

# MISCELLANEOUS (SALARY CONDITIONS UPON SUSPENSION) AMENDMENT BILL 2020

## SAMOA

### Explanatory Memorandum

#### **Summary:**

The Bill seeks to amend various Acts of Parliament to give effect to a Cabinet Directive FK (16) Faapitua 13, dated 9 December 2016 regarding the conditions to be applied on salary of Government employees when suspended from employment.

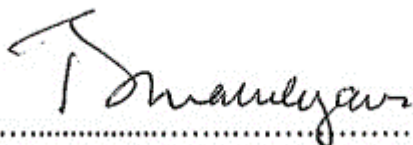
The objects of the Bill are to clarify that all employees (“suspended employee”) of the Government are entitled to a salary for a one (1) month period only, if suspended from employment. If the suspension extends beyond one (1) month as a result of ongoing investigative procedures the suspended employee’s salary will cease. If at the completion of suspension procedures a suspended employee is cleared of all allegations that led to the suspension, the suspended employee must be reimbursed the salary owed to him or her commencing from the period the salary ceased to the date the employee is reinstated. If however, the suspended employee is not cleared of the allegations and the decision resulting from procedures during suspension is for that person to be terminated, no further action is to be taken regarding the terminated person’s salary.

**Clauses:**

- Clause 1:** - provides for the short title and commencement.
- Clause 2:** - provides for amendments to be made to the Airport Authority Act 2012 to align with the objects of the Bill.
- Clause 3:** - amends the Attorney General's Office Act 2013 to align with the objects of the Bill.
- Clause 4:** - amends the Accident Compensation Act 1989 to align with the objects of the Bill.
- Clause 5:** - amends the Broadcasting Act 2010 to align with the objects of the Bill.
- Clause 6:** - amends the Casino and Gambling Control Act 2010 to align with the objects of the Bill.
- Clause 7:** - amends the Central Bank of Samoa Act 2015 to align with the objects of the Bill.
- Clause 8:** - amends the Development Bank of Samoa Act 2010 to align with the objects of the Bill.
- Clause 9:** - amends the Electricity Act 2010 to align with the objects of the Bill.
- Clause 10:** - amends the Electoral Commission Act 2019 to align with the objects of the Bill.
- Clause 11:** - amends the Electric Power Corporation Act 1980 to align with the objects of the Bill.
- Clause 12:** - amends the Fire and Emergency Service Act 2007 to align with the objects of the Bill.
- Clause 13:** - amends the Health Promotion Foundation Act 2015 to align with the objects of the Bill.

- Clause 14:** - amends the Housing Corporation Act 2010 to align with the objects of the Bill.
- Clause 15:** - amends the Life Assurance Corporation Act 1976 to align with the objects of the Bill.
- Clause 16:** - amends the National University of Samoa Act 2006 to align with the objects of the Bill.
- Clause 17:** - amends the National Kidney Foundation of Samoa Act 2005 to align with the objects of the Bill.
- Clause 18:** - amends the National Provident Fund Act 1972 to align with the objects of the Bill.
- Clause 19:** - amends the Oceania University of Medicine (Samoa) Act 2002 to align with the objects of the Bill.
- Clause 20:** - amends the Ombudsman (Komesina o Sulufaiga) Act 2013 to align with the objects of the Bill.
- Clause 21:** - amends the Police Service Act 2009 to align with the objects of the Bill.
- Clause 22:** - amends the Ports Authority Act 1998 to align with the objects of the Bill.
- Clause 23:** - amends the Public Service Act 2004 to align with the objects of the Bill.
- Clause 24:** - amends the Prisons and Corrections Act 2013 to align with the objects of the Bill.
- Clause 25:** - amends the Public Bodies (Performance and Accountability) Act 2001 to align with the objects of the Bill.
- Clause 26:** - amends the Samoa International Finance Authority Act 2005 to align with the objects of the Bill.

- Clause 27:** - amends the Samoa Qualifications Authority Act 2010 to align with the objects of the Bill.
- Clause 28:** - amends the Samoa Sports Facilities Authority Act 2007 to align with the objects of the Bill.
- Clause 29:** - amends the Samoa Trust Estates Corporation Act 1977 to align with the objects of the Bill.
- Clause 30:** - amends the Samoa Water Authority Act 2003 to align with the objects of the Bill.
- Clause 31:** - amends the Scientific Research Organisation of Samoa Act 2006 to align with the objects of the Bill.
- Clause 32:** - amends the Telecommunications Act 2005 to align with the objects of the Bill.
- Clause 33:** - amends the Tourism Development Act 2012 to align with the objects of the Bill.



