



SAMOA

NATIONAL UNIVERSITY OF SAMOA ACT 2006

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**NATIONAL UNIVERSITY OF SAMOA ACT 2006
 2006 No. 2**

AN ACT to merge the National University of Samoa and the Samoa Polytechnic as one institution and to repeal the National University of Samoa Act 1997 and the Samoa Polytechnic Act 1992/1993.

[Assent date: 1 March 2006]

[Commencement date: 31 May 2006]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1
 PRELIMINARY**

1. Short title and commencement – (1) This Act may be cited as the National University of Samoa Act 2006.

(2) This Act comes into force by order of the Head of State on the date specified in the Order.

(3) Notice of the commencement of this Act is to be published in both Samoan and English in the Savali and 1 other newspaper circulating in Samoa.

2. Interpretation – (1) In this Act, unless the context otherwise requires:

“corporate plan” means a plan as required by the Public Finance Management Act 2001 and section 32 of this Act;

“Centre” means a centre established under section 3(7), and includes the Centre for Samoan Studies;

- “Committee of the Council” includes the Senate, the Executive Committee, the Vice Chancellor’s Committee and a committee, board or other body established under section 21;
- “Council” means the Council of the University constituted under section 13;
- “Deputy Vice Chancellor” means one of the Deputy Vice Chancellors appointed under section 11;
- “Executive Committee” means the Executive Committee of the Council established under section 22;
- “financial year” means a period of 12 months commencing on 1 July in a year and ending on 30 June in the following year;
- “Institute” means an institute established under section 3(3) and such other institutes as may be established under section 3(2);
- “Minister” means the Minister responsible for Education;
- “officers” means the officers of the University, being the Chancellor, Pro-Chancellor, Deputy Chairperson, Vice-Chancellor and Deputy Vice-Chancellors, as described in Part 3;
- “President” means the President and Vice-Chancellor appointed under section 10;
- “Pro-Chancellor” means the Pro-Chancellor of the University appointed under section 8;
- “Senate” means the Senate established under section 23(1);
- “Statute” means a statute made under section 25;
- “University” means the National University of Samoa established by this Act;
- “Vice-Chancellor” means the Vice-Chancellor of the University appointed under section 10.

(2) In this Act, a reference to the holder of an office in the University is to be read as including a reference to a person for the time being performing the duties of that office.

(3) Nothing in this Act prevents a person from being re-appointed, re-elected or re-co-opted to an office under this Act if the person is eligible and otherwise qualified to hold that office.

(4) In this Act, a reference to a function includes a reference to a power, authority and duty.

PART 2

ESTABLISHMENT OF UNIVERSITY

3. Establishment of the University – (1) This Act establishes the National University of Samoa as an institution combining the former National University of Samoa and the former Samoa Polytechnic.

(2) The University shall comprise its students, academic and non-academic staff, Council and officers and those institutes, centres or other bodies established under this Act and such other institutes or bodies as may be established by the Council.

(3) Council may, establish, disestablish, modify or rename existing or new institutes, centres or other bodies within the University, as provided in section 18(1).

4. Legal status of the University – (1) The University is a body corporate with perpetual succession and a common seal, and is capable of entering into contracts, of acquiring, holding and disposing of real and personal property, of suing and being sued and of doing all other things body corporates may lawfully do.

(2) The common seal of the University is to be kept in such custody as the Council may direct and is only to be affixed to a document under a resolution of the Council or of the Executive Committee.

(3) The University is a public body under Schedule 4 of the Public Finance Management Act 2001 and subject to the requirements of that Act.

(4) The University including a fully owned subsidiary of the University, is to be a public body under Schedule 1 of the Public Bodies (Performance and Accountability) Act 2001.

5. Functions of the University – The functions of the University, within the limits of its resources, are:

- (a) the provision of education and training, including academic, technical and vocational training and continuing education at appropriate levels responsive to the needs of the people of Samoa; and
- (b) the establishment of a centre of excellence in the study of the Samoan language and culture and all matters pertaining to Samoa; and
- (c) the acquisition and transmission of knowledge by

- teaching, consultancy, community learning and research; and
- (d) the encouragement of intellectual independence; and
 - (e) the promotion of the economic and social development of Samoa; and
 - (f) the realisation of the goals and guiding principles of the University as set out in its Corporate Plan; and
 - (g) the recognition of prior learning or competency and providing for flexible transition into University programs; and
 - (h) the establishment and maintenance of connections with public and private workplaces and the Samoan community; and
 - (i) the establishment of associations or arrangements with an institution.

