



SAMOA

LIFE ASSURANCE CORPORATION ACT 1976

Arrangement of Provisions

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LIFE ASSURANCE CORPORATION ACT 1976
1976 **No.24**

AN ACT to establish a Samoa Life Assurance Corporation, and to define its functions, powers, and duties.

[Assent date: 17 December 1976]

[Commencement date: 1 January 1977]

PART 1
PRELIMINARY

1. Short title and commencement –(1)This Act may be cited as the Life Assurance Corporation Act 1976.

(2)This Act comes into force on 1January 1977.

2. Interpretation – In this Act, unless the context otherwise requires:

“account” means the Life Assurance Corporation Account established under section 26;

“Corporation” means the Samoa Life Assurance Corporation established by section 3;

“imprest account” means an imprest account established under section 28;

“member” or “member of the Corporation” means a member of the board of the Corporation.

PART 1A
ORGANISATION OF CORPORATION

3. Establishment of Corporation and appointment of members–(1) There is established the Samoa Life Assurance Corporation.

(2) The board of the Corporation comprises 5 members who are to be selected under the applicable law relating to the management of public bodies.

(2A) The members of the Corporation are to be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) Cabinet shall appoint one of the members to be Chairperson, and may appoint a Deputy Chairperson.

(2C) No person may be appointed or continue to hold office as a member, while that person is a full-time salaried officer of the Corporation.

(2D) Unless the board decides otherwise, the Chief Executive Officer must attend all board meetings but shall have no voting rights.

(3) The Corporation is a body corporate with perpetual succession and a common seal, and has the capacity to acquire, hold, and dispose of real and personal property, and to sue and be sued, and to do and suffer all other things that bodies corporate may lawfully do and suffer.

(4) No vacancy in the membership of the Corporation shall affect its powers.

4. Term of appointment – (1) A member of the Corporation is to be appointed for a term of 3 years, and may be reappointed.

(2) Unless the member sooner vacates office under section 5, a member continues in office, even if the term of appointment has expired, until a successor comes into office.

(3) A member holds office during the term of appointment, or any continuation in office after the expiry of the term, at the pleasure of the Head of State, acting on the advice of Cabinet.

5. Extraordinary vacancies – (1) A member may at any time resign from office by giving written notice to that effect to the Corporation.

(2) The Head of State, acting on the advice of Cabinet, may at any time remove a member from office so acting.

(3) If a member dies or resigns or is removed from office under subsection (2), the vacancy thereby occurring is treated to be an extraordinary vacancy.

(4) An extraordinary vacancy shall be filled in the same manner as that of the person whose office has become vacant.

6. Deputies of members – (1) The Minister may in writing authorise any eligible person to be the deputy of a member of the Corporation.

(2) Where a member of the Corporation is unable, because of illness, temporary absence, or other sufficient cause, to attend a

meeting, the member's authorised deputy may attend the meeting in the member's place.

(3) Where a member of the Corporation (other than an appointed member) is unable, because of illness, temporary absence, or other sufficient cause, to attend a meeting of the Corporation, the member may authorise any senior officer of his or her Department or office to attend the meeting as his or her deputy.

(4) A deputy, while he or she attends a meeting of the Corporation under this section, is taken for all purposes to be a member of the Corporation, except that the deputy shall not act as chairperson.

(5) No authorisation of a deputy, or act done by a deputy, or by the Corporation while he or she is acting as such, shall in any proceedings be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

7. Meetings of Corporation – (1) Meetings of the Corporation shall be held at such times and places as the Corporation or the chairperson appoints.

(2) At a meeting of the Corporation, 3 members shall be a quorum.

(3) Adequate notice of a meeting of the Corporation, and of the business to be considered at the meeting, is to be given to every member of the Corporation and to the manager, but an accidental omission to comply with this subsection shall not invalidate the proceedings.

(4) The manager shall attend every meeting of the Corporation, unless directed or permitted by it not to do so in any particular case.

(5) At a meeting of the Corporation:

(a) if the chairperson is present, he or she shall preside;
or

(b) if the chairperson is not present, the members shall elect one of their number to preside.

(6) Any question before a meeting of the Corporation is to be decided by a majority of the votes of the members present at the meeting.

(7) On every question before a meeting, the chairperson or other person presiding shall have a deliberative vote, and, in the

case of an equality of votes, he or she shall also have a casting vote.

(8) Despite any other provision in this section, a resolution unanimously agreed to in writing (by letter, cable, or otherwise) by the members of the Corporation shall have the same effect and validity as a resolution duly passed at a meeting of the Corporation.

