

## **SAMOA**

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### **2008, No. 33**

**AN ACT to amend the name of the Research and Development Institute of Samoa, and for related purposes.**      *[20<sup>th</sup> November 2008]*

**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 Scientific Research Organisation of Samoa Act 2008 and shall be read with and form part of the Research and Development Institute of Samoa Act 2006 (“the principal Act”).

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

**2. Titles of the principal Act-**(1) The long title of the principal Act is amended by deleting the words “Research and Development Institute of Samoa” and substituting them with the words “Scientific Research Organisation of Samoa and for related purposes”.

(2) The short title in section 1(1) of the principal Act is amended by deleting the words “Research and Development Institute” and substituting them with the words “Scientific Research Organisation”.

**3. Interpretation-**(1) Section 2 of the principal Act is amended as follows:

(a) by inserting the following definitions in correct alphabetical order:

““Chairperson” means the Chairperson of the Board;

“eligible person” means any of the following:

(a) an officer;

(b) a director or employee of another research organisation where –

(i) the Organisation and other research organisation are partners in a partnership; or

(ii) the Organisation holds a controlling interest in another research organisation;

(c) any person engaged by the Organisation to carry out work for or on behalf of the Organisation.

“ex-officio member” means a member who holds office on the Board by reason of being the holder of the designated office, and who does not have any power to vote as a member of the Board;

“member” means a member of the Board and includes the Chairperson and the Chief Executive Officer;

“officer” means an officer of the Organisation;

“Organisation” means the Scientific Research Organisation of Samoa;

“scientific research” includes technology and industry development.”; and

(b) by deleting the word “Institute” and its interpretation.

**4. Establishment of the Organisation-**(1) Section 3(1) of the principal Act is amended by deleting the words “Research and Development Institute” and substituting them with the words “Scientific Research Organisation”.

(2) Section 3(2) of the principal Act is amended by deleting the word “is”, which comes before the words “a body corporate”, and substituting it with the words “shall consist of the members of the Board, and of the officers of the Organisation and shall be”.

**5. Deletion of the word “Institute”** – The principal Act is amended by replacing the word “Institute”, wherever it appears, with the word “Organisation”.

**6. Objectives of the Organisation** – Section 4(e) of the principal Act is amended by deleting the words “support the teaching of science and technology” and substituting them with the words “ensure effective training for researchers and professionals engaged in scientific and technical research”.

**7. Functions of the Organisation-**(1) The principal Act is amended by deleting paragraphs (a) to (e) of section 5(1) and substituting them with the following:

“(a) to carry out scientific research and develop technologies for any of the following purposes -

(i) contributing to the achievement of national goals in the Strategy for the Development of Samoa or any other national plan of Samoa;

- (ii) assisting industries, Government Ministries, corporations and agencies;
  - (iii) furthering the interests of the community; and
  - (iv) any other purpose determined by the Board;
- (b) to encourage or facilitate the application or utilisation of the results of any other scientific research;
  - (c) to act as a means of liaison between Samoa and other countries in matters connected with scientific research and development;
  - (d) to train, and to assist in the training of research and workers in the field of science and to cooperate with tertiary education institutions, both local and overseas, in relation to education in any field of science;
  - (e) to establish and award fellowships and studentships for research, and to make grants in aid of research, for a purpose referred to in paragraph (a);
  - (f) to collect, interpret and disseminate information relating to scientific and technical matters; and
  - (g) to publish scientific and technical reports, periodicals and papers.”

(2) The principal Act is amended by inserting the following after section 5(2):

- “(3) The Organisation shall:
- (a) treat the functions referred to in subsection (1)(a) and (b) as its primary functions; and
  - (b) treat the other functions referred to in subsection (1)(c) to (g) as its secondary functions.”

**8. Scope of Organisation's activities-**(1) Section 6 of the principal Act is amended by inserting the figure "(1)" before the words "The Organisation's activities" so that it becomes subsection (1).

(2) Section 6(1)(a) of the principal Act is amended by deleting the words "applied research in" and substituting them with the words "research in applied".

(3) Section 6(1)(b) of the principal Act is amended by deleting the word "innovations" and substituting it with the words "introduce new ideas and implement technology transfer to commercial realities".

(4) Section 6(1)(c) of the principal Act is amended by deleting the words "development of products based on" and substituting them with the words "commercialisation of".

(5) Section 6 of the principal Act is amended by inserting the following after subsection (1):

"(2) The Organisation shall, as far as possible, cooperate with other organisations and authorities in the co-ordination of scientific research, with a view to:

- (a) identifying clear and specific functions; and
- (b) making use of available facilities, staff and resources most effectively."

