



SAMOA

WATER SCHEMES ACT 2015

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WATER SCHEMES ACT 2015

2015,

No. 30

AN ACT to recognise the independent water schemes as water service providers, to provide government assistance to the schemes and to continue the Independent Water Schemes Association and related purposes.

[Assent date: 2 September 2015]

[Commencement date: 3 September 2018]

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 Water Schemes Act 2015.

(2) This Act commences on a date nominated by the Minister.

(3) The commencement date must be nominated at least 2 months before the Act commences.

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

- “Association” means the Independent Water Scheme Association continued under section 16;
- “community water committee” or “water committee” means a community water committee established under section 7;
- “customer” means a household within the village or district to which, water and associated services is supplied by the Independent Water Schemes;
- “Executive Committee” means the Executive Committee of the Association established under section 19;
- “fees” for water supply, includes rates or charges prescribed for the purpose of this Act;
- “Independent Water Schemes” or “Water Schemes” has the same meaning in section 2 of the Water Resources Management Act 2008;
- “member” in respect of the Association, means a community water committee registered as a member of the Association;
- “Minister” means the Minister responsible for the Ministry;
- “Ministry” means the Ministry responsible for Community and Social Development;
- “National Drinking Water Standards” means water standards approved from time to time by the Government;
- “National Sanitation Policy” means national policy on sanitation approved from time to time by the Government;
- “Samoa Water Authority” means the Authority established as such under the Samoa Water Authority Act 2003;
- “village Fono” has the same meaning in section 2 of the Village Fono Act 1990;
- “Water and Sanitation Sector” means Ministries, government agencies, statutory bodies or other authorities or bodies (including village or community bodies) dealing with water and sanitation for Samoa;
- “Water and Sanitation Sector Plan” means any plan relating to water and sanitation approved from time to time by the Government;
- “water services” means the provision of piped water supplied to customers by a water service provider;
- “water service provider” means an Independent Water Scheme.

3. Act binds Government - This Act binds the Government.

PART 2
WATER SCHEMES

Division 1 - Water service providers

4. Water Schemes as water service providers - The Independent Water Schemes that exist in villages and communities, prior to the commencement of this Act, are recognised as water service providers.

5. Community ownership-(1) Community ownership of customary land on which water resources are located is recognised.

(2) An action must not be taken under this Act or any other enactment to deprive existing rights to land and resources held under customs and traditions of Samoa.

(3) The Water Resources Management Act 2008 prevails if there is any inconsistency between this Act and the Water Resources Management Act 2008.

6. Village Fono jurisdiction over Water Schemes - A Village Fono has jurisdiction over the Independent Water Schemes of its village and is responsible for the following:

- (a) appointing members of the community water committee under section 7;
- (b) approving fees proposed under section 15 by a community water committee to ensure they are affordable for the village;
- (c) developing and making rules in consultation with the Association and the Water and Sanitation Sector, for the following -
 - (i) laying of pipes and pipelines;
 - (ii) installation of water tanks;
 - (iii) installation of septic tanks;

- (iv) maintenance of pipes, pipelines and appliances and rehabilitation and protection of the water infrastructures and surrounding environment;
- (d) promoting water resource management and conservation under section 33 of the Water Resources Management Act 2008;
- (e) enforcing offences and penalties for damaging, destroying, polluting, or any activity that negatively affects the supply of water by a Water Scheme;
- (f) resolving disputes about the operations of the Water Scheme and the work of the community water committee in a village.

Division 2 - Community Water Committees

7. Establishment – (1) A community water committee is established consisting of the following members, to be appointed by the Village Fono at its meeting:

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) a Secretary;
- (d) a Treasurer;
- (e) seven other members.

(2) At least 2 members appointed under subsection (1) must be women.

8. Terms of office - A member of the committee:

- (a) holds office for a period of one (1) year; and
- (b) is eligible for re-election; and
- (c) on expiry of term, continues in office until re-appointed or a successor is appointed; and
- (d) may be suspended or removed for good cause by the Village Fono.

