



SAMOA

SAMOA SPORTS FACILITIES AUTHORITY ACT 2007

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SAMOA SPORTS FACILITIES AUTHORITY ACT 2007
2007 **No. 24**

AN ACT to repeal the Apia Park and Sports Facilities Board Act 1995 and the South Pacific Games Authority Act 2007 and to establish an Authority to be called the Samoa Sports Facilities Authority to control, manage and administer all sporting facilities vested in the Authority.

[Assent date: 26 October 2007]

[Commencement date: 1 November 2007]

PART 1
PRELIMINARY

1. Short title and commencement – (1) This Act may be cited as the Samoa Sports Facilities Authority Act 2007.

(2) This Act comes into force on a date to be nominated by the Prime Minister.

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

“Authority” means the Samoa Sports Facilities Authority established under this Act;

“Board of Directors” means the Board of Directors of the Authority constituted under section 4, and which is referred to as “the Board”;

“financial year” means a period of 12 months commencing from 1 July in any year and ending on 30 June in the next ensuing year;

“Chief Executive Officer” means the person appointed by the Authority to be its Chief Executive Officer under section 16;

“Minister” means the Minister who is given responsibility for this Act;

“repealed Acts” means the Apia Park and Sports Facilities Board Act 1995 and the South Pacific Games Authority Act 2007.

PART 1A
SAMOA SPORTS FACILITIES AUTHORITY

3. Establishment of the Samoa Sports Facilities Authority – (1) There is established an Authority to be known as the Samoa Sports Facilities Authority.

(2) The Authority:

- (a) is a body corporate with perpetual succession; and
- (b) shall have a common seal; and
- (c) may enter into contracts; and
- (d) may sue and be sued in its corporate name; and
- (e) shall have the power to acquire, hold and dispose of property both real and personal; and
- (f) may generally do all such acts and things that are necessary for or incidental to the performance of its functions under this Act or any other law.

4. Constitution of the Board of Directors – (1) (*repealed by Act 2012, No. 15*)

(2) The Board of Directors comprises 7 directors who are to be selected in accordance with applicable law relating to the management of public bodies, except for the following:

- (a) the Chief Executive Officer of the Ministry of Education, Sports and Culture, who shall be an *ex-officio* director; and
- (b) a representative nominated by the National Olympic Committee being the National Federation Amateur Sports in Samoa (SASNOC).

(2A) Other than the *ex-officio* director under subsection (2)(a), the directors of the Board shall be appointed by the Head of State acting on the advice of Cabinet.

(2B) The *ex-officio* director under subsection (2)(a) shall not receive remuneration or other benefits from the Authority for services as a director.

(2C) Cabinet shall appoint 1 of the directors to be Chairperson, and may appoint a Deputy Chairperson.

(2D) No person may be appointed or continue to hold office as a director, while that person is a full-time salaried officer or employee of the Board.

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

5. *(repealed by Act 2012, No. 15)*

6. Term of Office – (1) The powers of the Board shall not be affected by any vacancy in its membership.

(2) The directors appointed by the Head of State on the advice of Cabinet shall hold office for a period of 3 years.

(3) If any director dies, resigns, or is removed from office, the person appointed to fill the vacancy so created, subject to subsection (4), holds office for the balance of the term of the original appointment.

(4) Unless he or she sooner vacates office otherwise than by effluxion of time, a director continues to hold office until his or her successor comes into office, even if the term for which he or she was appointed may have expired.

7. Removal and resignation of Directors – (1) Despite section 6(2), any appointed director may at any time be removed from office by the Head of State on the advice of Cabinet on the grounds of:

- (a) disability; or
- (b) neglect of duty; or
- (c) misconduct; or
- (d) by reason of being absent from 3 consecutive meetings of the Board without leave from the Board.

(2) An appointed director may at any time resign his or her office by written notice addressed to the Chairperson.

8. Meetings of the Board – (1) Meetings of the Board are to be held at such time and place as the Chairperson determines.