**9. Board of Directors-**(1) Section 8(1) of the principal Act is amended by deleting the words "be responsible for the policy, control and governance of the Institute." and substituting them with:

"have the following functions:

- (a) to ensure the proper and efficient performance of the functions of the Organisation;
- (b) to determine the policy of the Organisation with respect to any matter;
- (c) to give directions relating to the administration of this Act to the Chief Executive Officer; and
- (d) such other functions as are conferred on it by this Act."

(2) Section 8(2) of the principal Act is amended by deleting the figure “13” in brackets and substituting it with the figure “1”.

(3) Section 8(2)(b) of the principal Act is amended by inserting after the word “Officer” the words “, who shall be an ex-officio member”.

(4) Section 8(2)(c) of the principal Act is amended by deleting the word “seven” and substituting it with the words “not fewer than seven (7) and not more than nine (9)”.

(5) Section 8(7) of the principal Act is amended by:

(a) inserting before the words “or, in the absence” the words “who shall preside at all meetings at which he or she is present”; and

(b) inserting before the words “from at least” the words “to the secretary of the Board”.

(6) The principal Act is amended by deleting section 8(9) and substituting it with the following:

“(9) At a meeting, a quorum is constituted:

(a) by six (6) members, where the total number of Board members is 11 (including Chairperson and Chief Executive Officer); or

(b) by five (5) members, where the total number of Board members is nine (9).”

**10. Insertion of new section** – The principal Act is amended by inserting the following after section 9:

“**9A. Advisory committees-**(1) The Board may establish advisory committees, consisting of such persons as the Board appoints, to give advice to the Board on particular matters or classes of matters relating to the functions of the Organisation.

(2) The Board shall appoint one of the members of each advisory committee to be the Chairperson of that committee.

(3) The Board may determine:

(a) the manner in which an advisory committee is to perform its functions;

(b) the procedure to be followed in relation to meetings of an advisory committee, including matters relating to -

(i) the convening of meetings of the advisory committee;

(ii) the number of members of the advisory committee who are to constitute a quorum;

(iii) the selection of a member of the advisory committee to preside at meetings of the advisory committee at which the Chairperson of the advisory committee is not present; and

(iv) the manner in which questions arising at a meeting of the advisory committee are to be decided.

(4) If the Board decides that the members of an advisory committee should be remunerated, those members shall be paid by the Organisation such remuneration as is approved by the Board in line with approved Government policies.”

**11. Chief Executive Officer of the Organisation-(1)**

Section 10(1) of the principal Act is amended by inserting after the words “section 9” the following words:

“and, subject to this Act, hold office on a full-time basis for a term of three (3) years, and may be reappointed under section 9(a)”.

(2) The principal Act is amended by inserting the following after section 10(2):

“(3) The Chief Executive Officer has such leave entitlements as determined by the Board.

(4) The Minister may grant the Chief Executive Officer leave of absence, other than local leave, on such terms and conditions as he or she sees fit.

(5) The Chief Executive Officer may resign the office of Chief Executive Officer in writing signed by the Chief Executive Officer and delivered to the Chairperson of the Board.

(6) The Chief Executive Officer shall give written notice to the Board of all direct or indirect pecuniary interests that the Chief Executive Officer has or may have in any business or in any body corporate carrying on a business.

(7) The Board may terminate the appointment of the Chief Executive Officer on medical grounds, or if the Chief Executive Officer:

- (a) becomes bankrupt;
- (b) fails, without reasonable excuse, to comply with section 10(6);
- (c) repeated absence from Board meetings without a valid explanation; or
- (d) engages in paid employment outside the duties of the office of the Chief Executive Officer without the Board's approval.”

**12. Insertion of new sections** – The principal Act is amended by inserting the following sections after section 10:

**“10A. Acting Chief Executive Officer of the Organisation-**(1) The Board may, by letter of appointment, appoint a person to act in the office of the Chief Executive Officer:

- (a) during a vacancy in that office, whether or not an appointment has previously been made to that office; or
  - (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from Samoa or is, for any other reason, unable to perform the functions of that office.
- (2) The Acting Chief Executive Officer:
- (a) may be expressed to have effect only in such circumstances as are specified in the letter of appointment; and
  - (b) shall not continue so to act for more than 36 months.

- (3) The Acting Chief Executive Officer:
  - (a) may exercise all powers, and shall perform all the functions of a Chief Executive Officer; and
  - (b) is entitled to a Higher Duty Allowance, which will be based on terms and conditions as specified by the Board in line with approved Government policies, if he or she has acted for 10 or more working days.
- (4) An Acting Chief Executive Officer may resign the appointment in writing signed by the Acting Chief Executive Officer and delivered to the Chairperson.

**10B. Delegation-**(1) Subject to the Board's approval, the Chief Executive Officer may, in writing, delegate to an eligible person, or to a committee or group of eligible persons, all or any of the Chief Executive Officer's powers under this Act, other than this power of delegation.