6. Academic freedom – (1) It is the responsibility of the University to ensure that the principles of academic freedom are preserved and enhanced.

(2) The principles of academic freedom include:

- (a) the freedom of academic and teaching staff and students within the law to question existing knowledge and theories, to put forward new ideas, and to state controversial or unpopular opinions; and
- (b) the freedom of academic and teaching staff, and students where appropriate, to engage in research; and
- (c) the freedom of the University to appoint and retain its own staff; and
- (d) subject to this Act and to the Corporate Plan—
 - (i) the freedom of the University to regulate the courses, and the subject-matter of courses, taught at the University; and
 - (ii) the freedom of the University to teach and assess students in the manner it considers best promotes learning.

PART 3
OFFICERS OF THE UNIVERSITY

7. Chancellor – (1) The Chancellor is the titular head of the University and responsible for the conferment of degrees and the award of diplomas and certificates.

(2) In the absence of the Chancellor, the Pro-Chancellor shall confer degrees and award diplomas and certificates.

(3) Subject to this Act, the Head of State, acting on the advice of Cabinet, shall appoint the Chancellor for a term of 5 years, who may be re-appointed.

(4) Cabinet may remove the Chancellor from office for:

- (a) the Chancellor's failure or inability to adequately perform the Chancellor's duties;
- (b) misconduct; or
- (c) any other just cause.

(4A) If the Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, from the effective date of suspension.

(4B) If the Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chancellor must be reinstated without loss of any benefits or status and be paid the salary he or she lost as a result of any suspension from duty.

(4C) The Chancellor is not entitled to his or her salary if, as a result of the investigation relating to the subject of his or her suspension, he or she is not reinstated.

(5) Nothing in this section prevents the Head of State being appointed as the Chancellor on the advice of Cabinet.

8. Pro-Chancellor – (1) The Pro-Chancellor is to be the Chairperson of Council.

(2) Subject to this Act, the Head of State, acting on the advice of Cabinet, shall appoint the Pro-Chancellor who shall hold office for a term of up to 3 years, and may be re-appointed.

(3) The Minister, before making a recommendation to Cabinet on the appointment of a Pro-Chancellor, shall consult the Council regarding that appointment.

(4) Cabinet may remove the Pro-Chancellor from office for:

- (a) the Pro-Chancellor's failure or inability to adequately perform the Pro-Chancellor's duties;
- (b) misconduct; or
- (c) any other just cause.

(5) If the Pro-Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, from the effective date of suspension.

(6) If the Pro-Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Pro-Chancellor must be reinstated without loss of any benefits or status and be paid the salary he or she lost as a result of any suspension from duty.

(7) The Pro-Chancellor is not entitled to his or her salary if, as a result of the investigation relating to the subject of his or her suspension, he or she is not reinstated.

9. Deputy Chairperson – (1) The Deputy Chairperson of Council shall chair the Council in the absence of the Pro-Chancellor.

(2) The Council elects¹ of its members to be the Deputy Chairperson for a term of up to 3 years unless that member resigns as Deputy Chairperson or ceases to be a Council member.

10. Vice-Chancellor – (1) The Vice-Chancellor is the Chief Executive Officer and President of the University and is responsible to the Council for the management of the academic and administrative affairs of the University.

(2) Council shall appoint the Vice-Chancellor for a term of up to 3 years on such conditions as Council determines, and may be re-appointed.

(3) The Council may remove the Vice-Chancellor from office for:

- (a) a breach of any of the Vice Chancellor's conditions of employment;
- (b) the Vice-Chancellor's failure or inability to adequately perform the Vice-Chancellor's duties;
- (c) misconduct; or
- (d) any other just cause.

(3A) If the Vice-Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, effective from the date of suspension.

(3B) If the Vice-Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Vice-Chancellor must be

reinstated without loss of any benefits or status and be paid the salary he or she lost as a result of any suspension from duty.

(3C) The Vice-Chancellor is not entitled to his or her salary if, as a result of the investigation relating to the subject of his or her suspension, he or she is not reinstated.