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(Hon TUILAEPA Auelua Fatialofa Lupesoliai Lolofietele  
Neioti Aiono Galumalemana Dr. Sailele Malielegaoi)

**PRIME MINISTER AND MINISTER FOR  
PUBLIC SERVICE COMMISSION**

**MISCELLANEOUS (SALARY CONDITIONS UPON  
SUSPENSION) AMENDMENT BILL 2020**

**SAMOA**

**Arrangement of Provisions**

1. Short title and commencement
2. Airport Authority Act 2012 amended
3. Attorney General's Office Act 2013 amended
4. Accident Compensation Act 1989 amended
5. Broadcasting Act 2010 amended
6. Casino and Gambling Control Act 2010 amended
7. Central Bank of Samoa Act 2015 amended
8. Development Bank of Samoa Act 2010 amended
9. Electricity Act 2010 amended
10. Electoral Commission Act 2019 amended
11. Electric Power Corporation Act 1980 amended

12. Fire and Emergency Service Act 2007 amended
13. Health Promotion Foundation Act 2015 amended
14. Housing Corporation Act 2010 amended
15. Life Assurance Corporation Act 1976 amended
16. National University of Samoa Act 2006 amended
17. National Kidney Foundation of Samoa Act 2005 amended
18. National Provident Fund Act 1972 amended
19. Oceania University of Medicine (Samoa) Act 2002 amended
20. Ombudsman (Komesina o Sulufaiga) Act 2013 amended
21. Police Service Act 2009 amended
22. Ports Authority Act 1998 amended
23. Public Service Act 2004 amended
24. Prisons and Corrections Act 2013 amended
25. Public Bodies (Performance and Accountability) Act 2001 amended
26. Samoa International Finance Authority Act 2005 amended
27. Samoa Qualifications Authority Act 2010 amended
28. Samoa Sports Facilities Authority Act 2007 amended
29. Samoa Trust Estates Corporation Act 1977 amended
30. Samoa Water Authority Act 2003 amended
31. Scientific Research Organisation of Samoa Act 2006 (SROS Act) amended

- 32. Telecommunications Act 2005 amended
- 33. Tourism Development Act 2012 amended

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2020, No.

**A BILL INTITULED**

**AN ACT to amend various Acts of Parliament in relation to the salary of any chief executive and employee of Government Ministries, Public Bodies and Constitutional Offices during suspension and for related purposes.**

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

**1. Short title and commencement:**

This Act may be cited as the Miscellaneous (Salary Conditions upon Suspension) Amendment Act 2020 and commences on the date of assent by the Head of State.

**2. Airport Authority Act 2012 amended:**

The Airport Authority Act 2012 is amended as follows:

- (a) section 19 is amended by inserting after subsection (4) the following new subsections:

“(4A) The General Manager, if suspended, he or she is entitled to receive the salary for one (1) month only from the effective date of the suspension.

- (4B)** If the General Manager is acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the General Manager must be reinstated without loss of any benefit or status and paid the salary he or she lost as a result of any suspension from duty.
  - (4C)** The General Manager is not entitled to his or her salary if:

    - (a) he or she is found guilty of the charges and is reinstated; or
    - (b) as a result of the investigation, he or she is not reinstated.”;
- (b) section 21 is amended by inserting after subsection (1) the following new subsections:
- “(1A)** The power to appoint under subsection (1) includes the power to promote, discipline, suspend or terminate officers and employees of the Authority.
  - (1B)** An officer or employee suspended is entitled to receive a salary for one (1) month only effective from the date of suspension.
  - (1C)** If an officer or employee is acquitted of the charge he or she is suspended with and cleared of all allegations or any investigation relating to the subject of his or her suspension, an officer or employee must be reinstated without loss of any benefit or status and paid the salary he or she lost as a result of any suspension from duty.
  - (1D)** An officer or employee is not entitled to his or her salary if:



- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”.

**3. Attorney General’s Office Act 2013 amended:**

The Attorney General’s Office Act 2013 is amended as follows:

- (a) by inserting after section 11(4) the following new subsections:

- “(5) If a person’s period of suspension under this section exceeds one (1) month, that person may only receive his or her salary for the first month of his or her suspension.
- (6) If a person is cleared of all allegations or any investigation relating to the purpose for which he or she is suspended, the person must be reinstated and paid his or her salary commencing from the day his or her salary ceased under subsection (5).
- (7) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**4. Accident Compensation Act 1989 amended:**

The Accident Compensation Act 1989 is amended by inserting after section 58(6) the following new subsections:

- “(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:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**5. Broadcasting Act 2010 amended:**

Section 5 of the Broadcasting Act 2010 is amended by:

- (a) repealing subsection (2);
- (b) inserting after subsection (6) the following:

“(6A) If the Regulator is suspended for any reason set out in subsection (6), he or she is entitled to a salary for one (1) month only from the effective date of suspension.

(6B) If the Regulator is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Regulator 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 of duty.

