;
 - (c) an explosion;
 - (d) a road, industrial or other accident;
 - (e) hazardous material incident where there is a major threat of life safety, explosion or fire;
 - (f) an urban search and rescue;
- “hot works” means welding, thermal cutting, heating, brazing, soldering, plasma cutting, grinding, metal spraying and all other works that has potential to generate heat, flames, or sparks that may increase the risk of fire or explosion;

- “industrial training” means the training required to be provided to businesses under section 33;
- “insurance company” means a person, including a body corporate, a partnership or an underwriter who issues or undertakes liability under policies of insurance against fire in respect of property in Samoa;
- “member” means a career or volunteer member;
- “Minister” means the Minister responsible for fire and emergency services;
- “officer” means a member exercising the authority of the Commissioner for Fire and Emergency Service under the standing orders;
- “owner” means the person in receipt of or entitled to receive the rents and profits from land or buildings who, if such property were let to a tenant would be entitled to receive the rents and profits, whether as beneficial owner, trustee, administrator, mortgagee in possession, or as agent or attorney for any other person;
- “prescribed industrial training notice” means a notice under section 33;
- “public purpose” includes utilisation of a building, venue, structure or land for a community, commercial, amusement or public event, or purpose including, but not limited to the use of buildings or structures for restaurants, cafes, theatres, cinemas, halls, hotels, bars, sporting facilities, shops, hospitals, schools, universities, supermarkets or Boarding houses;
- “risk abatement notice” means a notice under section 31;
- “senior member of the operational staff” means the person determined under the standing orders to be the senior member of the operational staff;
- “standing orders” means the standing orders made under section 20;
- “this Act” includes regulations made under this Act;
- “volunteer member” means a member of a brigade who is registered under section 19.

PART 2
SAMOAN FIRE AND EMERGENCY SERVICES
AUTHORITY

3. Samoan Fire and Emergency Services Authority –

There is a Samoan Fire and Emergency Services Authority which:

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may sue and be sued in its corporate name;
- (d) may acquire, hold and dispose of real and personal property for the purposes of performing its functions; and
- (e) may do and suffer all acts and things that bodies corporate may by law do and suffer and that are necessary or instrumental to the performance of its functions.

4. Functions of the Authority – The functions of the

Authority are:

- (a) to provide fire suppression and fire prevention services throughout Samoa; and
- (b) to provide emergency prevention and emergency response services throughout Samoa; and
- (c) to carry out any other function conferred on the Authority by or under this Act or any other Act or as directed by the Minister.

5. Board of the Authority – (1) The Board comprises 7

directors who are to be selected under the applicable law relating to the management of public bodies except for the following *ex-officio* directors:

- (a) the Commissioner of Police ; and
- (b) the General Manager of Samoa Water Authority; and
- (c) the General Manager of Electric Power Corporation.

(1A) Other than the *ex-officio* directors under subsection (1), the directors of the Board:

- (a) are appointed by the Head of State, acting on the advice of Cabinet; and
- (b) may be removed from office by the Cabinet.

(1B) An *ex-officio* director under subsection (1) shall not receive remuneration or other benefits from the Authority for services as a director.

(1C) Cabinet:

(a) shall appoint one of the directors to be Chairperson; and

(b) may appoint a Deputy Chairperson.

(1D) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Authority.

(1E) Unless the Board decides otherwise, the Commissioner must attend all Board meetings but has no voting rights.

(2) No person, by reason solely of being a director, is taken to be employed in the Public Service of Samoa within the meaning of that term in Article 83 of the Constitution.

(3) The Secretary for the Board is the Commissioner.

6. Term of Appointment of directors – (1) Except as otherwise provided by this Act, the Chairperson and the other directors of the Authority are to be appointed for a term of 3 years, but may be reappointed.

(2) Despite anything in this Act, where a director's term of appointment has expired, the director continues in office until a successor is appointed.

(3)(Repealed by the Composition of Boards of Public Bodies Act 2012)

(4) The power of the Authority is not affected by the fact that at any time, there may be less than 7 directors in office.

(5) The office of a director becomes vacant if the director:

(a) without approval of the Board, fails to attend 3 consecutive meetings of the Board; or

(b) becomes bankrupt; or

(c) is convicted of a criminal offence attracting a penalty of imprisonment and for which the director is subsequently imprisoned.

7. Meetings of the Board – (1) Subject to subsection (2), a meeting of the Board is to be presided over by the Chairperson.

(2) If the Chairperson is absent for any reason, the directors present at the meeting shall appoint one of their number to be the Chairperson of that meeting.

(3) Subject to subsection (4), the first meeting of the Board is to be held on a day to be nominated by the Chairperson and subsequent meetings are to be held on such dates and at such times as the Board determines but not less than 4 times annually.