(4) The Council delegates to the Vice-Chancellor the power to employ, dismiss and discipline all staff of the University, subject to any conditions Council imposes on the delegation.

11. Deputy Vice-Chancellors – (1) There is to be such number of Deputy Vice-Chancellors as may be determined by Council.

(2) The Deputy Vice-Chancellors are responsible to the Vice-Chancellor for matters delegated to them by the Vice-Chancellor.

(3) The Deputy Vice-Chancellors are appointed for a term of up to 3 years by a committee determined by the Council on such terms and conditions as the Vice Chancellor determines, and may be re-appointed.

(4) The Deputy Vice-Chancellors may also be appointed to or continue to hold and discharge academic posts within the University alongside their role as Deputy Vice-Chancellors.

(5) The Deputy Vice-Chancellors may attend Council as observers and participate in discussion at the request of Council, but may not vote.

(6) The Council may, upon the recommendation of the Vice-Chancellor, remove a Deputy Vice-Chancellor from office for:

- (a) a breach of any of the Deputy Vice-Chancellor's conditions of employment;
- (b) the Deputy Vice-Chancellor's failure or inability to adequately perform the Deputy Vice-Chancellor's duties;
- (c) misconduct; or
- (d) any other just cause.

(7) If the Deputy Vice-Chancellor is suspended for any reason, he or she is entitled to salary for one (1) month only, from the effective date of suspension.

(8) If a Deputy Vice-Chancellor is later acquitted of a charge and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Deputy Vice-Chancellor must be reinstated without loss of any benefits or status and be

paid the salary he or she lost as a result of any suspension from duty.

(9) The Deputy Vice-Chancellor is not entitled to his or her salary if, as a result of the investigation relating to the subject of his or her suspension, he or she is not reinstated.

12. Term of office – Where the term of an officer has expired, the appointing body may agree that the officer holds office until such time as the officer's replacement is appointed.

PART 4 UNIVERSITY COUNCIL

13. Council to be the governing body – The Council is the governing body and Board of the University and all acts or things done in the name of, or on behalf of, the University with the authority of, or of a delegate of, the Council is deemed to have been done by the University.

14. Composition of Council – (1) The Council shall comprise of:

- (a) the Pro-Chancellor; and
- (b) the Vice-Chancellor; and
- (c) a member of the Senate; and
- (d) a member of the academic or teaching staff nominated by the Vice-Chancellor; and
- (e) an enrolled student of the University who is not a member of the staff of the University; and
- (f) the Vice-Chancellor of the University of the South Pacific or the Vice Chancellor's nominee; and
- (g) up to 6 persons, not being members of the staff or students of the University, appointed by the Head of State, acting on the advice of the Minister after consultation with the Executive Committee or Council; and
- (h) up to 4 persons co-opted by the Council at its discretion.

(1A) Any Member of Parliament or public servant or full-time salaried officer of the University appointed or re-appointed as a member of the Council is not entitled to remuneration or other benefits for services as a member of the Council.

(2) The provisions set out in Schedule 1 govern the terms of appointments to Council and vacation of office.

15. Criteria for appointment to Council – The Minister, in advising the Head of State under section 14(1)(g), and the Council, in co-opting members of the Council under section 14(1)(h) shall have regard to representation on the Council of:

- (a) professional, commercial, industrial and other interests in the community; and
- (b) persons with expertise in management; and
- (c) persons who provide a balance of age and gender; and
- (d) an institution or body which has affiliated or entered into association with, is co-operating with or has been incorporated in, the University and
- (e) the church education systems of Samoa; and
- (f) graduates of the University; and
- (g) residents of Samoa who are graduates of other tertiary institutions; and
- (h) experienced academics from outside Samoa who have a contribution to make to the deliberations of the Council.

16. Functions of the Council – The functions of the Council are:

- (a) to ensure that the University performs the functions set out in section 5; and
- (b) to approve drafts of the Corporate Plan and submit them for approval under the provisions of the Public Finance Management Act 2001; and
- (c) to ensure that the management of the University is directed towards the implementation of its Corporate Plan.