(2) The Chairperson shall call a meeting whenever requested in writing to do so by not less than 3 directors.

(3) The Board shall meet together for the dispatch of business, and from time to time make such decisions with respect

to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of its business, as it thinks fit, subject to the following conditions:

- (a) no business is to be transacted at any meeting unless 4 directors are present; and
 - (b) all questions are to be decided by a majority of the votes of the directors present.
- (4) Subject to any regulations made under this Act, the Board may regulate its proceedings in such manner as it thinks fit.
- (5) The Board may consider and decide upon any matter before it by:
- (a) the sending of a circular resolution, supported by all relevant information in relation to each matter, to each Director by post, facsimile or electronic means; and
 - (b) each Director notifying his or her decision by replying to the notification under paragraph (a).
- (6) The procedures permitted by subsection (5) may be used to obtain the views of 1 or more directors who are not able to attend a meeting of the Board, and in such cases any director who responds in the required manner shall be counted as part of the quorum of the meeting of the Board.

9. Absence of Chairperson – (1) If at a meeting the Chairperson is not present, the Deputy Chairperson shall act as Chairperson.

(2) If both the Chairperson and the Deputy Chairperson are absent from a meeting, the Directors present shall appoint a Director to be the Chairperson of the meeting.

10. Chairperson to have casting vote – In case of an equality of votes at any meeting, the Chairperson for the time being of a meeting shall have a second or casting vote.

11. Establishment and Delegation of powers to Committees – (1) The Board may establish committees for any purpose related to the functions of the Board and may delegate any of its powers to such committees as it thinks fit.

(2) Committees so formed shall, in the exercise of the powers delegated, conform to any instructions that are given to them by

the Board.

12. Chairperson of Committees – (1) A committee may elect a Chairperson for its meetings.

(2) If no Chairperson is elected for a committee, or if the elected chairperson is not present at the time appointed for holding any meeting, the members present shall appoint a member to be the Chairperson of that meeting.

13. Committee Meetings – (1) A committee may meet and adjourn as it thinks proper.

(2) Questions at any committee meeting are to be determined by a majority of the votes of the members present, and in case of an equal division of votes the Chairperson has a second or casting vote.

14. Minutes of Meetings – (1) The Board shall cause minutes to be kept and shall ensure that a record is made of the following details:

- (a) all officers appointed by the Board;
- (b) the name of directors present at each meeting of the Board;
- (c) all orders made by the Board and committees of the Board;
- (d) all resolutions and proceedings of meetings of the Board and committees of the Board.

(2) All minutes, if signed by the Chairperson and the Secretary of the Board or Committee of the Board, are receivable in evidence without any further proof.

15. Positions of the General Manager and Chief Executive Officer to be abolished – The General Manager of the Apia Park Board and the Chief Executive Officer of the South Pacific Games Authority, appointed under the repealed Acts shall cease to hold these offices at the commencement of this Act.

16. The Board may appoint employees and contractors – (1) The Board may appoint a Chief Executive Officer and such other officers and employees as the Board determine.

(2) The terms and conditions of employment (including remuneration) for the Chief Executive Officer and other officers

appointed under subsection (1) shall be determined by the Board.

(3) The Chief Executive Officer shall be responsible to the Board for the effective and efficient execution of the functions of the Authority.

(4) No director of the Board shall be capable of holding the office of Chief Executive Officer unless such director holds the office without remuneration.

(5) The Board may employ any person on a contract for services to carry out any of the functions of the Authority at such remuneration and upon such terms and conditions as are determined by the Board.

17. Transfer of Staff to the Authority – (1) The Board of Directors may transfer non contractual staff employed by the South Pacific Games Authority and the Apia Park and Sports Facilities Board to the Authority.

(2) All staff transferred to the Authority shall be subject to the same employment conditions as they were entitled to as at the commencement of this Act until the Board of Directors determines otherwise.