(9) Subject to this Act, the Corporation may regulate its own procedure as it thinks fit.

8. Minutes of meeting – (1) The Corporation shall keep, in a book provided for the purpose, adequate minutes of all resolutions passed by it and of its proceedings at its meetings.

(2) The minutes are to be signed by the chairperson or other person presiding at the next meeting of the Corporation following the one to which they relate.

(3) Copies of all minutes are to be given to every member and to the manager.

9. Disclosure of interest – (1) A member of the Corporation who, otherwise than as a member, is directly or indirectly interested in any arrangement or agreement made or entered into, or proposed to be made or entered into, by the Corporation shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Corporation.

(2) A disclosure under this section shall be recorded in the minutes of the Corporation, and, except as otherwise provided by a resolution of the other members of the Corporation, the member:

- (a) shall not take part after the disclosure in any deliberation or decision of the Corporation relating to the arrangement or agreement; and
- (b) shall be disregarded for the purpose of forming a quorum of the Corporation for any such deliberation or decision.

(3) The manager has the same duty of disclosure to the Corporation under this section as a member of the Corporation.

10. Remuneration of members – An appointed member of the Corporation who is not a full-time salaried employee in the

service of Samoa may be paid such remuneration, travelling expenses, and other allowances as the Head of State, acting on the advice of Cabinet, may by Order determine.

11. Appointment of manager –(1)The Head of State, acting on the advice of Cabinet, shall appoint a manager of the Corporation, for such term, at such salary, and on such conditions of service as the Head of State acting on the advice of Cabinet may determine.

(2)Despite subsection (1) relating to the conditions of service of the manager, the Head of State acting on the advice of Cabinet may appoint the manager on conditions of service determined or to be determined by the Corporation.

(3)The Head of State, acting on the advice of Cabinet, may remove the manager from office for disability, incompetence, neglect of duty, or misconduct, or on any ground specified in the conditions of service applicable to the manager, or for any other sufficient cause.

12. Duties of manager – The manager shall be the chief executive officer of the Corporation and is responsible to it for the efficient control and management of its operations.

13. Other staff of corporation –(1)The Corporation may appoint a secretary, an accountant, and such other officers and employees as it may consider necessary for the efficient exercise and performance of its functions, powers and duties.

(2)Subject to this Act, the salaries, terms of appointment, and conditions of service of the staff to whom this section applies shall be determined by the Corporation.

14. External assistance for staffing – Subject to the prior approval of the Head of State, acting on the advice of Cabinet, and without limiting its other powers to engage staff, the Corporation may either directly or through the agency of the Government or any other body or organisation, enter into any agreement or arrangement with any organisation or body, whether within Samoa or abroad, for the recruitment, payment, or provision of benefits, for any staff of the Corporation.

15. Relativity with the Public Service –(1)In determining the remuneration that shall be paid to its staff, the Corporation shall have due regard to the remuneration that is for the time being paid to persons holding similar positions of responsibility in the Public Service.

(2)Without limiting the power of the Corporation to pay to its staff remuneration differing from that payable for similar positions in the Public Service, the Corporation may have regard to the necessity for the time being of inducing overseas candidates to accept appointment in the Corporation.

16. Appointment of agents –(1)The Corporation may, on such terms and conditions as it may agree, retain or otherwise engage any persons or bodies (whether in Samoa or elsewhere) to act as agents of the Corporation for the carrying out of the functions of the Corporation.

(2)The Corporation may pay to any agent such fees, commission, allowances, or other remuneration as the Corporation may agree with the agent.

PART 2

FUNCTIONS AND POWERS OF CORPORATION

17. Functions of Corporation – (1)The principal function of the Corporation is to carry on in Samoa and elsewhere the business of life assurance.

(2)In particular, but without limiting subsection (1), the Corporation may enter into contracts that may lawfully be made by any person:

- (a) for the insurance of any lives (either with or without sickness and accident disability benefits);
- (b) for the granting of endowments;
- (c) for the sale of life annuities; and
- (d) in any other way whatever (not repugnant to public policy) dependent on the contingencies of the termination or continuance of human life.

(3)The Corporation may refuse to enter into any contract for an insurance or for an annuity in any case where it considers that there are sufficient grounds for so refusing.

(4)The Corporation, in entering into any contract, may increase the premium payable in proportion to the degree of unsoundness or ineligibility of the life proposed for insurance.

18. General powers of Corporation –(1)The Corporation shall have all the powers that are necessary or reasonably expedient for the carrying out of its functions.