17. Duties of the Council – The Council shall, in the performance of its functions:

- (a) strive to ensure that the University attains the highest standards of excellence in education, training and research and, in particular that the University becomes a centre of excellence in the study of Samoan language and Samoan culture and all

- matters pertaining to Samoa; and
- (b) take the steps necessary to ensure that the international academic community accepts the University's standards in education, training and research; and
- (c) ensure that the principles of academic freedom are preserved and enhanced in accordance with section 6; and
- (d) seek to promote the economic and social development of Samoa; and
- (e) establish systems that ensure the responsible use of public resources; and
- (f) ensure that the University does not discriminate against a person because of the person's descent, gender, language, religion, political or other opinion, social origin, place of birth or family status; and
- (g) maintain a concern for and protect the public interest and the well-being of students of the University.

18. Powers of the Council – (1) Subject to this Act, the Council has all the powers reasonably necessary to enable it to perform its functions effectively.

(2) Unless they are exercised by delegation under this Act, the following powers are to be exercised only by the Council:

- (a) to provide programmes and courses of study or training; and
- (b) to admit students and grant awards; and
- (c) to grant fellowships, scholarships, bursaries, or prizes; and
- (d) to consider any appeals in relation to the termination of the appointment or discipline of academic and other staff by the Vice-Chancellor; and
- (e) to accept gifts and bequests made to the University, whether on trust or otherwise; and
- (f) to raise money and procure contributions to the funds of the University; and
- (g) to authorise the making of grants out of the money of the University to the Vice Chancellor, to the members of staff or students of the University; or to an association of staff or students, on such

- terms and conditions as the Council thinks fit; and
- (h) to arrange for the provision (whether by sale or otherwise) of goods and services to staff and students of the University or other persons using facilities of the University; and
 - (i) to invest any funds belonging to or vested in the University; and
 - (j) to establish or participate in such trusts, companies or other incorporated bodies, as it considers appropriate to promote the objects and interests of the University; and
 - (k) to engage in the commercial development of a discovery, invention or publication or of intellectual property in which the University has a right or interest; and
 - (l) impose fines, and propose fees and charges; and
 - (m) to establish or disestablish and maintain institutes, centres, branches, colleges and other bodies of the University, within the University and elsewhere; and
 - (n) to determine the terms and conditions under which an institution or body may affiliate with the University, enter into association or co-operation with the University or be incorporated in the University; and
 - (o) to do anything incidental to the exercise of any of the powers conferred by this section.
- (3)** Subject to subsection (2) and despite section 4(1), the Council shall not exercise the following powers without the written consent of the Minister:
- (a) to sell or otherwise dispose of University assets or interests in University assets; and
 - (b) to mortgage or otherwise charge University assets or interests in University assets; and
 - (c) to grant or enter into leases of land or buildings or parts of buildings belonging to the University.
- (4)** The University may borrow money, whether by way of overdraft or otherwise, within such limits and on such conditions as to security or otherwise as the Minister, acting on the recommendation of the Chief Executive Officer of the Ministry of Finance, may approve.

- (5) The amount of a fee or charge proposed under subsection (2)(l) or any fee or charge required for the purposes of this Act:
- (a) shall be proposed by the University with the concurrence of the Council; and
 - (b) shall be set out in Statutes in accordance with section 25; and
 - (c) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

19. Powers of delegation – (1) The Council may by resolution, either generally or particularly, delegate to the Vice-Chancellor or to a committee of the Council any of its functions under this Act (other than the powers to appoint a Vice-Chancellor and to make statutes) or any other Act.

(2) The Vice-Chancellor or a committee of Council may delegate in writing the functions delegated to them by the Council to a member of staff of the University or to another committee.

(3) Subject to any general or special directions given or conditions imposed by the Council or the Vice-Chancellor, as the case may be, a committee of the Council or a member of the staff of the University to which or to whom any functions are delegated under this section may perform those functions in the same manner and with the same effect as if they had been conferred on the committee or member of the staff directly by this Act and not by delegation.

(4) A delegation under this section does not affect or prevent the performance of a function by the Council or the Vice-Chancellor, as the case may be, or, affect the responsibility of the Council or the Vice-Chancellor for the actions of a person acting under the delegation.

(5) A delegation under this section is revocable at will by writing and, until it is revoked continues in force according to its tenure.

