

**TRADE, COMMERCE AND INDUSTRY
AMENDMENT BILL 2013**

SAMOA

Explanatory Memorandum

Introduction

The Bill seeks to amend the *Trade, Commerce and Industry Act 1990* as follows:

- (a) to provide new provisions for the Board, including establishment, appointments, terms, resignation, removal, meetings and allowances; and
- (b) to substitute the term “Secretary” with “Chief Executive Officer”.

Clauses:

- Clause 1:** - provides for the short title and the commencement provision.
- Clause 2:** - replaces section 5(1)(q)(1) and (3) to (8) with new sections on the establishment of the Board, including other provisions on the appointment, terms, resignation, removal, meetings and allowances.
- Clause 3:** - replaces section 6 to change “Secretary” to “Chief Executive Officer”.

- Clause 4:** - provides for consequential amendments as a result of clause 3 and transitional provision for current members of the Board to continue until their appointments expire or offices become vacant.

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(Hon FONOTOE Nuafesili Pierre Laufo)

**DEPUTY PRIME MINISTER AND MINISTER
OF COMMERCE, INDUSTRY AND LABOUR**

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Arrangement of Provisions

- | | |
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| 1. Short title and commencement | 4. Consequential amendment and transitional |
| 2. Section 5 amended | |
| 3. Section 6 substituted | |

2013, No.

A BILL INTITULED

AN ACT to amend the Trade, Commerce and Industry Act 1990 (“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 Trade, Commerce and Industry Amendment Act 2013.

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

2. Section 5 amended - For section 5(1)(q)(1) and (3) to (8) of the principal Act, substitute:

“5A. Trade, Commerce and Industry Board-(1) The Trade, Commerce and Industry Board is established comprising the following members:

- (a) the Minister as Chairperson;
- (b) the Chief Executive Officer of the Ministry of Commerce, Industry and Labour;
- (c) a member to represent the Ministry of Finance;
- (d) a member to represent the Ministry of Foreign Affairs and Trade;
- (e) a member to represent Samoa Tourism Authority;
- (f) the President or a representative of the Samoa Chamber of Commerce;
- (g) the President or a representative of Samoa Association of Manufacturers and Exporters;
- (h) a member to represent the Industry Development and Investment Promotion Division of the Ministry of Commerce, Industry and Labour, who shall also act as the Secretary of the Board.

(2) The Head of State, acting on the advice of Cabinet, appoints an appointed member.

(3) If an appointed member dies, or resigns, or is removed from office, the Head of State acting on the advice of Cabinet may appoint another person in place of that member to hold office for the balance of that member’s term of office.

(4) In this Act:

“appointed member” means a member appointed as a representative under subsection (1)(b) to (g);

“Board” means the Trade, Commerce and Industry Board established by subsection (1).

5B. Terms and resignation - A member:

- (a) holds office for a term of three (3) years; and
- (b) is eligible for reappointment; and

- (c) upon expiry of the term under paragraph (a), continues until reappointed or a successor is appointed; and
- (d) may resign by written notice to the Board.

5C. Removal - Cabinet, may remove an appointed member:

- (a) for disability, neglect of duty, misconduct, or bankruptcy; or
- (b) if the appointed member has left Samoa permanently; or
- (c) if the appointed member is absent from three (3) consecutive meetings without the permission of the Board.

5D. Meetings-(1) The following rules apply to a meeting of the Board:

- (a) meetings are to be convened by the Board in private or public;
- (b) five (5) members constitute a quorum;
- (c) the chairperson or (if the chairperson is absent) a member appointed by the members present, is to chair that meeting;
- (d) the chair of that meeting has a deliberative vote and a casting vote;
- (e) a decision of the majority is the decision of the Board;
- (f) the Board may regulate its own procedures, subject to this section.

(2) The Secretary is responsible for the taking of minutes of meetings of the Board and safe keeping in a Minute Book.

5E. Allowances - A member of the Board is entitled to allowances and fees determined by Cabinet.”.

3. Section 6 substituted - For section 6 of the principal Act, substitute:

“6. Chief Executive Officer - The Chief Executive Officer of the Ministry of Commerce, Industry and Labour appointed under the Public Service Act 2004 is the Administrative Head of the Department.”.

4. Consequential amendment and transitional-(1) A reference in this Act or any other Act to “Secretary” for Trade, Commerce and Industry wherever it occurs is amended and to be substituted as “Chief Executive Officer”.

(2) At the commencement of this Act, current appointed members of the Board continue until their terms expire or offices become vacant.