18. Replacing officers – During the absence from duty of any officer of the Authority by reason of illness, leave of absence, or other cause, the duties and powers of that officer may be performed and exercised by an acting officer appointed by the Chief Executive Officer (or by the Board in the case of the Chief Executive Officer), and such appointment may be either general or for a particular occasion only.

19. Security from officers handling money – Any officer who is entrusted with the custody or control of money belonging to the Authority must comply with all procedures and measures determined by the Board or the Chief Executive Officer as applying to the exercise of such duties.

20. Board and employee's non-liability – All directors and officers of the Authority are not liable for any civil or criminal liability arising from any act or omission done in good faith in carrying out any function or duty of the Authority.

PART 2

FINANCIAL PROVISIONS

21. Revenue of the Authority – The revenue of the Authority shall consist of:

- (a) all money received by way of fees, rent of facilities, lands or property under the control, management or administration of the Authority; and
- (b) all money received as ground fees for the playing of games on or in any facility or property under the control, management or administration of the Authority; and
- (c) all money as may be appropriated by Parliament for the Authority, or from any person or body or from any public subscriptions or donations; and
- (d) all money received by the Authority for the use of any facilities under its control, management or administration; and
- (e) all money received from the sale or disposal of any property of the Authority; and
- (f) all money received from any form of advertising at any facility or property of the Authority and from rights granted to televise or broadcast any games or functions at any of the sporting facilities under the control, management or administration of the Authority; and
- (g) all other moneys which may become the property of the Authority.

22. Moneys to be paid into Bank – (1) All money held by, and in the name of the Apia Park and Sports Facilities Board shall become the property of the Authority upon the commencement of this Act.

(2) All money belonging to the Authority shall, be paid into such bank accounts as the Board directs to be established.

(3) The Authority may, if it thinks fit, pay into a separate bank account all money accruing from any business undertaken by the Authority or money appropriated and held by it for any special purpose.

(4) The Authority may, if it thinks fit keep such separate accounts in its books as it deems necessary and all such separate accounts shall be audited as required under section 26.

(5) Subject to the provisions of this Act, the Authority may borrow or raise funds required by it for meeting any of its obligations or discharging any of its functions and may secure the repayment of such funds in any manner authorised by this or any other Act.

23. Expenditure by the Authority – (1) No money shall be drawn out of the Bank except by authorisation of the Board and all moneys shall be paid by cash or by cheque signed by persons authorised by the Authority.

(2) The Board shall determine any appropriate delegation of financial authority to the Chief Executive Officer and any other appropriate officer of the Authority and may impose any other appropriate arrangements to secure the finances of the Authority.

24. Expenses and allowances of Directors – The Authority may pay the Directors only such fees and allowances as are consistent with any applicable determination of Cabinet.

25. Application of Board moneys – All moneys received by the Board by way of revenue are to be applied in exercising the powers granted to or vested in the Board, including for:

- (a) establishing, managing, administering, developing and improving of all sporting facilities under the control, management or administration of the Authority; or
- (b) carrying out the purposes and objects of this Act in such manner as the Board determines.

26. Authority to keep proper accounts – (1) The Authority shall keep full and correct accounts of all moneys received and expended by it (and of its assets and liabilities), and shall as soon as reasonably practicable after the end of every financial year cause to be prepared a balance sheet together with a statement of income and expenditure for that year.

(2) The Controller and Auditor General must audit the accounts of the Authority annually.

(3) All moneys of the Authority not required for intermediate use shall be invested in bank accounts and such other securities authorised by the Board.

27. Annual Report – The Authority shall after each financial year provide to the Legislative Assembly a report of its proceedings and operations during the previous financial year and a copy of the Annual Accounts duly audited.

PART 3
FUNCTIONS AND POWERS OF THE AUTHORITY

28. Control of Sporting Facilities – (1) Subject to the provisions of this Act, the control, management and operation of the sporting facilities listed in the Schedule are vested in the Authority.

(2) The list of sporting facilities in the Schedule may be added to or deleted from by regulations made under this Act.