(4) Despite anything in this Act, the Chairperson may at any time convene a special meeting of the Board.

(5) The quorum for a meeting of the Board is 3 directors.

(6) The Board shall determine questions before it by a majority of votes of directors present.

(7) The Chairperson has a deliberative vote and in the case of an equality of votes, also has a casting vote.

(8) Subject to the provisions of the Act, the Authority may regulate its own proceedings in such manner as it thinks fit.

(9) An act or decision of the Board is not invalid because of:

- (a) a defect or irregularity in the appointment of a member; or
- (b) a vacancy in its membership.

8. Minutes of meetings – (1) The Board shall cause minutes to be kept of all resolutions passed at its meetings.

(2) The minutes must be approved by the Board and signed by the Chairperson at the next and subsequent meeting to the passing of the minutes.

(3) A copy of the minutes of each meeting must be provided to each director.

9. Remuneration of directors – Remuneration and travelling expenses of directors are to be determined by Cabinet and paid out of the funds of the Authority.

10. Disclosure of conflicts of interest – (1) A director who otherwise than as a director is directly or indirectly interested in an arrangement or agreement entered into, or proposed to be entered into, by the Authority shall as soon as is practicable after the relevant facts have come to the director's notice, disclose the nature of that interest at a meeting of the Board.

(2) A disclosure under this section must be recorded in the minutes of the meeting and the director shall not take part after the disclosure in any deliberations or decisions relating to the arrangement or agreement, but is counted as present for the

purposes of forming a quorum of the Board for any such deliberations or decisions.

11. Original assets of the Authority – (1) The original assets of the Authority consist of:

- (a) all land, buildings, installations and improvements including fixtures located on or adjacent to or in the vicinity of the land which is being used by the Apia Fire Service constituted under the Fire Service Act 1994 for the maintenance and operation of the Apia Fire Service or in connection with the operation of the Apia Fire Service throughout Samoa; and
- (b) all vehicles, marine craft, plant, machinery, equipment, stores, furniture and apparatus which are or were used by the Apia Fire Service on the date this Act comes into force for the maintenance and operation of the Apia Fire Service or in connection with the operation of a fire and emergency service.

(2) The assets referred to in subsection (1) vest in the Authority.

(3) The Government shall cause the land required to be transferred to the Authority under this Act to be transferred to the Authority immediately on this Act coming into force.

(4) If a question arises about whether an asset currently under the management and control of the Ministry of Police, Prisons and Fire Services has become or is the property or responsibility of the Authority, that question is to be decided by Cabinet.

12. Powers of the Authority – (1) Subject to this Act, the Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

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

- (a) to purchase or lease a building, land, equipment, plant or other property as the Board thinks necessary to carry out the Authority's functions under this Act;

- (b) to sell, exchange or let a property acquired by or which vests in the Authority for the performance of the Authority's functions under this Act;
- (c) to enter into an agreement or arrangement with a person or body for the provision of goods or services; and
- (d) to borrow from the Government or a bank or a lending institution, whether local or overseas.

(3) In exercising its powers under subsection (2), the Authority shall consult with the Minister and comply with any directions provided by the Minister.

13. Delegation – (1) The Authority may delegate to a person including an employee or class of employees of the Authority a responsibility, power, authority, duty or function of the Authority under this Act, other than this power of delegation.

(2) A delegation made under this Act must be made in writing under the common seal of the Board.

(3) The delegation of a power or function made under this Act does not prevent the exercise of the power or function by the Commissioner for Fire and Emergency Service or the Board.

(4) A person purporting to act under a delegation under this Act is presumed to be acting under the terms of the delegation in the absence of proof to the contrary.

(5) If a delegate is an employee of the Authority, the delegation ceases to be in force when the employee ceases to be employed by the Authority.

14. Employees of the Authority– (1) The Authority may:

- (a) employ a person on any terms and conditions as it considers necessary to assist the Authority in carrying out its functions under this Act or any other Act; and
- (b) transfer, promote, suspend or remove the employee.

(2) The Board may designate ranks and titles for members.

15. Liability of directors and employees – A director, officer or employee of the Authority is not personally liable for an act done or omitted to be done in good faith in the exercise or performance of the functions, powers or duties of the Authority

or for a debt or any other liability lawfully incurred by the Authority.

PART 3
COMMISSIONER FOR FIRE AND EMERGENCY SERVICE

16. Commissioner for Fire and Emergency Service – (1)

The Board shall recommend for appointment by Cabinet a person who has proven expertise and qualifications in fire fighting and emergency response as the Commissioner for Fire and Emergency Service for a period not exceeding 5 years but the person may be re-appointed.

(2) The Commissioner is responsible to the Board for carrying out the Board's functions under this and any other Act, and shall comply with any directions of the Board.

