

**NATIONAL KIDNEY FOUNDATION OF SAMOA
AMENDMENT BILL 2013**

SAMOA

Explanatory Memorandum

Introduction

The Bill seeks to amend the provisions of the National Kidney Foundation of Samoa Act 2005 (“Principal Act”) in relation to the Board of Directors.

Clauses:

Clause 1: - provides for the short title and commencement.

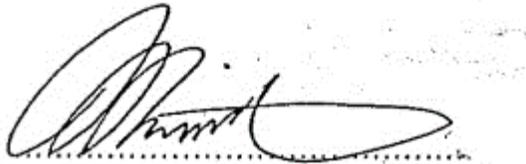
Clause 2: - amends section 7 as follow -

1. Section 7(2) of the Principal Act where the phrase ‘for subsection (13)’ is mentioned substitute with the new proposed ‘section 7E’.
2. Section 7 of the Principal Act for subsections (3) to (15) is to be substituted with the new proposed subsections (3) and (4) – provide that the Cabinet is to consider new criterias when advising the Head of State about a new member of the Board of Directors.
3. New section 7A – provides for the terms and removal of a director.
4. New section 7B – provides for the vacancy of the office of a director.
5. New section 7C – provides for the rules that apply to a meeting of the Board.

6. New section 7D – provides for the allowances of the directors.
7. New section 7E – provides for the appointment of the Board secretary.

Clause 3: substitutes section 8 of the Principal Act.

Clause 4: provides for transitional matter for the current staff and the secretary of the Board.



(Hon TUITAMA Dr. Talalelei Tuitama)

MINISTER FOR HEALTH

**NATIONAL KIDNEY FOUNDATION OF SAMOA
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SAMOA

Arrangement of Provisions

- | | |
|---------------------------------|--------------------------|
| 1. Short title and commencement | 3. Section 8 substituted |
| 2. Section 7 amended | 4. Transitional |

2013, No.

A BILL INTITULED

AN ACT to amend the National Kidney Foundation of Samoa Act 2005 (“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 National Kidney Foundation of Samoa Amendment Act 2013.

(2) This Act commences on the date of assent by Head of State.

2. Section 7 amended - For section 7 of the Principal Act:
(a) in subsection (2), substitute:

“The Board comprises seven (7) directors who are to be selected under the applicable law relating to the management of public bodies.”; and

(b) for subsections (3) to (15), substitute:

“(3) Before advising the Head of State, Cabinet shall take into account:

(a) the need of the Foundation to have directors with qualifications, experience and expertise in the areas of medicine, nursing, preventive healthcare, fundraising, finance, management, engineering, ethics and such other qualifications, experience and expertise appropriate to the Foundation’s purposes and functions; and

(b) the desirability of gender equality and the representation of patients and their families.

(4) When advising the Head of State, Cabinet shall designate a chairperson and a deputy chairperson from amongst the members.

7A. Terms and removal-(1) Subject to this section, a director:

(a) holds office for a term of three (3) years;

(b) is eligible for reappointment;

(c) may be removed from office by the Head of State, acting on the advice of Cabinet, for disability, inefficiency, bankruptcy, neglect of duty, misconduct or permanent departure from Samoa, or may resign in writing to the Head of State.

(2) If the term of three (3) years expires, the director continues in office until re-appointed or a successor is appointed.

(3) A director must not be re-appointed after having served two (2) consecutive terms.

7B. Vacancy of office - The office of a director becomes vacant if the director:

- (a) dies or resigns; or
- (b) is removed from office; or
- (c) completes the term of appointment under section 7A(1)(a).

7C. Meetings-(1) The following rules apply to a meeting of the Board:

- (a) a meeting is to be called -
 - (i) by the Chairperson; or
 - (ii) if the Chairperson is absent, by the Deputy Chairperson; or
 - (iii) by written request from at least two (2) directors;
- (b) the Chairperson or (if the Chairperson is absent) Deputy Chairperson or (if both are absent) a director selected by the directors present, chairs the meeting;
- (c) four (4) members constitute a quorum;
- (d) a question is to be determined by a majority of directors present at the meeting;
- (e) the chair of the meeting has a deliberative vote and a casting vote.

(2) The General Manager must attend and participate in a meeting of the Board except:

- (a) that the General Manager has no voting rights;
- (b) if the absence is approved by the Board -
 - (i) for the General Manager to perform a designated task on behalf of the Foundation; or
 - (ii) because it will consider a matter about the performance of the General Manager.

(3) Subject to this Act, the Board may regulate its own procedures.

7D. Allowances - The directors are entitled to fees and allowances as approved by Cabinet.

7E. Board secretary - The Board may appoint a staff member of the Foundation to act as secretary to the Board, but the staff member:

- (a) is taken not to be a member of the Board; or
- (b) has no right to vote; or
- (c) may, with leave of the Board, speak at or participate in a meeting of the Board.”.

3. Section 8 substituted - For section 8 of the Principal Act substitute:

“**8. Staff**-(1) The staff of the Foundation consist of the following:

- (a) a General Manager of the Foundation;
- (b) other officers and employees of the Foundation;
- (c) any consultant or other person engaged for the purpose of this Act.

(2) The Board may appoint the following suitably qualified persons on terms as it thinks appropriate:

- (a) the General Manager;
- (b) persons under subsection (1)(b) and (c).

(3) The Board may, in writing, delegate its power under subsection (2)(b) to the General Manager to appoint officers, employees, consultants or other persons.

(4) Staff members employed by the Foundation are not regarded as officers or employees of the Public Service under the Public Service Act 2004.

(5) With the consent of the Public Service Commission and the Chief Executive Officer of the relevant government Ministry or agency, the Foundation may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of any government Ministry or agency.

(6) For the purposes of this Act, any staff member subject to subsection (5) is taken as a staff member of the Foundation.”.

4. Transitional - At the commencement of this Act current staff and the secretary of the Board continue as if they were appointed under this Act.