20. Council procedure – The provisions set out in Schedule 2 govern the proceedings of the Council.

PART 5 COMMITTEES OF COUNCIL

21. Council may appoint committees – (1) The Council may establish such committees, boards or other bodies consisting of such persons, whether or not members of the Council, as the Council determines to exercise such powers as are delegated to them under section 19 or are conferred on them by statute.

(2) The Vice-Chancellor is to be a member of all committees, boards or bodies established by the Council.

22. Executive Committee and Vice Chancellor's Committee – (1) The Council shall establish an Executive Committee of the Council to exercise such powers on behalf of Council as are delegated by Council.

(2) The Executive Committee shall consist of not fewer than 8 members of the Council.

(3) The Council shall establish a Vice Chancellor's Committee to advise the Vice-Chancellor.

(4) The membership and functions of the Executive Committee and the Vice Chancellor's Committee shall be prescribed by statute.

23. Establishment of the Senate – (1) The Council shall establish a Senate consisting of the Vice-Chancellor, a Deputy Vice-Chancellor and members of the staff and students as provided in the relevant statute.

(2) The Vice-Chancellor is to be the chairperson of the Senate and may delegate the chair to any other member of the Senate.

24. Functions of the Senate – (1) The functions of the Senate are:

- (a) to advise the Council on matters relating to programmes and courses of study or training, awards and other academic matters; and
- (b) to exercise powers delegated to it by the Council.

(2) The Council shall not make a decision or statute in respect of an academic matter referred to in subsection (1) unless it has requested the advice of the Senate and considered any advice given by the Senate.

(3) Without derogating from the duties of the Council under subsection (2), a decision or statute made by the Council is not invalid merely because of a failure of the Council to comply with

that subsection.

PART 6
STATUTES AND REGULATIONS

25. Statutes – (1) The Council may make such statutes, not inconsistent with this Act, as may in its opinion be necessary or expedient for the administration of the affairs of the University.

(2) Without limiting subsection (1), the Council may make statutes with respect to:

- (a) the management, good governance and discipline of the University; and
- (b) the imposition, by or on behalf of the Council, of penalties upon staff or students of the University for the contravention of or failure to comply with a statute with respect to a matter referred to in paragraph (a); and
- (c) the constitution, functions and procedures of the Executive Committee, Senate and other committees established by the Council; and
- (d) the creation of institutes, faculties, schools, departments, centres or other entities within the University; and
- (e) the designation of members of staff of the University as academic staff, teaching, comparable, general, casual, full-time staff and part-time staff or otherwise; and
- (f) the terms and conditions of employment of members of the staff of the University; and
- (g) admission to enrolment in and exclusion from programmes or courses of study; and
- (h) the programmes and courses of study provided by the University and procedures for the assessment of student performance in those programmes and courses of study; and
- (i) the degrees, diplomas, certificates or other awards that may be granted by the Council and the requirements for those awards; and
- (j) the grant of credits, cross credits and exemptions to students of the University in respect of a course or courses which they have followed and

completed either at another institution or through extension or distance education made available for those awards; and

- (k) the provision of schemes of insurance, superannuation or retirement benefits for, or in respect of, the Vice-Chancellor or members of the staff of the University; and
- (l) any other matter required or permitted by this Act to be provided for by statute.

(3) If the Council makes a statute under subsection (2)(b) providing for the imposition of penalties upon staff or students of the University, the statute shall provide for the Council, if so requested by a member of the staff or a student upon whom a penalty is imposed, to review, or arrange for the review of the imposition of the penalty, the amount of the penalty, or both.

(4) A review system or procedure established under a statute by the University in order to address a request made under subsection (3) must be made under the rules of natural justice.

26. Regulations – (1) A statute may empower the Council, a committee of the Council or an officer of the University to make regulations or rules (not inconsistent with this Act or any statute) providing for the regulation of a matter with respect to which a statute may be made, other than the imposition of penalties under section 25(2)(b).

(2) A regulation made under subsection (1) has the same force and effect as a statute, and may, be amended or repealed by the Council or by the committee of the Council or the officer of the University empowered to make those regulations.

(3) A committee or officer of the University may also promulgate rules, guidelines or policies which are not expressly empowered by statute but which are not inconsistent with the Act or a statute or regulation and which do not impose a penalty.