- (6C) The Regulator is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**6. Casino and Gambling Control Act 2010 amended:**

The Casino and Gambling Control Act 2010 is amended as follows:

- (a) section 20 is amended by inserting after subsection (3) the following new subsections:

“(3A) If the Chief Executive Officer is suspended before a decision for removal is made, the Chief Executive Officer is entitled to receive a remuneration for one (1) month only, from the effective date of suspension.

(3B) If the Chief Executive Officer is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer 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 from duty.

- (3C) The Chief Executive Officer is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”;

- (b) section 22 is amended by inserting after subsection (1) the following subsections:

“(1A) The power to appoint in this section includes the power to promote, suspend, discipline or dismiss officers and employees.

(1B) A suspended officer or employee is entitled to receive one (1) month’s remuneration only effective from the date of suspension.

(1C) If an officer or employee is acquitted of the charge he or she is suspended with, the officer or employee 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 from duty.

(1D) A person is not entitled to his or her salary if:

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”.

**7. Central Bank of Samoa Act 2015 amended:**

The Central Bank of Samoa Act 2015 is amended as follows:

- (a) for section 22, after subsection (2) insert the following new subsections:

“(2A) If the Governor is suspended before a decision for removal is made, the Governor is entitled to receive remuneration for one (1) month only, during the period of suspension.

- (2B)** If the Governor is acquitted of any charge that resulted in suspension, the Governor must be reinstated without loss of any benefit or status and be paid the salary the Governor lost as a result of any suspension from duty.
- (2C)** The Governor is not entitled to his or her salary if:

  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”;

(b) for section 25, after subsection (2) insert the following new subsections:

- “(2A)** An officer or employee that is suspended under this section is entitled to receive one (1) month’s remuneration only during the period of suspension effective from the date of suspension.
- (2B)** If an officer or employee is acquitted of the charge or cleared of all allegation that is the subject of his or her suspension, the officer or an employee must be reinstated without loss of any benefit or status and be paid the salary the officer or an employee lost as a result of any suspension from duty.
- (2C)** A person is not entitled to his or her salary if:

  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**8. Development Bank of Samoa Act 2010 amended:**

The Development Bank of Samoa Act 2010 is amended as follows:

- (a) in section 17 of the Development Bank of Samoa Act 2010, insert after subsection (3) the following:

“(3A) If the Chief Executive Officer is suspended before a decision for removal is made, the Chief Executive Officer is entitled to receive remuneration for one (1) month only, from the effective date of suspension.

(3B) If the Chief Executive Officer is acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer must be reinstated without loss of any benefit or status and paid the salary he or she lost as a result of any suspension from duty.

(3C) The Chief Executive Officer is not entitled to his or her salary if:

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”;

- (b) for section 19, after subsection (1) insert the following new subsections:

“(1A) The power to appoint includes the power to suspend, terminate or institute disciplinary proceedings.

(1B) If an officer or employee is suspended, he or she is entitled to receive his or her salary for one (1) month only, during the period of suspension.

- (1C) If an officer or employee is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the officer or employee must be reinstated without loss of any benefit or status and paid the salary he or she lost as a result of any suspension from duty.
- (1D) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**9. Electricity Act 2010 amended:**

The Electricity Act 2010 is amended as follows:

- (a) in section 4, after subsection (4), insert as follows:

- “(4A) If the Regulator is suspended before a decision to be removed is made under subsection (4), he or she is entitled to receive a salary for one (1) month only effective from the date of suspension.
- (4B) If the Regulator is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Regulator 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 from duty.
- (4C) The Regulator is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**10. Electoral Commission Act 2019 amended:**

The Electoral Commission Act 2019 is amended as follows:

(a) for section 9, insert after subsection (4) the following new subsections:

“(5) If the Commissioner is suspended before a decision for termination is made, the Commissioner is to receive remuneration for one (1) month only, from the effective date of suspension.

(6) If the Commissioner is acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Commissioner must be reinstated without loss of any benefit or status and be paid the salary the Commissioner lost as a result of any suspension from duty.

(7) The Commissioner is not entitled to his or her salary if:

(a) he or she is found guilty of the charges and is reinstated; or

(b) as a result of the investigation, he or she is not reinstated.”; and

(b) for section 12, after subsection (5), insert the following new subsections:

“(6) A suspended officer or employee is entitled to receive one (1) month’s remuneration only, effective from the date of suspension.

(7) If an officer or employee is acquitted of the charge for which the officer or employee is suspended, he or she must be reinstated without loss of any benefit or status and be paid the salary the officer or employee lost as a result of any suspension from duty.



- (8) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**11. Electric Power Corporation Act 1980 amended:**

The Electric Power Corporation Act 1980 is amended as follows:

- (a) for section 32, insert after subsection (1) the following new subsections:

“(1A) The power to appoint includes the power to suspend, terminate or institute disciplinary proceedings.

