

# EDUCATION AMENDMENT BILL 2018

## SAMOA

### Explanatory Memorandum

#### **Object and reasons:**

The Bill seeks to amend the Education Act 2009 (“Principal Act”):

- (i) amends the compulsory school-age from ‘5 to 14 years’ to ‘4 years (for Early Childhood Education) and between 5 years to 16 years old (for primary and secondary school);
- (ii) merge the interchangeable use of terms “village school” and “Ministry school” to “Government school”;
- (iii) by amending section 23 to allow the use of reasonable force by a secondary school teacher on a child, if the force is used in a reasonable circumstance (including but not limited to preventing or minimising harm to the child and so forth). The Bill further amends section 23 of the Principal Act to insert a new subsection 3A to prohibit the use of any object by a secondary school teacher when imposing force on a child as this is an offence under the Crimes Act 2013; and
- (iv) prohibit the use of alcohol, narcotics and tobacco for teachers and students during school hours or any school organized activity.

**Clauses:**

- Clause 1:** - provides for the short title and commencement.
- Clause 2:** - amends section 2 of the principal Act by providing for a new definition of “compulsory school-aged child” and insert new definition of “Government school” and repeal definitions for “Ministry school” and “village school”.
- Clause 3:** - amends section 7(2) by substituting reference to “special needs” with “disability”.
- Clause 4:** - amends section 11 to include the birth certificate number of a student in the principals roll.
- Clause 5:** - section 23 of the Principal Act is amended by substituting a new subsection (3) to allow the use of reasonable force by a secondary school teacher on a child if the force is used in a reasonable circumstance (including but not limited to, preventing or minimising harm to the child or another person or preventing the child from engaging in conduct that amounts to a criminal offence and so forth).
- Clause 6:** - substituted section 24 of the Principal Act to prohibit the use and possession of alcohol, narcotics (by a teacher or a student) and tobacco (by a student).
- Clause 7:** - provides for general amendments to the principal Act to be consistent with amendments made under clauses 2 and 3.

**Clause 8:** - provides for a consequential amendment to section 14 of the Infants Ordinance 1961.



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(Hon LOAU Solamalemalo Keneti Sio)

**MINISTER OF EDUCATION, SPORTS AND CULTURE**

## **EDUCATION AMENDMENT BILL 2018**

### **SAMOA**

#### **Arrangement of Provisions**

1. Short title and commencement
2. Section 2 amended
3. Section 7 amended
4. Section 11 amended
5. Section 23 amended
6. Section 24 substituted
7. General amendments
8. Consequential amendment

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**2018, No.**

#### **A BILL INTITULED**

**AN ACT to amend the Education Act 2009 (“Principal Act”).**

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

**1. Short title and commencement:**

- (1) This Act may be cited as the Education Amendment Act 2018.
- (2) This Act commences on a date nominated by the Minister.

**2. Section 2 amended:**

In section 2 of the Principal Act:

- (a) repeal the definitions of “Ministry school” and “village school”;
- (b) for the definition of “compulsory school-aged child” substitute with new definition:

““compulsory school aged child” means a child who is 4 years old (for Early Childhood Education) and between 5 years old to 16 years old (for primary and secondary education);”; and

- (c) insert in the correct alphabetical order, the definition of:

““Government school” means a school that is overseen and regulated by the Ministry and includes a village primary school and district secondary school and college;

“narcotic” has the meaning given under the Narcotics Act 1967.”.

**3. Section 7 amended:**

In section 7(2) substitute “special needs” with “disability”.

**4. Section 11 amended:**

In section 11 of the Principal Act, substitute “and address” with “, address and birth certificate number”.

**5. Section 23 amended:**

In section 23(3) of the Principal Act substitute:

“(3) Despite subsection (2), any teacher for a secondary school is justified in using reasonable force on a child attending the school that teacher teaches in, if the force is used in a reasonable circumstance which includes but is not limited to:

- (a) preventing or minimising harm to the child or another person; or
- (b) preventing the child from engaging or continuing to engage in conduct that amounts to a criminal offence; or
- (c) preventing the child from engaging or continuing to engage in threatening, offensive or disruptive behaviour.

(3A) For the purpose of subsection (3) the use of any object by a teacher to impose force does not amount to reasonable force.

(3B) A teacher who uses an object to impose force under this section is liable to being charged with an offence under the Crimes Act 2013.”.

**6. Section 24 substituted:**

For section 24 of the Principal Act, substitute:

**“24. Prohibition of alcohol, tobacco and narcotics:**

- (1) A teacher must not during school hours, or during any school organised activity on the school compound:
  - (a) consume any alcohol; or
  - (b) be affected by any narcotic; or

- (c) be affected by any alcohol to the extent that the teacher or student loses control or has significantly diminished control of his or her behaviour or faculties.
- (2) A student must not at any time, whether during school hours or during any school organised activity on the school compound or not:
  - (a) use or have in his or her possession any alcohol; or
  - (b) use or have in his or her possession any narcotics; or
  - (c) use or have in his or her possession any tobacco.
- (3) A teacher may inspect a student's belongings if the teacher has reasonable grounds to believe that the student has in his or her possession any of the following:
  - (a) alcohol;
  - (b) narcotics; or
  - (c) tobacco.
- (4) A teacher who breaches subsection (1) is subject as follows:
  - (a) for a Government school teacher, subject to the discretion of the Chief Executive Officer;
  - (b) for a mission or private school teacher, subject to the discretion of their employer.
- (5) A student who breaches subsection (2) is subject to section 57.
- (6) For the purpose of this section, if narcotics are found the matter must be reported to the Police Commissioner as applicable in the situation, by the teacher, by the principal, by the Chief Executive Officer or by the employer."

**7. General amendments:**

- (1) In the Principal Act, for "Ministry school" and "village school" substitute "Government school".

- (2) In the Principal Act, for “with special needs” substitute “living with disabilities”.

**8. Consequential amendment:**

Section 14 of the Infants Ordinance 1961 is amended by inserting after “parent,” the words “secondary school”.

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