PART 7

ASSETS AND FUNDS

27. Public Finance Management Act 2001 – Part 13 of the Public Finance Management Act 2001 applies to the University.

28. Funds of the University – The funds of the University comprise:

- (a) all money received by the University out of money appropriated by the Legislative Assembly for the purposes of the University; and
- (b) all money that may be donated, given or contributed to the University or that may be otherwise lawfully payable to the University; and
- (c) all money received by the University by way of fees or otherwise in respect of the performance and exercise of any of the functions of the University; and
- (d) all interest and other accumulations of money belonging to the University.

29. Money to be paid into bank – (1) All money received by the University shall, as soon as practicable after it has come into the hands of the proper officer of the University, be paid into such bank account or accounts of the University as the Council may determine.

(2) No such money shall be withdrawn from the bank except by authority of the Council and by cheques signed by an employee of the University approved by the Council, and countersigned by a member of the Council or by another officer or employee of the University approved by the Council.

(3) In this section, “proper officer” means a person nominated in writing by the Vice-Chancellor or the Vice Chancellor’s delegate to handle all monies received by the University.

30. Loan money to be paid into a separate account – All money borrowed by the Council on behalf of or for the purposes of the University, other than money borrowed by way of overdraft, are to be paid into a, separate bank account in the name of the loan, and are not to be drawn out of the bank or expended except for the specific purpose for which it was borrowed.

31. Proper accounts to be kept – The Council shall:

- (a) cause to be kept proper accounts and records of the transactions and affairs of the University in accordance with the requirements of the Public Finance Management Act 2001 or a successor to that provision; and
- (b) do all things necessary to ensure that the University

- maintains adequate control over the assets of, or in the custody of, the University; and
- (c) ensure that the incurring of liability is under adequate control.

32. Corporate plan and budget – At the commencement of this Act, the Vice-Chancellor shall prepare, for approval by Council, a Corporate Plan and Budget under the Public Finance Management Act 2001 to be submitted to the Chief Executive Officer of the Ministry of Finance within 3 months before the end of the next financial year.

33. Performance and management report – (1) The Vice Chancellor shall prepare, for the approval of Council, an annual report on the operations of the University, a budget performance report for the relevant financial year, together with financial statements under the Public Finance Management Act 2001.

(2) The accounts of the University shall include separate profit and loss accounts, balance sheet and supporting schedules, all of which must be approved by the Council and signed on behalf of the Council by the Pro-Chancellor or other person designated by the Council.

(3) The accounts of the University are to be audited by the Controller and Auditor General or, with the consent of the Controller and Auditor General, by another approved auditor.

(4) As soon as the accounts of the University have been audited, the Council shall send a copy of the statement of accounts, together with a copy of a report made by the auditor, to Cabinet.

(5) The Minister for Public Enterprises shall cause copies of the audited statement of accounts and a report made by the auditor to be laid before the Legislative Assembly within 28 days after the receipt of a copy by the Minister if the Assembly is then in session or, if not, within 28 days of the next ensuing session.

34. *Repealed by section 15 of the National University of Samoa Amendment Act 2010, No.22.*

35. Acquisition of land, etc – (1) Despite a provision in any other enactment, the Land Board is authorised:

- (a) to convey or transfer to the University, for the

purposes of this Act, a freehold estate in such Government land as may be agreed upon between the Government and the University, together with any improvements thereon, upon such terms as may be agreed upon between the Government and the University; and

(b) to grant to the University, for the purposes of this Act, a lease over such Government land as may be agreed upon between the Government and the University, together with any improvements thereon, upon such terms as may be agreed between the Government and the University.

(2) Despite any other Act, the term of a lease granted under subsection (1)(b) expires no later than 80 years after the date on which the lease commences.

36. No liability for income tax – The University’s income howsoever acquired is not liable to income tax for the purposes of the Income Tax Act 2012.

PART 8 TRANSITIONAL

37. Repeal of the National University of Samoa Act 1997 and Samoa Polytechnic Act 1992/1993 – (1) The National University of Samoa Act 1997 and Samoa Polytechnic Act 1992/1993 are repealed.

(2) All assets and liabilities of the National University held under the National University of Samoa Act 1997 and Samoa Polytechnic under the Samoa Polytechnic Act 1992/1993 are transferred to the National University of Samoa.