(1B) If the General Manager is suspended before a decision for removal is made, the General Manager is entitled to receive remuneration for one (1) month only, from the effective date of suspension.

(1C) If the General Manager is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the General Manager 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 from duty.

(1D) The General Manager is not entitled to his or her salary if:

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”; and

- (b) for section 33, after subsection (4), insert the following new subsections:

“(4A) If an officer or employee is suspended before a decision for dismissal is made, the officer or employee is entitled to receive remuneration for one (1) month only, from the date of suspension.

(4B) If an officer or employee is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the officer or employee 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 from duty.

(4C) A person is not entitled to his or her salary if:

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”.

**12. Fire and Emergency Service Act 2007 amended:**

The Fire and Emergency Service Act 2007 is amended as follows:

- (a) in section 16, after subsection (4) insert the following:

“(4A) If the Commissioner for Fire and Emergency Service or the Acting Commissioner is suspended for any reason by the Cabinet or by the Board, he or she is entitled to salary for one (1) month only from the effective date of suspension.

- (4B)** If the Commissioner for Fire and Emergency Service or the Acting Commissioner is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Commissioner for Fire and Emergency Service or the Acting Commissioner 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 of duty.
  - (4C)** The Commissioner is not entitled to his or her salary if:

    - (a) he or she is found guilty of the charges and is reinstated; or
    - (b) as a result of the investigation, he or she is not reinstated.”; and
- (b) in section 40, amend as follows -
- (i) in subsection (3) delete the words “without pay”;
  - (ii) after subsection (11) insert the following:

    - “(12) A career member or a volunteer member suspended under this section, is entitled to receive a salary for one (1) month only effective from the date of suspension.
    - (13) If a career member or a volunteer member is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the career member or volunteer member 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 of duty.

- (14) To avoid any doubt, a career member or a volunteer member is only entitled to a back pay under subsection (13) if he or she is also acquitted by the Court for any charge that relates to the subject of his or her suspension.”.

**13. Health Promotion Foundation Act 2015 amended:**

The Health Promotion Foundation Act 2015 is amended as follows:

- (a) for section 18, insert after subsection (4) the following:

- “(5) If the Chief Executive Officer is suspended for any reason by the Board, he or she is entitled to salary for one (1) month only from the effective date of suspension.

- (6) If the Chief Executive Officer is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer 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 from duty.

- (7) The Chief Executive Officer is not entitled to his or her salary if:

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”; and

- (b) section 20 is amended by inserting after subsection (3) the following:

- “(4) The power to appoint includes the power to promote, discipline or suspend a person who is appointed as a staff member of the Foundation.
- (5) A staff member suspended under this section, is entitled to receive a salary for one (1) month only from the effective date of suspension.
- (6) If the staff member is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the staff member 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 from duty.
- (7) A staff member is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**14. Housing Corporation Act 2010 amended:**

The Housing Corporation Act 2010 is amended as follows:

- (a) in section 18, after subsection (3) insert the following new subsections:

- “(3A) If the Chief Executive Officer is suspended before a decision for removal is made, the Chief Executive Officer is entitled to a salary for one (1) month only, from the effective date of suspension.
- (3B) If the Chief Executive Officer is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer 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 from duty.

- (3C) The Chief Executive Officer is not entitled to his or her salary:

  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”; and
  
- (b) for section 20, after subsection (1), insert the following new subsections:
  - “(1A) The power to appoint includes the power to suspend, terminate or institute disciplinary proceedings.
  - (1B) An officer or employee suspended before a decision for removal is made is entitled to receive one (1) month’s remuneration, effective from the date of suspension.
  - (1C) If an officer or employee is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the officer or employee 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 from duty.
  - (1D) A person is not entitled to his or her salary if:
    - (a) he or she is found guilty of the charges and is reinstated; or
    - (b) as a result of the investigation, he or she is not reinstated.”.

**15. Life Assurance Corporation Act 1976 amended:**

The Life Assurance Corporation Act 1976 is amended as follows:

(a) for section 11, insert after subsection (3) the following:

- “(4) If the manager is suspended before a decision for removal is made, the manager is entitled to receive remuneration for one (1) month only, from the effective date of suspension.
- (5) If the Manager is acquitted of the charge of which he or she is suspended, the Manager 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 from duty.
- (6) The Manager is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”; and

(b) for section 13, insert the following new subsections:

- “(3) The power to appoint under this section includes the power to promote, suspend, discipline or dismiss an officer or employee.
- (4) An officer or employee including the secretary or an accountant suspended is entitled to receive a salary for one (1) month only, effective from the date of suspension.