(2)In particular, but without limiting subsection (1), the Corporation may do all or any of the following things:

- (a) purchase, accept by way of grant or gift, obtain by exchange, take on lease or hire, or otherwise acquire any real or personal property;
- (b) with the prior written consent of the Minister of Finance, acquire the undertaking of anybody corporate, or promote or subscribe for or acquire stock or shares in any body corporate;
- (c) hold, furnish, equip, develop, improve, alter, extend, repair, and maintain any property;
- (d) subdivide, sell, exchange, lease or hire-out, or dispose of for valuable consideration any of its property;
- (e) enter into contracts with any other insurer for re-insurance of any risks accepted by it or by that insurer;
- (f) commission, retain, or otherwise engage the services of any actuaries or medical practitioners;
- (g) enter into any contract or arrangement with any other insurer, or person or body having specialised knowledge in insurance matters, for the provision for the Corporation by that insurer, person, or body of managerial and technical services;
- (h) insure its members, officers, and employees against death and personal injury arising out of or in the course of their services to the Corporation;
- (i) enter into any contract or arrangement with any other insurer, for the Corporation to take over the liability on such conditions as the Corporation may agree, for any contract or policy of insurance that could be made or issued by the Corporation under this Act;

- (j) exercise any other powers conferred on it by this Act or any other enactment.

19. Contracts of Corporation – (1)A contract which, if made between private persons, must be by deed shall, if made by the Corporation, be in writing under the seal of the Corporation.

(2)A contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Corporation, be in writing either under the seal of the Corporation or signed by any person acting on behalf of and under the express or implied authority of the Corporation.

(3)A contract which, if made between private persons, may be made orally, may be made in the manner specified in subsection (1) as in the case of a deed, or in the manner specified in subsection (2) as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Corporation by any person acting under the express or implied authority of the Corporation.

(4)Despite subsections (1) to (3), no contract made by or on behalf of the Corporation shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Corporation or to give effect to a resolution of the Corporation in relation to contracts generally or in relation to that particular contract.

20. Committees – The Corporation may appoint committees consisting of such members or officers of the Corporation as it thinks fit.

21. Delegation of powers by Corporation – (1)The Corporation may delegate to any committee appointed under section 20, or to any member or officer of the Corporation, any of the functions or powers of the Corporation under this Act, including the power of delegation conferred by this subsection.

(2)A delegation under this section may be made to:

- (a) a specified person; or
- (b) a person of a specified class; or
- (c) the holder of a specified office or appointment or of an office or appointment of a specified class.

(3)Subject to any general or special directions given or conditions imposed by the Corporation, or by any committee or

person by whom any functions or powers are so delegated, the committee or person to whom those functions and powers are delegated shall perform and exercise them in the same manner and with the same effect as if they had been conferred on it or him or her directly by this Act and not by delegation.

(4) A committee or person purporting to act pursuant to any delegation under this section is, in the absence of proof to the contrary, presumed to be acting under the terms of the delegation.

(5) A delegation under this section:

- (a) may be revoked at any time by the Corporation, or by the committee or person by whom it was made; and
- (b) does not prevent the performance or exercise of any function or power by the Corporation, or by the committee or person by whom the delegation was made.

22. Purchase of motor vehicles – In order to facilitate the carrying out of the functions of the Corporation, it may from time to time purchase motor vehicles and dispose of them by way of sale, hire-purchase, or bailment, on such terms and conditions as the Corporation shall determine, to any employees or agents of the Corporation whose duties for the Corporation require the use of motor vehicles.

PART 3 FINANCIAL PROVISIONS

23. Funds of Corporation – The funds of the Corporation shall consist of:

- (a) the money advanced to the Corporation under section 24;
- (b) all money lawfully received by the Corporation in carrying out its functions;
- (c) all accumulations of its funds; and
- (d) all other money that may lawfully be received by it.

24. Initial advance from Treasury Fund – (1) On the commencement of this Act, there shall be advanced by way of loan to the Corporation out of the Treasury Fund, as statutory

expenditure on the conditions specified in subsection (2), the sum of \$30,000.

(2) The Corporation shall repay to the Treasury Fund the \$30,000 referred to in subsection (1), without interest, by the expiration of the period of 2 years immediately following the day on which the advance is paid to the Corporation.

25. General borrowing powers – (1) The Corporation may, with the prior written consent of the Minister of Finance, borrow, on such terms and conditions as it may agree to, money required to enable or facilitate the carrying out of its functions.

(2) There may be advanced by way of loan to the Corporation from the Treasury Fund, out of money appropriated by Parliament for the purpose, such amounts as the Minister of Finance may authorise, on such terms and conditions as the Minister may determine.