(3) The Board shall appoint a person to be acting Commissioner for Fire and Emergency Service:

- (a) if the office of Commissioner is vacant and is awaiting the appointment of a new Commissioner; or
- (b) during a period when the Commissioner is unable by reason of illness or temporary absence to perform the functions of that office.

(4) The Acting Commissioner for Fire and Emergency Service has all the powers necessary to perform the duties and functions of the Commissioner when acting as the Commissioner.

(5) The Commissioner for Fire and Emergency Service may delegate in writing to a person approved by the Board a power, authority, duty or function of the Commissioner established under this or any other Act, except this power of delegation.

(6) The Commissioner shall, subject to this Act, be in a position of control over all employees of the Authority, all volunteer and career members and all brigades established under this Act.

17. Formation of brigades – (1) The Commissioner for Fire and Emergency Service may establish brigades for the purpose of carrying out the functions of the Authority established under the provisions of this Act.

- (2) A brigade may consist of:
- (a) career members registered under section 18;
 - (b) volunteer members registered under section 19; and
 - (c) persons engaged under contract or arrangement entered into by the Authority.

(3) The Board may appoint a deputy or deputies to assist the Commissioner and the deputies may exercise such powers, duties and functions as are conferred or imposed on the Commissioner.

18. Career members – (1) The Commissioner for Fire and Emergency Service may appoint career members who are registered under this section.

(2) The Commissioner shall determine in the standing orders the training and qualifications required to be undertaken by a career member before registration.

(3) A career member is required to complete any training or have qualifications or competencies as may be prescribed.

(4) Career members are on probation until they are registered under this section.

19. Volunteer members – (1) The Commissioner for Fire and Emergency Service may register volunteer members in accordance with this section.

- (2) The Commissioner shall prescribe in the standing orders:
- (a) the training and qualifications required to be undertaken by a volunteer member; and
 - (b) a probationary period to be served by volunteer members, before registration is effected.

(3) Each volunteer member shall be attached to a brigade established by the Commissioner under section 17.

(4) Volunteer members may be paid such allowances on such conditions as the Board may determine.

(5) It is an offence for an association of persons to operate as a brigade unless the association is duly established as a brigade under section 17 and its members are duly registered.

(6) It is an offence for a person to operate as a volunteer member unless the person is duly registered under this section, and the person shall not have any of the powers or privileges or the benefit of an immunity conferred by this Act.

20. Commissioner for Fire and Emergency Service's standing orders – (1) The Commissioner for Fire and Emergency Service may issue written standing orders to provide for:

- (a) training and qualifications;
 - (b) authorising activities on an alarm;
 - (c) the proper conduct or good order of members or brigades; or
 - (d) any other purpose under this Act including prescribing by rank, or otherwise, senior members of the operational staff.
- (2) The Commissioner shall specify in standing orders:
- (a) the senior members of the operational staff and other members of staff; and
 - (b) the equipment and vehicles to be utilised on an alarm.
- (3) The Commissioner may vary any standing orders on an alarm as appropriate.

21. Actions on alarm – On an alarm being received by a brigade, the members of the brigade shall;

- (a) with the equipment specified by the Commissioner for Fire and Emergency Service in the standing orders or otherwise, proceed with all practical speed to the scene of the alarm or emergency; and
- (b) use all reasonable means to save life and to suppress, reduce or minimise the effects of the fire or any other emergency.

22. Powers of Commissioner for Fire and Emergency Service on an alarm – (1) At the scene of an alarm or an emergency, the Commissioner for Fire and Emergency Service or the senior member of the operational staff may exercise any of the following powers:

- (a) control and direct all persons present at the fire or emergency who place their services at the senior operational staff member's disposal;
- (b) enter on land and, where it is reasonably necessary to do so, break into a building or premises to extinguish a fire or limit the effect of a fire or an emergency;

- (c) remove a flammable, explosive, or dangerous material found in such building or premises;
- (d) for the purpose of extinguishing or preventing the spread of a fire or the effects of an emergency, cause a building or structure to be wholly or partially pulled down provided that such action will only be taken where it is reasonably necessary to do so in the circumstances;
- (e) cause water to be shut off from a main or other pipe in order to obtain a greater pressure and supply of water for the purpose of attending to an emergency;
- (f) cause a street, private road, right of way, or thoroughfare in the vicinity of an emergency to be closed to traffic for the duration of an emergency;
- (g) issue orders to an appropriate person to disconnect the supply of electricity, gas, oil or other substance to a building, structure or plant which is on fire or subject to an emergency or which is in the vicinity of a building which is on fire or subject to an emergency;
- (h) remove by reasonable force, if necessary, a person who, in the opinion of the Commissioner or senior member of staff, as the case may be, is an interference with the operations of a Brigade; and
- (i) do all other things which are reasonably necessary for the prevention or suppression of fire or to limit the effects of an emergency or as appears necessary to preserve life or property.