- (5) If an officer or employee is acquitted of the charge he or she is suspended with, the officer or employee 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 from duty.
- (6) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**16. National University of Samoa Act 2006 amended:**

The National University of Samoa Act 2006 is amended as follows:

- (a) for section 7, after subsection (4) insert the following new subsections:

- “(4A) If the Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, from the effective date of suspension.
- (4B) If the Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chancellor must be reinstated without loss of any benefits or status and be paid the salary he or she lost as a result of any suspension from duty.
- (4C) The Chancellor is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”; and



(b) for section 8, after subsection (4) insert the following new subsections:

**“(5)** If the Pro-Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, from the effective date of suspension.

**(6)** If the Pro-Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Pro-Chancellor must be reinstated without loss of any benefits or status and be paid the salary he or she lost as a result of any suspension from duty.

**(7)** The Pro-Chancellor is not entitled to his or her salary if:

(a) he or she is found guilty of the charges and is reinstated; or

(b) as a result of the investigation, he or she is not reinstated.”; and

(c) for section 10, after subsection (3) insert the following new subsections:

**“(3A)** If the Vice-Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, effective from the date of suspension.

**(3B)** If the Vice-Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Vice-Chancellor must be reinstated without loss of any benefits or status and be paid the salary he or she lost as a result of any suspension from duty.

- (3C) The Vice-Chancellor is not entitled to his or her salary:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”; and
  
- (d) for section 11, after subsection (6) insert the following new subsections:
  - “(7) If the Deputy Vice-Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, from the effective date of suspension.
  - (8) If a Deputy Vice-Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Deputy Vice-Chancellor must be reinstated without loss of any benefits or status and be paid the salary he or she lost as a result of any suspension from duty.
  - (9) The Deputy Vice-Chancellor is not entitled to his or her salary if:
    - (a) he or she is found guilty of the charges and is reinstated; or
    - (b) as a result of the investigation, he or she is not reinstated.”.

**17. National Kidney Foundation of Samoa Act 2005 amended:**

Section 8 of the National Kidney Foundation of Samoa Act 2005 is amended by inserting after subsection (6) the following:

- “(7) The power to appoint under this section includes the power to promote, terminate, suspend and discipline the General Manager, an officer or employee of the Foundation.
- (8) The General Manager, an officer or employee suspended under this section, is entitled to receive salary for one (1) month only, effective from the date of suspension.
- (9) If the General Manager, an officer or employee of the Foundation is acquitted 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 Foundation must be reinstated without loss of any benefit or status and be paid the salary they lost as a result of any suspension from duty.
- (10) The General Manager is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**18. National Provident Fund Act 1972 amended:**

Section 12 of the National Provident Fund Act 1972 is amended by inserting after subsection (3) the following:

- “(4) The power to appoint a person under this section includes the power to promote, terminate, suspend and discipline him or her.
- (5) A suspended person is entitled to receive one (1) month’s remuneration only, effective from the date of suspension.

- (6) If a person is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, that person 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 from duty.
- (7) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**19. Oceania University of Medicine (Samoa) Act 2002 amended:**

Section 12 of the Oceania University of Medicine (Samoa) Act 2002 is amended as follows:

- (a) renumber the current provision as subsection (1); and
- (b) insert the following new subsections:

- “(2) The power to appoint under this section includes the power to promote, discipline or suspend a Chief Executive Officer or staff member of the University.
- (3) The Chief Executive Officer or staff member suspended for any reason is entitled to receive one (1) month’s remuneration only effective from the date of suspension.
- (4) If the Chief Executive Officer or staff member is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer or staff member must be reinstated without loss of any benefit or status and be paid the salary they lost as a result of any suspension from duty.

- (5) The Chief Executive Officer is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**20. Ombudsman (Komesina o Sulufaiga) Act 2013 amended:**

The Ombudsman (Komesina o Sulufaiga) Act 2013 is amended as follows:

- (a) for section 15, after subsection (6) insert the following new subsections:

“(6A) The Ombudsman suspended under this section, is entitled to receive a salary for one (1) month only, effective from the date of suspension.

(6B) If the Ombudsman is acquitted of the charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Ombudsman must be reinstated without loss of any benefit or status and be paid the salary the Ombudsman lost as a result of any suspension from duty.

