

SAMOA

Arrangement of Provisions

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2017, No. 25

AN ACT to amend the Police Service Act 2009 (“Principal Act”). *[21st December 2017]*

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

2 *Police Service Amendment (No. 2)* 2017, No. 25

1. **Short title and commencement:**

- (1) This Act may be cited as the Police Service Amendment Act (No. 2) 2017.
- (2) This Act commences on the date of its assent by the Head of State.

2. **Section 6(2) amended:**

Section 6(2) of the Principal Act is amended by inserting after paragraph (a) the following new paragraph (b):

“(b) the Deputy Commissioner appointed under section 18;”.

2A. **Section 13 amended:**

In section 13(a) and (b) of the Principal Act, for “member” substitute “commissioned officer”.

3. **Part III amended:**

Part III of the Principal Act is amended by inserting a new Division 4 as follows:

“Division 4 - Deputy Commissioner

18. **Appointment of a Deputy Commissioner:**

- (1) The Head of State, acting on the advice of Cabinet, may appoint a fit and proper person who is qualified to hold the office under section 19, to be a Deputy Commissioner of the Samoa Police Service.
- (2) The period of an appointment of a Deputy Commissioner is for three (3) years.

- (3) The Minister shall ensure that a public advertisement is made and that a transparent selection process in accordance with General Instructions on recruitment and selection is applied whenever an appointment to the position of Deputy Commissioner is being considered.
- (4) The Deputy Commissioner is eligible for reappointment to the Office of Deputy Commissioner after the expiry of any term of appointment.

19. Eligibility for appointment as the Deputy Commissioner:

No person may be appointed to be a Deputy Commissioner under section 18 unless the person:

- (a) is a current or former commissioned officer of the Samoa Police Service, or a current or former member of senior rank in the Police Service of another country;
- (b) is or was a commissioned officer of the Samoa Police Service for a period of not less than 10 years or a member of senior rank in the Police Service of another country; and
- (c) satisfies all other prerequisites criteria which may be prescribed by regulations made or instructions issued under this Act.

20. Terms and conditions of appointment of the Deputy Commissioner:

- (1) The salary and allowances of a Deputy Commissioner are to be determined by Cabinet, having regard to the advice of the Remuneration Tribunal.
- (2) All other terms and conditions applying to a Deputy Commissioner are to be stated in a contract of appointment which has effect according to its terms, but subject to the provisions of this Act.
- (3) Regulations made under this Act may prescribe terms and conditions relating to the appointment of a Deputy Commissioner or in relation to the Deputy Commissioner's employment in that Office.

21. Duties and Powers of the Deputy Commissioner:

- (1) The Deputy Commissioner shall assist the Commissioner in the exercise of the Commissioner's powers and functions relating to the effective and efficient management of the Service.
- (2) The Deputy Commissioner must exercise the powers that are delegated to him or her under section 17 and perform all the duties and functions that are vested in him or her by the Commissioner.
- (3) All powers, duties and functions performed by a Deputy Commissioner are to be done in accordance with any condition, limitation or requirements imposed or required by the Commissioner."

4. Section 23 amended:

In section 23(a) and (b) of the Principal Act, for “member” substitute “commissioned officer”.

5. Section 51 amended:

(1) Section 51(1) and (3) of the Principal Act are amended by inserting “or a Deputy Commissioner” after “Assistant Commissioner” respectively.

(2) Section 51(4) of the Police Service Act 2009 is amended by substituting subsection (4) as follows:

“(4) If a charged member denies the charge, an Assistant Commissioner or a Deputy Commissioner may:

(a) subject to section 51B(5), refer the matter to the Commissioner to impose a penalty under section 51B if there is clear evidence of a breach of duty not requiring the convening of a Disciplinary Tribunal; or

(b) refer the matter to the Commissioner for the convening of a Disciplinary Tribunal under section 51A to determine.”.

(3) After subsection (5), insert the following:

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“(6) A member who fails to respond to the charge within the time specified, is considered to have denied the charge.”.

6. **Section 51B amended:**

For section 51B of the Principal Act:

(a) after subsection (1)(f), insert:

“(g) suspension without pay;”;

(b) after subsection (4), insert:

“(5) If the Commissioner decides to terminate a charged member pursuant to subsection (1)(f) for a matter referred under section 51(4), the Commissioner must ensure the charged member is given the right to respond to the decision to terminate him or her from the Service before he or she is terminated.”.

7. **Section 52 amended:**

(1) For section 52(3)(b), substitute with the following new paragraph:

“(b) is not entitled to receive his or her salary, allowance or other remuneration in respect of the period of his or her suspension.”.

(2) Section 52 of the Principal Act is amended by inserting the following new subsection (4):

“(4) A member suspended from duty under this section is entitled to receive his or her salary, allowance or other remuneration in respect of the period of his or her suspension if the member is acquitted of the charge laid against him or her, provided that the matter has been completed.”.

The Police Service Amendment Act (No. 2) 2017
is administered by the Ministry of Police.

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