(2) A person who, without lawful or reasonable excuse, obstructs or hinders the Commissioner or an officer acting with the Commissioner's authority in the performance of any of the powers under this section commits an offence against this Act.

(3) A person acting under the instruction of the Commissioner or senior member of staff is not personally liable to a penalty or claim by reason of any of the actions referred to in this section.

23. Destruction of buildings and other property by the Commissioner for Fire and Emergency Service – (1) If a

building or structure is damaged by fire or other emergency, the Commissioner for Fire and Emergency Service may:

- (a) shore up, demolish, destroy or remove the building or structure; or
 - (b) cause the building or structure to be shored up, demolished, destroyed or removed; or
 - (c) do all things necessary to prevent risk to people or property if the Commissioner reasonably believes that the building or structure is, or may become, dangerous to people or property.
- (2) The Authority may sell or dispose of any salvaged material from damage done arising from a fire or other emergency.
- (3) The proceeds of sale from a disposal under subsection (2) must be applied towards a reasonable expense incurred by the Authority in exercising its powers under subsection (1).
- (4) If an action is required to be taken by the Commissioner under subsection (1), the owner of the building or structure affected is required to pay for the cost of that action if the proceeds of a sale under subsection (3) are insufficient for the purpose of recovering the costs of undertaking that action.
- (5) For the avoidance of doubt, if there has been no sale or disposal under this section, the whole of the expense incurred by the Authority shall be paid to the Authority by the owner of the building or structure.

24. Liability for damage excluded – (1) The Authority, Commissioner for Fire and Emergency Service and an officer or member is not liable for damages for anything done or omitted to be done in good faith:

- (a) in the exercise of a power or the discharge of a duty under this Act; or
 - (b) in the reasonable belief that the act or omission was in the discharge of a duty under this Act.
- (2) In this section, “damage” includes loss of or injury to property, personal injury or death.
- (3) Nothing in this section affects the entitlement of a person to compensation under the Accident Compensation Act 1989.

25. Policies of insurance against fire – If damage is caused to property, either directly or indirectly, by the exercise of a

power or the performance of a function under this Act by the Commissioner for Fire and Emergency Service or an officer or member, the damage shall, for the purposes of a policy of insurance against fire covering the property damaged, be taken to be damage by fire despite a provision to the contrary in the policy.

**PART 4
FIRE AND EMERGENCY ABATEMENT
AND PREVENTION**

26. Offence to give a false alarm– (1) A person who interferes with a fire alarm without lawful justification or wilfully gives or causes to be given, or attempts to give or cause to be given a false alarm of fire, commits an offence and is liable to a fine not exceeding 30 penalty units or to a term of imprisonment not exceeding 3 months, or both.

(2) The Authority may offer a reward not exceeding an amount specified by the Minister for information leading to the conviction of a person who commits an offence under subsection (1).

27. Damaging or concealing fireplug or hydrant – A person commits an offence who:

- (a) wilfully damages a fireplug or fire hydrant; or
- (b) covers up, encloses, hides or conceals a fireplug or fire hydrant rendering its position difficult to ascertain; or
- (c) obliterates or removes any marks, sign or letter used for the purposes of indicating the position of a fireplug or hydrant.

28. Passages and exits in buildings used for public purposes – (1) The owner and occupier of a building or structure used for a public purpose must ensure that all passages into and exits from such building or structure are free of obstruction.

(2) The Commissioner for Fire and Emergency Service or senior operational staff may remove or direct the removal of an obstruction to a passage into and exit from a building or structure used for public purposes.

(3) A person who, without lawful cause, fails to comply with a direction under subsection (2) or obstructs an officer from carrying out the officer's duties under subsection (2) commits an offence.

29. Powers of inspection– (1) The Commissioner for Fire and Emergency Service or a person authorised in writing for this purpose by the Commissioner must be given reasonable access to a land, building, premises or any other place for the purpose of ascertaining whether this Act or any other law relating to any of the following is being complied with:

- (a) the storage of explosives; or
- (b) the storage of flammable liquids, toxic or dangerous goods or substances; or
- (c) the prevention of fire or the protection of life or property in the case of fire, including the maintenance of fire detection and suppression systems or other equipment.

(2) A person who, without lawful cause, fails to provide reasonable access to land, building, premises or any other place under subsection (1) or obstructs an officer from carrying out the officer's duties under subsection (1) commits an offence.

30. Authority may carry out fire prevention work– (1) The Authority at the request of the owner or occupier of land, including a Minister or Government department, may remove or abate fire hazards on that land.

(2) Any work carried out under this section must be paid for by the owner, occupier, Minister or Government department requesting the work.