(3) An appropriation or other income payable to the National University of Samoa as constituted under the National University of Samoa Act 1997 or the Samoa Polytechnic as constituted under the Samoa Polytechnic Act is payable to the University.

38 – 42. *Repealed by section 16 of the National University of Samoa Amendment Act 2010.*

43. Employment of staff – A person who, immediately before the commencement of this Act, was a member of the staff

of the National University of Samoa or the Samoa Polytechnic shall, after that commencement, continue in the employment of the University on the same terms and conditions as those on which the person was employed immediately before that commencement, until the person's employment is terminated or renewed in accordance with those terms and conditions.

44 – 45. *Repealed by section 16 of the National University of Samoa Amendment Act 2010.*

46. Savings of delegations – A delegation made or taken to have been made by the Council of the National University of Samoa under the National University of Samoa Act 1997 or the Samoa Polytechnic Act 1992/1993 is to be taken as a delegation under this Act by the Council.

47. Statutes and regulations – (1) Statutes or regulations made or authorised by the Council of the National University of Samoa under the provisions of the National University of Samoa Act 1997 and the Council of the Samoa Polytechnic under the Samoa Polytechnic Act 1992/1993:

- (a) continue in force as if they had been made by the Council; and
- (b) may be amended and revoked in accordance with the provisions of this Act.

(2) An action and decision of the Council or the Senate of the National University of Samoa or the Council of the Samoa Polytechnic which was made while the National University of Samoa Act 1997 and Samoa Polytechnic Act 1992/1993 were in force is deemed to have been lawfully and properly taken.

SCHEDULE 1 **(Section 14(2))**

COUNCIL **(APPOINTMENTS AND VACATION OF OFFICE)**

1. Term of appointment – (1) A member of the Council under section 14(1)(e) holds office for a term not exceeding 1 year.

(2) A member of the Council under section 14(1)(c), (d), (g)

and (h) holds office for a term between 1 and 3 years, as provided in the appropriate statute or by the person or body appointing that member.

(3) The appointment or election of members of the Council under section 14(1)(c) and (e) shall be in such manner as prescribed by statute.

(4) A member of the Council appointed or elected under section 14(1)(c) to (e), shall continue to be a member until the successor of that member is appointed, unless the member sooner vacates office under clause 2 of this Schedule.

(5) A member of Council who holds office under section 14(1)(c), (d), (g), and (h) may be reappointed for a maximum of 3 terms.

2. Vacation of office – (1) A member of the Council (other than the Vice-Chancellor) may resign as a member by written notice signed by the member and given to the Vice-Chancellor.

(2) A member of the Council who is representing the Senate, academic and teaching staff of the University or enrolled students who are not members of the staff of the University under section 14(1)(c), (d), or (e) ceases to be a member of the Council if that member ceases to be a member of the staff of the University or an enrolled student.

(3) The Council may, by resolution, dismiss a member of the Council as a member if the member:

- (a) is declared bankrupt;
- (b) is sentenced to a term of imprisonment;
- (c) is absent without leave from 3 consecutive meetings of the Council; or
- (d) without reasonable excuse, fails to comply with clause 2 of Schedule 2 (disclosure of interest).

(4) The Pro-Chancellor shall send to a member of the Council dismissed under subclause (3) a letter setting out the terms of the resolution dismissing that member.

3. Casual vacancies – (1) Subject to subclause (2), if a member of the Council ceases to be a member before the end of the member's term of office, the vacancy is to be filled as soon as practicable by the appointing body, and the new member shall hold office for only the residue of the term for which the vacating member was elected, appointed or co-opted as the case

may be, unless that person is subsequently reappointed or elected as provided in clause 1(b) of this Schedule.

(2) If a vacancy occurs within 6 months before the end of the member's term of office, the Council may decide that the vacancy need not be filled under this clause.

4. Proceedings of the Council not affected by vacancies, etc – No act or proceeding of the Council, a committee of the Council or a person acting as a member of the Council is to be invalidated in consequence of there being a vacancy or vacancies in the membership of the Council at the time of that act or proceeding, or if there was some defect in the appointment or qualification of a member of the Council, or a defect in the convening of a meeting of the Council.