(6C) The Ombudsman is not entitled to his or her salary if:
 

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”; and

- (b) for section 54, after subsection (4) insert the following new subsections:

- “(4A) A staff member suspended is entitled to receive one (1) month’s remuneration only, effective from the date of suspension.
- (4B) If a staff member is acquitted of the charge for which he or she is suspended, the staff member must be reinstated without loss of any benefit or status and be paid the salary the staff member lost as a result of any suspension from duty.
- (4C) A staff member is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**21. Police Service Act 2009 amended:**

The Police Service Act 2009 is amended as follows:

- (a) in section 52 -
  - (i) for subsection (3)(b) substitute:

“(b) is entitled to receive one (1) month’s salary, allowance or other remuneration effective from the date of suspension.”; and
  - (ii) for subsection (4) substitute:

“(4) A member suspended under this section is entitled to be paid the salary the member lost as a result of the suspension from duty:
    - (a) if the member has been charged with either a disciplinary or a criminal charge, the charge is acquitted and dismissed by the Commissioner or the Tribunal or the Court; or

(b) if the member has been charged with both the disciplinary and criminal charges, the charge is acquitted and dismissed by the Court and the Tribunal or the Commissioner.”;

(b) in section 56 -

(i) for the section heading, insert “, Deputy Commissioner” after the word “Commissioner”;

(ii) for subsections (1), (2), (4), (6), (8) and (9) insert “, Deputy Commissioner” after the word “Commissioner” wherever occurring;

(iii) for subsection (5) substitute as follows:

“(5) The Commissioner or the Deputy Commissioner or an Assistant Commissioner suspended under this section is entitled to receive one (1) month’s salary, allowance or other remuneration effective from the date of suspension.”;

(iv) for subsection (7), substitute as follows:

“(7) If the Commissioner, Deputy Commissioner or an Assistant Commissioner is acquitted of any charge that resulted in suspension, the Commissioner, Deputy Commissioner or Assistant Commissioner must be reinstated without loss of any benefit or status and be paid the salary they have lost as a result of the suspension from duty.

(8) To avoid any doubt, a person under subsection (7) is not entitled to his or her salary if:

(a) he or she is found guilty of the charges and is reinstated; or

- (b) as a result of the investigation, he or she is not reinstated.”.

**22. Ports Authority Act 1998 amended:**

The Ports Authority Act 1998 is amended as follows:

- (a) for section 19, insert after subsection (2) the following:

“(2A) If the General Manager is suspended before a decision for removal is made, the General Manager is entitled to receive one (1) month’s remuneration only effective from the date of suspension.

(2B) If the General Manager is acquitted of a charge for which he or she is suspended, the General Manager 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 from duty.

(2C) The General Manager is not entitled to his or her salary if:

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”;

- (b) section 26 is amended as follows -

- (i) in subsection (2), insert “suspension,” after the word “appointment,”; and
- (ii) after subsection (2), insert the following new subsections:

“(2A) A suspended officer is entitled to receive one (1) month’s remuneration only effective from the date of suspension.



- (2B) If an employee or officer is acquitted of the charge for which he or she is suspended, the officer or employee 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 from duty.
- (2C) An employee or officer is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated."

**23. Public Service Act 2004 amended:**

The Public Service Act 2004 is amended as follows:

- (a) for section 13, substitute as follows:

**"13. Suspension pending inquiry and termination of a Chief Executive Officer:**

- (1) Where there is an inquiry against a Chief Executive Officer under this Act or any other enactment, the following apply:
  - (a) Cabinet may, on the advice of the Commission suspend the Chief Executive Officer pending the developments or completion of the inquiry; and
  - (b) the Chief Executive Officer is entitled to pay for a period of one (1) month only, from the effective date of the suspension; and
  - (c) if, following inquiries and any other due process of law, a Chief Executive Officer is acquitted of the charge and cleared of all allegations or any investigation relating to the subject of the inquiry, the Chief Executive Officer shall be reinstated without loss of any benefit or status and be paid the salary he or she lost as a result of any suspension from duty; and

- (d) if, the Chief Executive Officer is terminated after the inquire, he or she is not entitled to his or her salary.
- (2) The Head of State, acting on the advice of Cabinet after Cabinet has consulted the Commission may, subject to any procedural requirements set out in the contract between the Chief Executive Officer and the Commission, in writing, terminate the appointment of a Chief Executive Officer on the ground of:
  - (a) misbehaviour; or
  - (b) poor performance; or
  - (c) redundancy; or
  - (d) physical or mental incapacity.”; and
- (b) in section 43 -
  - (i) for the section heading, substitute “Effect of conviction or acquittal for offence”; and
  - (ii) for subsection (2) substitute:
    - “(2) An employee suspended under this section is entitled to pay for one (1) month only, from the effective date of the suspension.”; and
- (c) for section 47(2), substitute:
  - “(2) A person suspended under this section is entitled to pay for one (1) month only, from the effective date of the suspension.

- (2A) If after the inquiry and any other due process of law, a person subject to the suspension is later acquitted or a charge is dismissed and he or she is cleared of all allegations or any investigation relating to the subject of the inquiry, that person shall be reinstated without loss of any benefit or status, and be paid the salary the person lost as a result of any suspension from duty.”.