(3) The Corporation is a public corporation for the purposes of the Public Finance Management Act 2001.

26. The Life Assurance Corporation Account –(1) On the commencement of this Act, the Corporation shall open and at all times maintain at the Bank of Samoa, or at such other bank approved by the Minister of Finance as the Corporation may determine, an account to be known as the Life Assurance Corporation Account.

(2) All money received by the Corporation shall be forthwith paid into the account.

27. Payments out of Life Assurance Corporation Account – (1) The following payments, and no other payments, may be made by the Corporation out of the Account:

- (a) all money lawfully payable by the Corporation pursuant to any contracts of insurance, or for the granting of endowments, or for life annuities, or otherwise made by the Corporation pursuant to this Act;
- (b) all investments of money authorised by this Act;
- (c) all salary, wages, commission, fees, allowances, and other remuneration payable to any persons in accordance with this Act;

- (d) all other expenditure lawfully incurred by the Corporation pursuant to this Act or any other enactment.

(2) If at any time the money in the Account is insufficient to discharge the amounts chargeable to the Account under subsection (1), the Corporation shall forthwith notify the Minister of Finance in writing of that fact, and on receipt by the Minister of such notice, there shall be advanced to the Corporation from the Treasury Fund, as statutory expenditure by way of loan and subject to the conditions specified in subsection (3), the amount of the deficiency.

(3) The amount advanced under subsection (2) shall be repayable by the Corporation to the Treasury Fund as soon as there are sufficient funds in the Account to discharge all the amounts for the time being chargeable to the Account (including the advance made under subsection (2)).

(4) Where any amount is advanced to the Corporation under subsection (2) or is repaid by it to the Treasury Fund under subsection (3), the Minister of Finance shall within 14 days thereafter, if the Legislative Assembly is then sitting, or if it is not, then within 14 days after the commencement of the next ensuing session of the Legislative Assembly, lay a statement of the details of such advance or repayment, as the case may require, before the Legislative Assembly.

28. Overseas imprest accounts –(1) Where any money is received outside Samoa on behalf of the Corporation, that money shall be paid forthwith into an imprest account at such bank (whether in Samoa or elsewhere) as the Corporation shall in any case designate.

(2) An imprest account is deemed to be a subsidiary account within the Life Assurance Corporation Account.

(3) The Corporation may transfer any of its funds between the Life Assurance Corporation Account and any imprest account or between any imprest accounts.

(4) An imprest account may be used for any repayment or expenditure authorised by this Act.

29. Operation of Account –(1) The Life Assurance Corporation Account shall not be operated on except by a cheque, bill, promissory note, or other instrument signed by a member or officer of the Corporation authorised for that purpose by the

Corporation and countersigned by any other member or officer so authorised.

(2) An imprest account shall not be operated on except by a cheque, bill, promissory note, or other instrument, signed by any person authorised for that purpose by the Corporation and countersigned by any other person so authorised.

30. Authorised investments –(1) The Corporation may invest any funds in the Life Assurance Corporation Account (including any imprest account) in any of the following:

- (a) in any public securities within the meaning of the Public Finance Management Act 2001;
- (b) in the Common Fund of the Public Trustee;
- (c) in loans under this Act to holders of policies of insurance issued by the Corporation;
- (d) in loans on first mortgage of land in Samoa or elsewhere of any estate in fee simple;
- (e) on deposit in the Bank of Samoa, the Bank of Samoa Savings Bank, the Post Office Savings Bank, or the Development Bank of Samoa;
- (f) in any other securities, whether in Samoa or elsewhere, for the time being authorised for the purpose by the Minister of Finance by notice published in the *Gazette*.

(2) No advance in the security of an estate in fee simple in any land shall exceed two-thirds of the valuation of a competent valuer who is independent of the borrower.

31. Loans on policies – The Corporation may advance by way of loan out of the Life Assurance Corporation Account (including any imprest account) to any holders of policies issued by the Corporation under this Act that have been in force for not less than 2 years or such other period as the Minister of Finance may approve, such sums on such terms and conditions (including the payment of interest) as the Corporation may determine.

32. Limits of loans on policies –Despite section 31, no loan under that section shall exceed nine-tenths of the surrender value at the time of the loan of the policy to which it relates.

33. Financial year – The financial year of the Corporation ends on 31 December in every year, or on such other day in any year as the Corporation, with the prior written consent of the Minister of Finance, may determine.

34. Keeping of accounts – The Corporation shall at all times keep, in accordance with recognised principles of accounting practice, full and correct records and accounts of its financial transactions, assets, funds, and liabilities, in every financial year so as to show accurately the financial position of the Corporation in that year.