SCHEDULE 2 **(Section 20)**

COUNCIL **(MEETING PROCEDURE)**

1. Meetings of Council – (1) The Council shall meet at least twice in each calendar year.

(2) The Pro-Chancellor may call a special meeting of the Council at any time and the Pro-Chancellor shall call a special meeting on the requisition in writing of at least one-third of the members of the Council.

(3) If there is no Pro-Chancellor or if for a reason the Pro-Chancellor is not available, the Deputy Chairperson of the Council has the powers and duties of the Pro-Chancellor under this clause.

(4) At a meeting of the Council, a majority of the members then holding office shall form a quorum.

(5) If neither the Pro-Chancellor nor the Deputy Chairperson of the Council is present at a meeting, the members present shall appoint 1 of their members to preside.

(6) A question before a meeting of the Council is to be decided by a majority of the votes of the members present at the meeting and entitled to vote on that question.

(7) At a meeting of the Council the member presiding has a deliberative vote, and, in the case of an equality of votes, has a

casting vote.

(8) Except as provided in this section, the Council determines its own procedures.

2. Disclosure of interest – (1) A member of the Council or of a committee of the Council who has an interest in a matter being considered or about to be considered by the Council or the committee, as the case may be, 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 Council or of the committee.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the Council or the committee of the Council and the member shall not, unless the Council decides otherwise:

- (a) be present at a deliberation of the Council or the committee with respect to that matter; or
- (b) take part in a decision of the Council or the committee with respect to that matter.

(3) For the purposes of this section, a person has an interest in a matter, if the matter relates to the conditions of service of that person, or of a close relative of that person, or if that person, or a close relative of that person has any other or indirect pecuniary interest in the matter.

3. Circulation of Council Resolutions – (1) At the discretion of the Pro-Chancellor or of the Executive Committee, the Council may do anything that may be done by a resolution passed at a meeting of the Council without a meeting by means of a resolution signed by the number of members of the Council specified in subsection (2).

(2) For the purposes of this section, a resolution must:

- (a) have been sent or delivered to all current members at their last known address; and
- (b) not be addressed unless the Council has notified the Vice-Chancellor in writing within 2 weeks of the resolution being sent or delivered that a member opposes the resolution and that the member wishes it to be discussed at a Council meeting; and
- (c) be signed by a majority of the current members.

(3) For the purposes of this section, both notice of the

resolution and approval or disapproval of it may be transmitted electronically provided adequate steps are taken to acknowledge receipt and authenticity of the documents.

4. Fees and allowances – (1) Members of the Council are to be paid fees at such rates as the Council determines, subject to any guidelines established by Government for public bodies.

(2) Members of the Council may be reimbursed for any expenses reasonably incurred by them in respect of their attendance as members of the Council.

5. Personal liability – No member of the Council is personally liable for an act done or omitted by the member of the Council in good faith and in pursuance of the functions of the University or of the Council.

REVISION NOTES 2008– 2020/3 March 2021

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division in 2008 – 2020/3 March 2021 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) Insertion of the commencement date
- (b) Other minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:
 - (i) Present tense drafting style:
 - (ii) Use of plain language
 - “in accordance with” changed to “under”
 - (iii) Removal of superfluous terms:
 - “the generality of”
 - “the provisions of”
 - (iv) Part/section headings amended
 - (v) Part numbers changed to decimal

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

By the National University of Samoa Amendment Act 2010, No. 22:

sections 34, 38 – 42, 44 & 45 repealed.

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

By the Audit Act 2013 No. 22:

section 33(3) amended.

By the Public Bodies (Performance and Accountability) Amendment Act 2015, commenced on 25 April 2014, and as such has retrospective effect:

section 33(5) after “Minister” insert “for Public Enterprises”.

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

Amendments were made to section 18 to reflect that fees charged under the Act are to be prescribed by Regulations.

By the Miscellaneous (Salary Conditions Upon Suspension) Amendment Act 2021 No. 6:

Section 7 insertion of new subsections (4A) – (4C);

Section 8 insertion of new subsections (5) – (7);

Section 10 insertion of new subsections (3A) – (3C)

Section 11 insertion of new subsections (7) – (9)

*This Act is administered by
the Ministry of Education, Sports and Culture.*