**24. Prisons and Corrections Act 2013 amended:**

The Prisons and Corrections Act 2013 is amended as follows:

- (a) in section 8, substitute subsections (2) and (3) as follows:

- “(2) A suspension made under this section applies until the date of the final decision to terminate is made under section 7.
- (3) The suspension of the Commissioner or the Assistant Commissioner is effective under this section upon the Commissioner or Assistant Commissioner being charged with an offence punishable by imprisonment.
- (4) The Commissioner or Assistant Commissioner, if:
  - (a) suspended, is entitled to be paid one (1) month’s salary only, to be effective from the date of suspension; and
  - (b) acquitted of the purpose of suspension must be reinstated without loss of any benefit or status and be paid the salary he or she lost as a result of the suspension.

- (5) The Commissioner or Assistant Commissioner is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”; and
  
- (b) section 9 is amended as follows -
  - (i) for the section heading, substitute “Termination and suspension of other members”; and
  - (ii) after subsection (2), insert the following:
    - “(3) If a member is suspended before a decision for the member’s dismissal or termination is made, the member is entitled to receive one (1) month’s remuneration only, effective from the date of suspension.
    - (4) If the member is acquitted and cleared of either a disciplinary or criminal charges or both the subject of the member’s suspension, the member must be reinstated without loss of any benefit or status and be paid the salary the member lost as a result of any suspension from duty.
    - (5) A member is not entitled to his or her salary if:
      - (a) he or she is found guilty of the charges and is reinstated; or
      - (b) as a result of the investigation, he or she is not reinstated.”.

**25. Public Bodies (Performance and Accountability) Act 2001 amended:**

The Public Bodies (Performance and Accountability) Act 2001 is amended as follows:

- (a) after section 29 insert the following new section:

**“29A. Suspension with salary for one (1) month:**

- (1) As an exception to any suspension rule under empowering Act, if a chief executive or an employee of any public body is suspended, the chief executive or an employee is entitled to receive one (1) month’s remuneration only effective from the date of the suspension.
- (2) If a chief executive or employee is acquitted of any charge that resulted in suspension, the chief executive or employee must be reinstated without loss of any benefit or status and be paid the salary the chief executive or employee lost as a result of any suspension from duty.
- (3) The chief executive or employee is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.
- (4) Employee under this section includes “contract employees”.

**26. Samoa International Finance Authority Act 2005 amended:**

The Samoa International Finance Authority Act 2005 is amended as follows:

- (a) section 10 of the Samoa International Finance Authority Act 2005 is amended by inserting after subsection (5) the following new subsections:

- “(5A)** If the Chief Executive Officer is suspended before a decision for removal is made, the Chief Executive Officer is entitled to receive one (1) month’s salary only, effective from the date of suspension.
- (5B)** If the Chief Executive Officer is acquitted or clear of the charge or allegation that is the subject of his or her suspension, the Chief Executive Officer must be reinstated without loss of any benefit or status and be paid the salary he or she lost as a result of the suspension from duty.
- (5C)** The Chief Executive Officer is not entitled to his or her salary if:
- (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”; and

(b) in section 14, after subsection (1), insert as follows:

- “(1A)** The power to appoint under subsection (1) includes the power to promote, suspend, discipline or dismiss officers and employees.
- (1B)** An officer or employee suspended is entitled to receive one (1) month’s salary only, effective from the date of suspension.
- (1C)** If an officer or employee is acquitted or cleared of the charge or any allegation that is the subject of his or her suspension, an officer or employee 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 from duty.

- (1D) An officer or employee is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**27. Samoa Qualifications Authority Act 2010 amended:**

The Samoa Qualifications Authority Act 2010 is amended as follows:

- (a) in section 13, insert after subsection (7) the following new subsections:

- “(8) If the Chief Executive Officer is suspended under this section, he or she is entitled to receive one (1) month’s salary only, effective from the date of suspension.
- (9) If the Chief Executive Officer is acquitted of the charge or cleared of all allegation that is the subject of his or her suspension, the Chief Executive Officer 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 from duty.
- (10) The Chief Executive Officer is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”;

(b) in section 14, insert after subsection (1) the following:

“(1A) The power to appoint under subsection (1) includes the power to promote, suspend, discipline or dismiss an employee.

(1B) An employee suspended under this section is entitled to receive one (1) month’s salary only, effective from the date of suspension.

(1C) If an employee is acquitted or cleared of the charge or allegations that is the subject of his or her suspension an officer or employee 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 from duty.

(1D) An employee is not entitled to his or her salary if:

(a) he or she is found guilty of the charges and is reinstated; or

(b) as a result of the investigation, he or she is not reinstated.”.