35. Application of profits – The Corporation, having in each financial year set aside such amounts as may be necessary or reasonably expedient to meet its lawful liabilities, to pay its administrative expenses, to expand, develop, and replace its assets, and to make proper provision for adequate reserves and contingencies, shall apply its profits for that financial year pro rata for the benefit of the policies of insurance issued by the Corporation under this Act, subject always however to the terms and conditions of those policies.

36. Annual audit of accounts – (1) Within 4 months after the end of a financial year, the Corporation shall prepare a balance sheet, profit and loss account, and statement of source and application of funds, and such other statements of account as are necessary to show fully the financial position of the Corporation and the financial results of its operation during that year.

(2) The balance sheet, profit and loss account and other statements referred to in subsection (1) are to be audited by the Controller and Auditor General, who may engage or commission the services of any other auditor to assist the Controller or act on the Controller's behalf for the purpose.

37. Annual reports – (1) Within 6 months after the end of a financial year, the Corporation shall send to the Minister of Finance a report of its proceedings and operations for that year together with at least 2 copies of its duly audited accounts for that year.

(2) The Minister of Finance shall lay copies of the report and of the audited accounts before the Legislative Assembly within 14 days after he or she receives them, if the Legislative Assembly is then in session, and if it is not then in session, within 14 days after the commencement of the next session of the Legislative Assembly.

**PART 4
MISCELLANEOUS**

38. Liability of members – No member of the Corporation is personally liable for any act or omission by the member in good faith in the exercise or performance by the member of the functions, powers, and duties as a member, or for any debt or other liability of the Corporation.

39. Protection of name – (1) No company or other body corporate may be incorporated or registered, under any enactment or otherwise, under the name “Life Assurance Corporation of Samoa” or under any name that in the opinion of the Registrar of Companies so resembles the name of the Corporation as to be likely to cause any person to confuse it with the Corporation.

(2) No person other than the Corporation shall either alone or with any other person, body or organisation hold himself or herself out or trade or carry on business under the name “Life Assurance Corporation of Samoa” or any name so resembling that name as to be likely to cause any person to confuse any person, body or organisation with the Corporation.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding 5 penalty units and to a further fine not exceeding 1 penalty unit for every day on which the offence has continued.

40. Directions by Minister – (1) Despite any other provision in this Act, the Minister of Finance may give to the Corporation written directions on all or any of the following matters:

- (a) as to the extent to which, and the terms and conditions on which, the Corporation may purchase and dispose of motor vehicles under section 22;

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- (b) imposing conditions or restrictions on the establishment and operation of imprest accounts and on transfers of funds between any accounts of the Corporation;
- (c) as to the proportion of the funds of the Corporation that may be invested in accordance with section 30, or in any particular class of investment specified in that section;
- (d) specifying the minimum amount that may be invested in any particular class of investment under section 30.

(2) The Corporation shall comply with all written directions given to it by the Minister of Finance under subsection (1).

41. Regulations – The Head of State, acting on the advice of Cabinet, may make regulations for all or any of the following purposes:

- (a) prescribing the procedure to be followed by the Corporation at its meetings;
- (b) specifying the grading, salaries, and conditions of service of employees of the Corporation;
- (c) specifying records and accounts to be kept by the Corporation;
- (d) fixing the maximum and minimum limits of the payments to be made under the several classes of insurance and annuities that may be contracted under this Act;
- (e) prescribing the mode of proving the age and identity and existence or death of persons and the mode of paying sums of money payable under this Act;
- (f) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

This Act has been revised and consolidated by the Legislative Drafting Division from 2008 to 2019 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “Every” and “any” changed to “a”
 - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” changed to “under”
 - (vii) “it shall be lawful” changed to “may”
 - (viii) “it shall be the duty” changed to “shall”
 - (ix) Numbers in words changed to figures
 - (x) “hereby” and “from time to time” (or “at any time” or “at all times”) removed
 - (xi) “under the hand of” changed to “signed by”
 - (xii) Section 4 revised in light of the amendment to section 3(2A) and their respective section headings. Reference to “appointed member” amended to read “member”. Section 21(5) revised;
 - (xiii) Reference to “Public Corporations (Securities) Act 1976” in section 25(3) changed to “Public Finance Management Act 2001”
 - (xiv) Part numbering changed to decimal

This Act was amended by the:

- *Composition of Boards of Public Bodies Act 2012, No.15*
- *Audit Act 2013, No. 22* – in section 36(2), references to “Controller and Chief Auditor” changed to “Controller and Auditor General” or “Controller”.



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Ministry of Finance.*