(3) Regulations made under subsection (2) may add sporting facilities which are owned by the Government, or in respect of which the Government has agreed with the owner of the facilities to be responsible for the management, control and operation.

29. Purpose for which Sporting facilities may be used or managed – (1) The Authority shall in its absolute discretion and at such times as it thinks fit make any of the sporting facilities under its control available for such sports, exhibitions, amusements, recreation, entertainment, cultural, religious or other activities as the Authority may deem expedient or desirable.

(2) The Authority may enter into leases and agreements relating to any facility under its control by which the right to occupy, use, manage and control the facility is vested in any sporting, religious, educational or community organisation for such period and upon such terms and conditions as are determined by the Authority.

(3) In making arrangements under subsection (2), the Authority shall ensure that the use of the facilities is in the national interest, or for the promotion of regional or international sporting or cultural programmes.

30. Functions of the Authority – The functions of the Authority are as follows:

- (a) to administer, manage, control and promote the sporting facilities under the control of the Authority;
- (b) to foster support and undertake provision of facilities

- for sport and recreation elsewhere in Samoa;
- (c) to promote the utilisation of sport and recreational facilities under the control of the Authority;
- (d) to assist in the implementation of regional or international sporting and relevant educational and cultural programs based in Samoa;
- (e) to examine and consider any existing or proposed policies relating to sport and recreation and utilisation of land, construction of facilities, for recreational purposes;
- (f) to develop any land granted to or owned by the Authority or other property given to or belonging to the Authority, and to erect and maintain buildings or other structures for sport or recreation;
- (g) to enter into agreements with sports bodies, corporations, societies, firms or persons for the vesting of rights to control, manage or operate any facilities under the control of the Authority.

31. Particular powers – In addition to any other powers vested in it by this Act, the Authority may carry out the following powers:

- (a) appropriate and use any portion of the lands or other facilities under its control as Sites for residences for grounds managers or other officers and employees of the Authority;
- (b) erect or authorise the erection on any lands or other areas under its control, pavilions, dressing sheds, or other buildings and facilities to be used by athletic clubs or sporting bodies, or for lease for the general public as it deems fit;
- (c) erect or authorise the erection of public conveniences or other buildings or facilities for the use of the public in any of the properties which the Authority controls, manages or administers;
- (d) assist in the establishment or provision by any other person or body of buildings, convenience and facilities in or on any of the properties that the Authority controls, manages or administers;
- (e) establish and maintain recreation areas within the

Apia Park and Tuanaimato Sporting Complexes as the Authority from time to time decides;

- (f) *repealed*
- (g) generally to do all acts and things necessary for the maintenance improvement and development of the sporting facilities under its control, management or administration.

31A. Fees - Fees or charges for the following are to be prescribed by regulations:

- (a) for admission to or the operation of facilities under the control of the Authority, or any activity promoted, arranged or controlled by it;
- (b) for admission to land or buildings under its control, or any activity promoted, arranged or controlled by it;
- (c) as the Authority decides for the use of the sporting facilities or the use of defined areas of the sporting facilities or any buildings, conveniences, or recreation grounds under the control of the Authority and for any services provided by the Authority;
- (d) charges for the purpose of section 33;
- (e) any other fees and charges for the purposes of this Act.

32. Regulations – (1) The Head of State, acting on the advice of Cabinet; may make regulations for any purposes related to the performance of the functions of the Authority and for the exercise of its powers.

(2) Without limiting subsection (1), regulations may be made in relation to the following matters:

- (a) to designate certain areas within any of the facilities and lands under its control to be exclusive advertising areas for Sponsors of any activity, function or event being held or staged there;
- (b) the use of all the facilities, venues or lands under the management; administration or control of the Authority;
- (ba) to prescribe fees or charges for the purposes of this Act;

- (c) for the provisions of safety measure at all the facilities, venues or lands under the management, administration or control of the Authority.