**28. Samoa Sports Facilities Authority Act 2007 amended:**

The Samoa Sports Facilities Authority Act 2007 is amended as follows:

(a) in section 16, substitute subsection (1):

“(1) The:

(a) Chief Executive Officer is appointed by the Head of State on the advice of Cabinet; and

(b) other officers and employees are appointed by the Board as it determines.



- (1A) The power to appoint under subsection (1) includes the power to promote, suspend, discipline or dismiss.
- (1B) The Chief Executive Officer, 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.
- (1C) If the Chief Executive Officer or an officer or employee is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer or an officer or employee 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 from duty.
- (1D) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**29. Samoa Trust Estates Corporation Act 1977 amended:**

In section 20 of the Samoa Trust Estates Corporation Act 1977, after subsection (1), insert the following:

- “(1A) The power to appoint under this section includes the power to promote, suspend, discipline or dismiss.
- (1B) The General Manager or employee suspended under this section is entitled to receive one (1) month’s salary only, effective from the date of suspension.

- (1C) If a person employed by the Corporation is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the person 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 from duty.
- (1D) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**30. Samoa Water Authority Act 2003 amended:**

The Samoa Water Authority Act 2003 is amended as follows:

- (a) in section 12, insert after subsection (1) the following new subsections:

- “(1A) The power to appoint a Managing Director under subsection (1) includes the power to discipline, suspend or terminate a Managing Director.
- (1B) The Managing Director suspended under this section is entitled to receive a one (1) month’s salary only, effective from the date of suspension.
- (1C) If the Managing Director 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 Managing Director 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 from duty.

- (1D) The Managing Director is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”; and
  
- (b) section 13 is amended as follows -
  - (i) in subsection (3)(a), after the word “appointment” where first occurring, insert “, suspension”; and
  - (ii) insert new subsections as follows:
    - “(4) An officer or an employee suspended under this section is entitled to receive one (1) month’s salary only, from the effective date of the suspension.
    - (5) If an officer or an employee 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 staff member 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 from duty.
    - (6) An officer or employee is not entitled to his or her salary if:
      - (a) he or she is found guilty of the charges and is reinstated; or
      - (b) as a result of the investigation, he or she is not reinstated.”.

**31. Scientific Research Organisation of Samoa Act 2006 (SROS Act) amended:**

The SROS Act is amended as follows:

(a) in section 10, after subsection (7), insert the following:

“(8) If the Chief Executive Officer is suspended for any reason set out in subsection (7), he or she is entitled to receive a salary for one (1) month only from the effective date of suspension.

(9) If the Chief Executive Officer is acquitted of the charge he or she is suspended with and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer 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 from duty.

(10) The Chief Executive Officer is not entitled to his or her salary if:

(a) he or she is found guilty of the charges and is reinstated; or

(b) as a result of the investigation, he or she is not reinstated.”; and

(b) in section 12, after subsection (1), insert as follows:

“(1A) The power to appoint under subsection (1) includes the power to discipline, suspend or terminate an officer or staff of the Organisation.

- (1B) The suspended officer or member of staff of the Organisation is entitled to receive a salary for one (1) month only, from the effective date of suspension.
- (1C) If an officer or member of the staff of the Organisation 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, he or she 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 from duty.
- (1D) A person is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**32. Telecommunications Act 2005 amended:**

Section 6 of the Telecommunications Act 2005 is amended by inserting after subsection (3) the following:

- “(3A) If the Regulator is suspended before consideration of removal is determined under subsection (3), the Regulator is entitled to one (1) month’s salary only, from the effective date of suspension.
- (3B) If the Regulator is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Regulator 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.

- (3C) The Regulator is not entitled to his or her salary if:
  - (a) he or she is found guilty of the charges and is reinstated; or
  - (b) as a result of the investigation, he or she is not reinstated.”.

**33. Tourism Development Act 2012 amended:**

The Tourism Development Act 2012 is amended as follows:

- (a) in section 12, insert after subsection (2) the following new subsection:

“(2A) If the Chief Executive Officer is suspended before a decision for removal is made by Cabinet, the Chief Executive Officer is entitled to receive one (1) month’s salary only, from the effective date of suspension.

(2B) If the Chief Executive Officer is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer 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 from duty.

(2C) The Chief Executive Officer is not entitled to his or her salary if:

- (a) he or she is found guilty of the charges and is reinstated; or
- (b) as a result of the investigation, he or she is not reinstated.”; and

- (b) in section 13, insert after subsection (2) the following new subsections:

- “(3) If an officer or employee is suspended before a decision for removal is made by the Board, the officer or employee is entitled to receive one (1) month’s salary only, effective from the date of suspension.
  - (4) If an officer or employee is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the officer or employee 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 from duty.
  - (4A) An officer or employee is not entitled to his or her salary if:
    - (a) he or she is found guilty of the charges and is reinstated; or
    - (b) as a result of the investigation, he or she is not reinstated.”.
-