(3) Any work carried out under this section must be performed at the rates prescribed by Regulations.

31. Risk abatement notices – (1) The Commissioner for Fire and Emergency Service may serve a risk abatement notice on an owner or occupier of land in respect of anything on the land (including a building) which by its nature, composition or location constitutes or may constitute a danger to life or property from the threat of fire or other emergency.

(2) A risk abatement notice may be served only if the Commissioner forms the opinion that action specified in the

notice is necessary or may become necessary to protect life or property from the threat of fire or other emergency.

(3) A risk abatement notice must:

- (a) be in the prescribed form;
- (b) specify what steps the owner or occupier must take to remove or minimise the threat of fire or other emergency; and
- (c) specify the time (not less than 7 days) within which the owner or occupier must comply with the notice.

(4) A risk abatement notice must be served on the owner or occupier:

- (a) by giving it personally on the owner or occupier; or
- (b) by leaving it at the usual or last known residential or business address of the owner or occupier with a person on the premises who appears to be at least 16 years old and apparently is residing or employed there; or
- (c) in a manner prescribed by any other Act or law for service on a person or class or persons of the same type as the owner or occupier.

(5) If the Commissioner:

- (a) does not know who the owner or occupier of the land is; or
- (b) does not know the residential or business address of the owner or occupier; or
- (c) believes that the owner or occupier is absent from Samoa and has no agent known to the Commissioner, the risk abatement notice may be served in accordance with subsection (6).

(6) If subsection (5) applies, the risk abatement notice may be served:

- (a) by displaying it on the land; or
- (b) by publishing a notice in the prescribed form and containing the prescribed particulars in a newspaper circulating generally throughout Samoa.

(7) A notice served under subsection (6) is sufficient notice to the owner or occupier from the day of display or publication, whichever is earlier.

(8) Subject to this section and section 32, a person on whom a risk abatement notice has been served must comply with the notice within the time specified.

(9) A person who fails to comply with a risk abatement notice commits an offence and is liable to a fine not exceeding 100 penalty units or to a term of imprisonment not exceeding 3 months, or both.

(10) Unless the risk abatement notice is withdrawn or cancelled, the reasonable costs of serving the notice (including reasonable administrative labour and overhead costs and expenses incurred) may be recovered from the person on whom it was served.

(11) Where a person fails to comply with a risk abatement notice within a reasonable time after the notice has been served and the person has not objected to that notice and the Commissioner is of the opinion that the risk poses a threat to the safety of the public, the Commissioner may remove or abate the fire hazards on that land that are the subject of the notice.

(12) A reasonable action undertaken by the Commissioner under subsection (11) must be paid for by the person who fails to comply with the notice and may be recovered as a debt owing to the Authority.

(13) For the purposes of this section, a risk abatement notice includes a risk abatement notice as confirmed or varied in accordance with this section or section 32.

32. Appeal against risk abatement notice – (1) A person on whom a risk abatement notice has been served may lodge an objection, with the Commissioner for Fire and Emergency Service, within 7 days of service of the notice stating the grounds of objection.

(2) Within 14 days of the lodgement of an objection, the Commissioner must:

- (a) confirm the notice; or
- (b) vary the notice if satisfied that the variation will appropriately address the threat of fire or other emergency; or
- (c) withdraw the notice if satisfied that there is no longer a cause for the notice to be served.

(3) If the Commissioner confirms or varies the notice, the Commissioner must specify a new time within which the person must comply with the notice.

(4) If a person has lodged an objection under subsection (1); and

- (a) the Commissioner has failed to confirm, vary or withdraw the notice within 14 days; or
- (b) the person is not satisfied with the confirmation or variation of the notice,—

the person may appeal to the Supreme Court within 7 days of the end of the 14 day period or the date of confirmation or variation under subsection (2).

(5) When considering the appeal, the Supreme Court must take into account all relevant circumstances including alternative means of addressing the threat of fire or other emergency.

(6) After considering the appeal, the Supreme Court must:

- (a) confirm the notice; or
- (b) vary the notice in any way it thinks fit; or
- (c) cancel the notice.

(7) If the Supreme Court confirms or varies the notice, it must specify a new time within which the person must comply with the notice.

(8) If a person fails to comply with a risk abatement notice within a reasonable time after the notice has been confirmed by the Supreme Court, and the Commissioner is of the opinion that the risk poses a threat to the safety of the public, the Commissioner may remove or abate the fire hazards on that land that are the subject of the notice.

(9) A reasonable action undertaken by the Commissioner under subsection (8) must be paid for by the person who fails to comply with the notice and may be recovered as a debt owing to the Authority.

33. Prescribed Industrial Training notice – (1) Subject to this section, the Authority may determine by notice businesses whose employees are required to undertake mandatory training in fire prevention and suppression and emergency response and management.