(3) The amount of fees and charges prescribed under subsection (1):

- (a) shall be proposed by the Authority with the concurrence of the Board of Directors;
- (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

33. By-Laws – (1) The Board may by special resolution make by-laws for all or any of the following purposes:

- (a) ensure that the facilities including car parks, toilets, concession areas and gardens are maintained;
- (b) maintain a safe and secure environment in all facilities under its control and ensuring that native flora is protected;
- (c) permits any part of the facilities under its control to be used for authorised commercial purposes by persons or group of person to operate concession areas and the conditions and terms of such operations;
- (d) excluding the public from any specified part or parts of the facilities or lands under its control;
- (e) prescribing the conditions on which persons or bodies shall have access to or be excluded from the facilities or land under its control or any part thereof.

(2) By-laws made by the Board come into force when they are signed by the Minister.

(3) All by-laws made under this section are to be laid before the Legislative Assembly within 28 days after the making thereof if the Assembly is then in session or if not then they are to be laid before the Assembly within 28 days after the commencement of the next ensuing session.

(4) A person who commits a breach of any by-laws (for which the Board has not specified a fine or penalty) under this Act commits an offence and is upon conviction liable to a fine not exceeding 100 penalty units.

**PART 4
MISCELLANEOUS**

34. Assets and Liabilities of the Apia Park and Sports Facilities Board and South Pacific Games Authority – All assets and liabilities of the Apia Park and Sports Facilities Board and South Pacific Games Authority existing as at the date of commencement of this Act shall pass to and be vested in the Samoa Sports Facilities Authority.

35. Repeal – The Apia Park and Sports Facilities Board Act 1995 and South Pacific Games Authority Act 2007 are repealed.

36. Savings of contracts and other legal proceedings – (1) Nothing in this Act shall affect the validity of any contract made by the Boards under the repealed Acts, and all such contracts validly made and in force at the commencement date shall be deemed to have been made by the Authority.

(2) All legal proceedings commenced by the Boards under the repealed Acts shall continue as if taken by the Authority.

**SCHEDULE
(Section 28)**

| | Venue | Location |
|----|-------------------------------|----------------------------|
| 1. | Archery Grounds | Faleata |
| 2. | Apia Park Athletic Stadium | Apia Park |
| 3. | Baseball Stadium | Faleata |
| 4. | Beach Volley Ball Court No.1 | Central Bank of Samoa Apia |
| 5. | Beach Volley Ball Court No. 2 | Faleata |
| 6. | Hockey Field | Faleata |
| 7. | Touch Rugby Field | Faleata |
| 8. | Cricket Ovals | Faleata |

| | | |
|-----|--|--------------|
| 9. | Gymnasium No.1 | Faleata |
| 10. | Gymnasium No.2 | Faleata |
| 11. | Gymnasium No.3National University of Samoa | |
| 12. | Lawn Bowls | Faleata |
| 13. | Netball Courts | Apia Park |
| 14. | Samoa Aquatic Centre | Faleata |
| 15. | Shooting Range | Tafaigata |
| 16. | Softball Diamond | Faleata |
| 17. | Sports Centre | Faleata |
| 18. | Tennis Court | Apia Park |
| 19. | Bowling Greens | Apia Park |
| 20. | Gymnasium No. 4 | Apia Park |
| 21. | Prince Edward Park | Faasaleleaga |

REVISION NOTES 2008 – 2019

This is the official version of this Act as at 31 December 2019.

This Act has been revised 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) Numbering for Parts changed from Roman to decimal numbers.
 - (xiii)

Amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

By the Composition of Boards of Public Bodies Act 2012, No. 15:

Section 4 repealed subsection (1), substituted subsection (2),
Inserted subsections (2A) to (2E)

Section 5 - repealed.

By the Audit Act 2013, No.22

Section 2 definition of “Controller and Chief Auditor”
repealed

Section 26(2) substituted

By the Fees and Charges (Miscellaneous Amendments) Act 2017, No 13:

Amendments made to this Act reflect that fees charged under this Act are to be prescribed by Regulations. Amendments are made to sections 30, 31, 31A and 32.



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Ministry of the Prime Minister and Cabinet.*
