

**MISCELLANEOUS (BOARDS OF PUBLIC BODIES)
AMENDMENT BILL 2019**

SAMOA

Explanatory Memorandum

1.0 Object and reasons:

- 1.1 The Bill seeks to amend various legislation establishing public trading bodies and public beneficial bodies.
- 1.2 The objects of the Bill are:
- (a) to reduce the number of membership of Boards to be not less than three (3) and not more than five (5) members;
 - (b) to allow Chief Executive Officers of all Public Bodies to be ex-officio of their Boards;
 - (c) to allow discretion of Cabinet to appoint a Chief Executive Officer of a Government Ministry or a Public Body to become a director or an ex-officio on the Board of Director of a Public Body.

Clauses:

- Clause 1:** - provides for the short title and commencement.
- Clause 2:** - provides for that all Acts listed in Column 1 are to be amended in accordance with matters listed in Column 2 of the table provided.

- Clause 3:** - provides for consequential amendments to be made to the Public Bodies (Performance and Accountability) Act 2001.
- Clause 4:** - provides for transitional and savings matters.

A handwritten signature in black ink, appearing to read 'Lautafi Fio Selafi Purcell', is written over a horizontal dashed line.

(Hon LAUTAFI Fio Selafi Purcell)

MINISTER FOR PUBLIC ENTERPRISES

**MISCELLANEOUS (BOARDS OF PUBLIC BODIES)
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Arrangement of Provisions

1. Short title and commencement
2. Amendment to Compositions of Boards of Public Bodies
3. Consequential amendment
4. Transitional and savings provision

2019, No.

A BILL INTITULED

AN ACT to provide for amendments to Boards of Public Bodies and 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 (Boards of Public Bodies) Amendment Act 2019 and commences on the date of assent by the Head of State.

2. Amendment to Compositions of Boards of Public Bodies:

In the table below, the enactment listed in column 1, is amended as set out in column 2:

Column 1	Column 2
Accident Compensation Act 1989	<p>Section 4 is amended by substituting subsections (2) to (2F) as follows:</p> <p>“(2) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
Airport Authority Act 2012	<p>Section 10(1) is substituted with:</p> <p>“(1) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”</p>
Development Bank of Samoa Act 2010	<p>Section 9 is amended by inserting the following new subsection:</p> <p>“(1) The Board of the Corporation comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>

Electric Power Corporation Act 1980	<p>Section 5 is amended by substituting subsections (1) and (1A) as follows:</p> <p>“(1) The Board of the Corporation comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
Fire and Emergency Services Act 2007	<p>Section 5(1), (1A) and (1B) are substituted as follows:</p> <p>“(1) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
Housing Corporation Act 2010	<p>Section 9(1) is substituted as follows:</p> <p>“(1) The Board of the Corporation comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
Land Transport Authority Act 2007	<p>Section 8(1) is substituted as follows:</p> <p>“(1) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies, except for the Chief Executive Officer who is <i>ex-officio</i> director.”.</p>

Life Assurance Act 1976	<p>Section 3 is amended by substituting subsections (2) and (2A) as follows:</p> <p>“(2) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
National Kidney Foundation of Samoa Act 2005	<p>Sections 7(2) is substituted as follows:</p> <p>“(2) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
National Provident Fund Act 1972	<p>Section 4(1) is substituted as follows:</p> <p>“(1) There shall be a Board of the Samoa National Provident Fund which comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.</p>
Ports Authority Act 1998	<p>(a) Section 5 is amended by substituting subsections (1) and (1A) as follows:</p> <p>“(1) The Board of the Authority comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”;</p>

	<p>(b) Section 6(1) is substituted as follows:</p> <p>“(1) A member of the Authority shall hold office for a term of three (3) years.”.</p>
Public Trust Office Act 1975	<p>Section 9(2) is substituted as follows:</p> <p>“(2) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
Samoa International Finance Authority Act 2005	<p>Section 6(1) is substituted as follows:</p> <p>“(1) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
Samoa Qualifications Authority Act 2010	<p>Section 6 is amended by substituting subsections (1), (2) and (3) as follows:</p> <p>“(1) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>

<p>Scientific Research Organisation of Samoa Act 2008</p>	<p>Section 8 is amended by substituting subsections (2) and (2A) as follows:</p> <p>“(2) The Board of the Authority comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
<p>Samoa Sports Facilities Authority Act 2007</p>	<p>Section 4 is amended by substituting subsections (2), (2A) and (2B) with:</p> <p>“(1) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
<p>Samoa Trust Estates Corporation Act 1977</p>	<p>Section 5(1) is substituted as follows:</p> <p>“(1) The Board comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
<p>Samoa Water Authority Act 2003</p>	<p>Section 4(1) is substituted as follows:</p> <p>“(1) The Board of the Authority comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>

Tourism Development Act 2012	<p>Section 6 is amended by substituting subsections (1) and (2) as follows:</p> <p>“(1) The Board of the Authority comprises of not less than three (3) and not more than five (5) directors who are appointed by the Head of State on the advice of Cabinet in accordance with law and approved Government policy relating to the management of public bodies.”.</p>
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3. Consequential amendment:

The Public Bodies (Performance and Accountability) Act 2001 is amended by inserting after section 15 the following new section:

“15A. Board may request attendance:

A Board of a public trading body or a public beneficial body may request the attendance of a Chief Executive Officer or General Manager of a Government agency for the discussion of any matter before the Board.”.

4. Transitional and savings provision:

- (1) A person appointed as a member of a Board for a public body included in this Act is at the commencement of this Act considered a member for that Board until his or her term expires, or until he or she is replaced.
- (2) A person appointed as a member of a Board for a public body included in this Act is at the commencement of this Act entitled to any benefit promised to him or her at the commencement of the member’s term of office when his or her term of office expires.

- (3) The commencement of this Act does not invalidate any decision of a Board made.