- (2) A delegation may be:
  - (a) made subject to conditions, qualifications and exceptions; and
  - (b) revoked or varied at will.
- (3) A delegate, under this section, in the exercise of a power so delegated, is subject to the directions of the Chief Executive Officer.
- (4) Where the Chief Executive Officer delegates a power to a committee or group of persons, the Chief Executive Officer:
  - (a) may appoint one of the members of the committee to be Chairperson of the committee; and
  - (b) may determine the procedure to be followed in relation to meetings of the committee, including matters with respect to -
    - (i) the convening of meetings of the committee;
    - (ii) the number of members of the committee who are to constitute a quorum;

(iii) the selection of a member of the committee to preside at meetings of the committee at which the Chairperson of the committee is not present; and

(iv) the manner in which questions arising at a meeting of the committee are to be decided.

(5) A delegation under this section does not prevent the exercise of the powers of the Chief Executive Officer by the Chief Executive Officer.”

**13. Staff and other personnel** – Section 12(1) of the principal Act is deleted and substituted with the following:

“(1) Subject to the Board’s approval the Chief Executive Officer may appoint such persons to be officers of the Organisation as the Chief Executive Officer determines are necessary for the purpose of this Act.”

**14. Intellectual Property Rights held by the Organisation-**(1) Section 14 of the principal Act is amended by deleting the section in its entirety and substituting it with the following:

**“14. Intellectual Property Rights held by the Organisation-**(1) A discovery, invention or improvement of or in any process, apparatus or machine made by an officer of the Organisation or eligible person in the course of their official duties is the property of the Organisation.

(2) Under subsection (1), the Organisation holds the intellectual property rights to all research and innovations conducted by or that resulted from any operation of research and innovations conducted under the authority of the Organisation.

(3) An officer of the Organisation or eligible person shall not, except with the consent in writing of the Chief Executive Officer, make application for a patent for an invention that is made by the officer or eligible person in the

course of their official duties or that relates to any matter or work connected with their official duties.

(4) The Organisation may grant a licence or other right, in writing, to a part or the whole of the intellectual property rights held by the Organisation to any person on such terms as the Organisation, in its absolute discretion, may determine.”

**15. Insertion of new sections** – The principal Act is amended as follows:

(a) by inserting after section 16 the following:

**“16A. Corporate Plans-**(1) In this section, “planning period” means a period not exceeding three (3) years and which the Board declares to be a planning period for the purposes of this section.

(2) The Chief Executive Officer shall:

(a) before the commencement of each planning period, formulate a corporate plan, for the planning period concerned, setting out -

(i) the broad mandate of the Organisation in performing its functions during the planning period;

(ii) the broad outline of the objectives, strategies and performance measures to be pursued by the Organisation to achieve those objectives; and

(b) from time to time, review and revise the corporate plan.

(3) A corporate plan, or a revision of a corporate plan, shall be approved by the Board as soon as practicable after it is formulated and before it comes into effect.

**16B. Annual Operational Plans-**(1) The Chief Executive Officer shall:

(a) before the commencement of each financial year that is included in the corporate plan, formulate an annual operational plan, for the

financial year concerned, setting out the details of -

(i) the strategies the Organisation proposed to pursue;

(ii) the activities the Organisation proposes to carry out; and

(iii) the resources the Organisation proposed to allocate to each such activity; and

(b) from time to time, review and revise the annual operational plan.

(2) An annual operational plan, or a revision of an annual operational plan:

(a) shall be submitted to the Board by the Chief Executive Officer as soon as practicable after it is formulated; and

(b) has no effect until approved by the Board.”;

(b) by inserting after section 17 the following:

**“17A. Moneys payable to Organisation-**(1) There are payable to the Organisation such moneys as are appropriated by the Parliament for the purposes of this Act.

(2) The Minister of Finance may give directions as to the amounts in which, and the times at which, moneys referred to in subsection (1) are to be paid to the Organisation.”; and

(c) by inserting after section 18 the following:

**“18A. Reference to other Acts** – The provisions of this Act shall be administered in accordance with the requirements of the Public Finance Management Act 2001 and the Public Bodies (Performance and Accountability) Act 2001.”

**16. Format of principal Act** – The principal Act is amended by dividing it in Parts as follows:

- (a) inserting the heading “Part I – PRELIMINARY” before section 1;
- (b) inserting the heading “Part II – THE ORGANISATION” before section 3;
- (c) inserting the heading “Part III – INTELLECTUAL PROPERTY RIGHTS” before section 14;
- (d) inserting the heading “Part IV – FINANCIAL ACCOUNTS” before section 17; and
- (e) inserting the heading “Part V – MISCELLANEOUS” before section 18.

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**The Scientific Research Organisation of Samoa Act 2008 is administered by the Scientific Research Organisation of Samoa.**