(2) After receiving the approval of the Minister the Authority shall determine by notice the costs associated with the training of the specified employees under subsection (1).

(3) Despite anything in this section, the Commissioner or a senior member of the operational staff may serve a prescribed industry training notice on a business where the Commissioner has formed the opinion that:

- (a) there is a threat of fire or other emergency; and
- (b) due to the nature of the business and its geographical location, the Authority cannot provide a satisfactory emergency response in the circumstances.

(4) A prescribed industrial training notice must:

- (a) be in the prescribed form;
- (b) specify the number or proportion of staff employed within the business who must train or must have received training for this purpose;
- (c) set out the details of the training required and its duration and frequency; and
- (d) prescribe the qualifications to be obtained by the staff of the business.

(5) A prescribed industrial training notice must be served on the owner of the business:

- (a) by giving it personally to the owner; or
- (b) by leaving it at the usual last known residential or business address of the owner with a person on the premises who appears to be over 16 years old and who is apparently residing at the premises or employed by the owner; or
- (c) in a manner prescribed by any other Act for lawful service on a person or class of persons of the same type as the owner.

(6) Subject to this section and section 34, a person on whom a prescribed industrial training notice has been served must comply with the notice within the time specified.

(7) A person who fails to comply with a prescribed industrial training notice commits an offence and is liable to a fine not exceeding 100 penalty units.

(8) For the purposes of this section, a prescribed industrial training notice includes a prescribed industrial training notice confirmed or varied in accordance with section 34.

34. Appeal against prescribed industrial training notice –

(1) A person on whom a prescribed industrial training notice has

been served may lodge an objection with the Commissioner for Fire and Emergency Service within 7 days of service of the notice stating the grounds of objection.

(2) Within 14 days of lodging the objection, the Commissioner must:

- (a) confirm the notice; or
 - (b) vary the notice where the Commissioner is satisfied that a variation shall appropriately address the prevention or mitigation of a fire or other emergency; or
 - (c) withdraw the notice where the Commissioner is satisfied the proposed prescribed training is unnecessary.
- (3) If:
- (a) a person has lodged an objection under this section and the Commissioner has failed to confirm, vary or withdraw the notice within 14 days of receipt of the objection; or
 - (b) the person is not satisfied with the confirmation or variation of the notice,–

the person may appeal to the Supreme Court within 7 days of the end of the 14 day period or the date of confirmation of the variation under subsection (2).

(4) When considering an appeal under this section, the Supreme Court must vary the notice under this section where:

- (a) the risk posed by fire or other emergency within the business does not warrant the training prescribed;
- (b) the business does not have the required number of staff to be trained to provide the prescribed services; or
- (c) the number of staff to be trained and the training prescribed is in the circumstances unwarranted.

(5) After considering the appeal, the Supreme Court must:

- (a) confirm the notice; or
- (b) vary the notice in any way it thinks fit; or
- (c) cancel the notice.

(6) If the Supreme Court confirms or varies the notice it must specify a new time within which the business owner must comply with the prescribed industrial training notice.

35. Owner to give information about insurance – (1) The owner of premises where a fire occurs shall:

- (a) on request by the Commissioner, inform the Commissioner whether the premises are insured; and
 - (b) provide full particulars of the insurance, if any, including the names of the companies with which the insurance is effected and the amount of insurance.
- (2) The owner of personal property where a fire occurs shall:
- (a) on request by the Commissioner, inform the Commissioner whether the property is insured; and
 - (b) provide full particulars of the insurance, if any, including the names of the companies with which the insurance is effected and the amount of insurance.

(3) A person who refuses to comply with a request by the Commissioner under this section commits an offence under this Act.

(4) A person who wilfully gives false information or incorrect particulars with regard to such insurance commits an offence and is liable to a fine not exceeding 20 penalty units or to a term of imprisonment not exceeding 2 years, or both.

36. Maintenance of fire equipment and detection or suppression systems in buildings – If the Commissioner for Fire and Emergency Service, when undertaking an inspection under section 29, determines that:

- (a) the requirements of a building permit are not or have not been complied with; or
 - (b) fire detection or suppression and maintenance equipment is not functional and places the lives of building occupants or property at risk; or
 - (c) a building or structure owner or third party has interfered with such equipment in a manner which undermines its proper performance,–
- the Commissioner may specify in a risk abatement notice issued under section 31 what works need to be performed to rectify the equipment.

PART 5

MISCELLANEOUS

37. Accounts and annual report of the Authority – (1) The Authority shall:

- (a) keep proper accounts and other records; and
- (b) prepare for each financial year a statement of accounts.

(2) The Authority shall, as soon as possible after the 30th day of June in each year cause to be prepared, a balance sheet together with statements of income and expenditure.

