



Tonga

**ANTI-CORRUPTION COMMISSIONER
(AMENDMENT) BILL 2012**

V01

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ANTI-CORRUPTION COMMISSIONER (AMENDMENT) BILL 2012

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ANTI-CORRUPTION COMMISSIONER (AMENDMENT) BILL 2012

A BILL FOR AN ACT TO AMEND THE ANTI-CORRUPTION COMMISSIONER ACT AND TO BRING IT UNDER THE UMBRELLA OF THE GOOD GOVERNANCE COMMISSION AND FOR THE RELATED MATTERS

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short title, interpretation

- (1) This Act may be cited as the Anti-Corruption Commissioner (Amendment) Bill 2012.
- (2) In this Act, the Anti-Corruption Commissioner Act 2007, as amended, is referred to as the “Anti-Corruption Commissioner Act”.

2 General changes to Cabinet

The Anti-Corruption Commissioner Act is amended by repealing “His Majesty in Council” and replacing it with “Cabinet” wherever occurring.

3 Section 5 amended

Section 5 of the Anti-Corruption Commissioner Act is amended by –

- (a) in subsection (1) inserting after “Cabinet” the words “after receiving advice from the Judicial Appointments and Discipline Panel”; and
- (b) repealing subsection (2) and replacing it with –

“(2) The Anti-Corruption Commissioner shall before his appointment enter into an employment contract with the Government as prepared by the Good Governance Commission and specifying the terms and conditions of employment, including the tasks and duties to be undertaken, tenure, performance criteria, grounds for termination and resignation.”.

4 Section 13A inserted

The Anti-Corruption Commissioner Act is amended by inserting the following section –

“13A Anti-Corruption Commissioner a component of Good Governance Commission

- (1) The Anti-Corruption Commissioner established under section 4 shall be organised, supervised and administered as a component of the Good Governance Commission as provided in the Good Governance Commission Act 2012.
- (2) The Anti-Corruption Commissioner shall comply with directions made under section 11(1)(b) of the Good Governance Commission Act 2012.
- (3) This Act shall be read subject to the Good Governance Commission Act 2012.”.

5 Section 54(1) amended

Section 54(1) of the Anti-Corruption Commissioner Act is amended by deleting “Prime Minister for tabling in Privy Council and” and replacing it with “Minister for Justice who shall table it in Cabinet and”.

6 Section 80 amended

Section 80 of the Anti-Corruption Commissioner Act is amended by inserting after “Commissioner” in both places “as directed by or with the approval of the Good Governance Commission”.

7 Schedule 1 amended

Schedule 1 of the Anti-Corruption Commissioner Act is amended –

- (a) in sub-clause 2(1), by repealing “His Majesty’s Cabinet” and replacing it with “The Good Governance Commission”;
- (b) by repealing sub-clause 5(1) and replacing it with:

“(1) The Anti-Corruption Commissioner shall be paid such sum as determined by the Good Governance Commission with the consent of Cabinet; and such sum shall be included in the employment contract and shall include the whole of the remuneration payable for all functions and offices assigned to the Anti-Corruption Commissioner, whether or not mentioned in the employment contract.”;
- (c) in sub-clause 6(2) by repealing “His Majesty in Privy Council” and replacing it with “Cabinet on the advice of the Judicial Appointments and Discipline Panel”.

Passed by the Legislative Assembly this day of 2012.

Explanatory Notes

(This note does not form part of the Bill, and is intended only to explain its purpose and effect.)

Section 2

Section 2 of this Bill makes the general change away from involving His Majesty in Council in government matters and replaces this with Cabinet – this general change was made to most Acts when the constitutional amendments were enacted in 2010, but this Act was then left alone.

Section 3

Section 3 provides that Cabinet appoints the Anti-Corruption Commissioner after being advised by the panel that deals with appointment of Judges. The section also inserts a new subsection that provides that before his appointment the Anti-Corruption Commissioner is to enter into an employment contract with the Government that is prepared by the Good Governance Commission and specifies the terms and conditions of employment.

Section 4

Section 4 inserts the standard section that makes the Anti-Corruption Commissioner a part of the Good Governance Commission, and therefore subject to its direction and supervision.

Section 5

This section makes a further change away from involvement by the Prime Minister and Privy Council – instead it is now by this amendment with the Minister of Justice and Cabinet.

Section 6

Section 6 further ensures that the Anti-Corruption Commissioner is to act as directed by or with the approval of the Good Governance Commission when it comes to appointment of staff.

Section 7

Section 7 amends the Schedule of the Anti-Corruption Commissioner Act that deals with (a) an Acting Commissioner, and (b) salary – to make sure that it is the Good Governance Commission that has the supervision of these matters. Subsection (c) amends the old provision that said His Majesty in Privy Council may remove the Commissioner for misconduct – this is now dealt with in the employment contract but also here now with a special power to Cabinet on the advice of the Judicial Appointments and Discipline Panel – similarly to how a judge can be removed.

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