(3) The Authority shall:

- (a) submit the accounts of the authority for audit by the Controller and Auditor General; and
- (b) send a copy of the accounts and the annual report to the Minister as soon as practicable after the accounts have been audited.

(4) A copy of the Authority's annual report, accounts and the Controller and Auditor General's report relating to the Authority's account in each year must be laid before Parliament as soon as practicable after their receipt by the Minister.

38. Offences relating to impersonation – A person who:

- (a) uses a name, title or description to imply an association with the Authority, without the written authority of the Authority; or
- (b) represents that the person is associated with the Authority unless such an association exists; or
- (c) impersonates an officer of the Authority or a member of the Authority; or
- (d) uses an insignia described or set out in the regulations in a manner contrary to the manner set out in the regulations without the written authority of the Authority, –

commits an offence and is liable to a fine not exceeding 50 penalty units.

39. Recovery of costs – (1) The owner of a property for which an alarm is caused by fire or other emergency must pay to the Authority a charge incurred by the Authority in providing fire services to the property.

(2) The Authority must:

- (a) issue a notice setting out the prescribed charges to be paid within 28 days after receipt of the notice; and
 - (b) deliver it, in person or by post, to the owner of the property.
- (3) If an owner or property is insured:
- (a) the Authority may, in writing, notify the insurance company of the prescribed charges payable under this section; and
 - (b) before disbursing the proceeds of any policy of insurance, the insurance company shall pay the prescribed charges to the Authority, and the policy of insurance is taken to be so varied.
- (4) A prescribed charge referred to in this section:
- (a) shall be proposed by the Authority with the concurrence of the Board; and
 - (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

40. Disciplinary procedures for volunteers and career fire fighters – (1) A member is guilty of a disciplinary offence under this section who is:

- (a) in breach of the regulations;
- (b) involved in any misconduct including but not limited to a breach of the standing orders;
- (c) careless or reckless in the discharge of their duties; or
- (d) behaving in a manner which is disgraceful or improper and which is likely to incite public disapproval of the Authority.

(2) A senior member of the operational staff after an investigation into the matter may lay a charge for an offence under this section.

(3) The Commissioner for Fire and Emergency Service may suspend a career member from duty without pay where the career member has been charged with an offence under subsection (1) for such time as may be necessary in order for the charge to be dealt with in accordance with this section.

(4) The Commissioner for Fire and Emergency Service may suspend a volunteer member from duty who has been charged

under subsection (1) for such time as may be necessary in order for the charge to be dealt with under this section.

(5) The Commissioner for Fire and Emergency Service shall hear any charge laid under this section.

(6) When hearing the charge, the Commissioner for Fire and Emergency Service is not bound by the rules of evidence but may inform himself in such manner as he or she thinks fit.

(7) After hearing the charge, the Commissioner for Fire and Emergency Service shall do any one of the following:

- (a) dismiss the charge; or
- (b) find the charge proven and impose any of the following penalties—
 - (i) reprimand the member; or
 - (ii) discharge the member from the brigade and remove their name from the register of members; or
 - (iii) place the member on a period of probation subject to such terms and conditions as the Commissioner for Fire and Emergency Service deems appropriate.

(8) If a career member has their name removed from the Register, the member is dismissed from the employment of the Authority and lose any rights, benefits or privileges which have accrued as a result of the career member's employment.

(9) If a member is aggrieved by a decision of the Commissioner, the member may appeal to an appeals commission constituted by the Chairperson of the Board and 2 other directors of the Board.

(10) When hearing an appeal, the appeals commission is not bound by the rules of evidence and shall either:

- (a) uphold the decision of the Commissioner; or
- (b) dismiss the decision of the Commissioner and dismiss the charge; or
- (c) impose some other penalty as prescribed in subsection (7).

(11) At a hearing before the appeals commission, a member may be represented by a legal practitioner admitted to appear before the Supreme Court of Samoa.

41. Regulations – (1) The Head of State acting on the advice of Cabinet, may make regulations to give effect to the

provisions or for the purposes of this Act, and in particular may make regulations:

- (a) to prescribe fees and charges for the purposes of this Act; or
 - (b) for matters required to be prescribed under this Act;
 - (c) to authorize the Samoan Fire and Emergency Services Authority to issue permits for prescribed hot works operations, and prescribed penalties for non-compliance with conditions of permits to be issued.
- (2) The amount of a fee or charge prescribed under subsection (1)(a):
- (a) shall be proposed by the Authority with the concurrence of the Board; and
 - (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

42. General penalty – A person who commits an offence against this Act for which no specific penalty is provided is liable on conviction to a fine not exceeding 40 penalty units and if the offence is a continuing one then to a fine not exceeding 1 penalty unit for any day during which the offence continues.

43. Recovery of debts – (1) A sum payable to the Authority under this Act or any other Act may be recovered by the Authority in a court of competent jurisdiction as a debt due to the Authority.

(2) The Authority, on application of a person who is liable in respect of any amount for any services or sums payable to the Authority may:

- (a) remit or excuse the payment of the amount or any part of the amount; or
- (b) defer the payment of the amount or any part of the amount to such time as the Authority thinks fit.

44. Current employees and officers – Pending the appointment of the Commissioner for Fire and Emergency Service, all employees and officers employed in the Fire Division of the Ministry of Police, Prisons and Fire Service shall continue to act in their positions.

PART 6
REPEAL AND CONSEQUENTIAL AMENDMENTS

45. Repeal – The Fire Service Act 1994 is repealed.

46. Consequential amendments of the Ministry of Works Act 2002 – The Ministry of Works Act 2002 is amended by:

(a) inserting after subsection 32(2) the following subsection:

“(2A) The Director General of Works must impose requirements in respect of a building or structure that are in addition to any requirement of the Regulations or the Building Code if the Commissioner for Fire and Emergency Service has made such a recommendation in a report under section 32A.”; and

(b) inserting after section 32 the following section:

“32A. Building permits - (1) The consent of the Commissioner for Fire and Emergency Service is required for any application for a building permit for a residential building over 2storeys in height.

(2) In determining whether to provide consent, the Commissioner for Fire and Emergency Service must assess whether the building has in place adequate fire prevention and suppression measures based on the ability of the Samoan Fire and Emergency Service Authority to respond and protect life and property in the building.

(3) The Commissioner for Fire and Emergency Service may report on any additional works, measures or services to be installed or provided in the building to the Chief Executive Officer of Works and the reason for those measures.

(4) The Chief Executive Officer of Works must consider a report made under subsection (3) before issuing a building permit.”

47. Transitional – (1) Nothing in this Act affects the validity of a contract made by the Commissioner of Police, the Commissioner for Fire and Emergency Service or the authorised representative of Apia Fire Brigade or the Fire Service established under the Fire Service Act 1994.

(2) All permits, authorisation and approvals given under the Fire Service Act 1994 continue to have full force and effect and where appropriate, is taken to have been given under the corresponding provision of this Act.

(3) All legal proceedings or rights to bring legal proceedings, either criminal or civil, commenced or to be commenced under the Fire Service Act 1994 continue as if the Fire Service Act 1994 had not been repealed or may be deemed by a court to have been taken under a corresponding provision of this Act.

REVISION NOTES 2008 – 2019

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

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

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa
- (b) Amendments have been made to up-date references to offices, officers and statutes
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General:
 - (i) “Every” and “any” changed to “a”
 - (ii) “shall be” and “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” changed to “under”
 - (vii) “it shall be lawful” changed to “may”
 - (viii) “it shall be the duty” changed to “shall”
 - (ix) Numbers in words changed to figures
 - (x) “hereby” and “from time to time” (or “at any time” or “for the time being”) removed

- (xi) “under the hand of” changed to “signed by”
- (xii) “Commissioner” added to definition of “Commissioner of Fire and Emergency Services” and in some cases references to “of Fire and Emergency Services” have been deleted
- (xiii) Part in Roman numerals now changed to decimal number
- (e) Section 5(1) revised to delete reference to “Prisons” as the Commissioner of Prisons is not an ex officio director and Commissioner of Police and Prisons are two separate Commissioners.
- (f) Section 5(1A) revised to insert “s” to the word director and delete reference to “subsection 1(a)” and replace with subsection 1.

This Act has been amended:

By the Audit Act 2013, *No.22*.

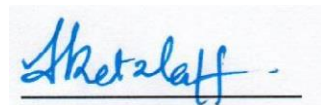
- Section 37(3)** - references to “Controller and Chief Auditor referred to in Article 97” was substituted with Controller and Auditor General;
- Section 37(4)** - “Audit Office’s” substituted with Controller and Auditor General’s

By the *Fees and Charges (Miscellaneous Amendments) Act 2017*, No. 13:

- Section 39** - substituted;
- Section 41** - substituted.

By the *Fire and Emergency Services Amendment Act 2018 No. 5*

- Section 2** - new definition for “hot works” inserted.
- Section 41** - amended. The amendment was made to insert a new paragraph (p) after paragraph (o) which was incidentally repealed by the *Fees and Charges (Miscellaneous Amendments) Act 2017 No. 5*. Thus in keeping with the spirit of the 2018 Amendment which is to insert a paragraph to enable the Head of State to make regulations relating to the inserted paragraph, this paragraph is noted in this consolidation as a paragraph inserted in section 41(1)(c).



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Fire and Emergency Services Authority*