9. Functions and powers-(1) The functions of a community water committee are:

- (a) to manage the day-to-day operations of the Water Scheme in supplying water to village households and other village premises; and
- (b) to propose fees for the approval of the Village Fono for the supply of water and for associated services it provides, including maintenance and rehabilitation costs; and
- (c) to collect fees on a monthly basis for the supply of water and for associated services and to ensure that the monies collected are used for the purposes specified or permitted by this Act; and
- (d) to promote water resource management and conservation in the village; and
- (e) to protect, manage and conserve the village water resources; and
- (f) to keep proper records of accounts and provide a report to the Village Fono and to the Association on those records, and operations and monies collected for the supply of water and other services affecting the Independent Water Schemes; and
- (g) to carry out other functions directed by the Village Fono or under this Act or any other enactment.

(2) A community water committee may, with the approval of the Village Fono, discontinue or ration the supply of water to its customers:

- (a) as a result of an accident or emergency; or
- (b) to facilitate any work done or to be done by it; or
- (c) to avoid or limit pollution; or
- (d) for the conservation of water; or
- (e) by giving notice (in a manner and form as it considers appropriate) to its customers of its action and indicate the likely duration of the discontinuance or rationing.

(3) A water committee has all the powers that are necessary or expedient in order to carry out its functions under this Act.

10. Meetings-(1) The following applies at a meeting of a community water committee:

- (a) the Chairperson must convene a meeting of the water committee -
 - (i) every month; or
 - (ii) at other times, if requested by the Village Fono;
 - (b) the meeting is to be presided by -
 - (i) Chairperson; or
 - (ii) the Deputy Chairperson, if the Chairperson is absent;
 - (iii) a member elected by the members present if the Chairperson and the Deputy Chairperson are both absent; and
 - (c) six (6) members constitute a quorum; and
 - (d) a question is to be determined by majority votes of the members present; and
 - (e) the presiding member has a deliberative vote and a casting vote;
 - (f) the minutes are to be -
 - (i) approved at its next meeting and signed by presiding member of that next meeting;
 - (ii) provided (copy of the minutes) to the members of the water committee and upon request, to the Association or the Village Fono;
 - (iii) kept (including all resolution passed) by the secretary.
- (2) A water committee may:
- (a) invite any person to attend and participate in its meetings, but without the right to vote on any matter before it; and
 - (b) regulate its own procedures.

11. Funds and accounts-(1) The funds of a community water committee consist of:

- (a) fees collected from the supply of water and associated services; and
- (b) monies received from the Government, the Association and other sources.

- (2) A water committee must:
- (a) set up and maintain an account at any bank in Samoa; and
 - (b) ensure that all monies lawfully collected and received by the water committee or any of its members, are deposited into that account.

12. Supply of water - A community water committee may:

- (a) supply water to a person in a village where water is supplied by the water committee; and
- (b) impose conditions for the supply of water, including conditions relating to the payment of fees associated with that supply.

13. Installation, maintenance and inspection-(1) A community water committee may:

- (a) provide a service connection to a person in a village where the water committee assists with the installation of pipes and appliances for that supply; or
- (b) permit a customer to install its own pipes for connection to existing Independent Water Scheme pipelines; or
- (c) inspect pipes and appliances for the supply of water; or
- (d) enter any premises for the purpose of determining whether water is being wasted or misused or to determine whether a condition, specification or requirement has been complied with.

(2) A community water committee must ensure that each customer, being supplied with water from the Water Scheme, maintains the pipes, taps, and all appliances in good repair and in a condition so as to prevent water waste through leakages.

(3) A water committee may disconnect water supply of a customer who:

- (a) contravenes subsection (1)(a) or (b); or
- (b) obstructs an inspection or refuses entry under subsection (1)(c) or (d).

Division 3 - Fees

14. Fees for water supply and associated services-(1) Fees approved under section 6(b) are to be:

- (a) prescribed by regulations under section 36 before they come into operation; and
- (b) payable on a monthly basis within 30 days from when they are incurred.

(2) The owner and the occupier of a household and any premises to which water is supplied by an Independent Water Scheme, are jointly and severally liable to pay any fee due for the supply of water and associated services.

15. Fee proposals-(1) Subject to section 6(b), a community water committee may propose fees that are affordable to the village customers to which the Independent Water Scheme supplies water to.

- (2) Fees may include charges for all of the following:
- (a) supply of water;
 - (b) connection or re-connection;
 - (c) inspection or maintenance;
 - (d) any other fees which a water committee considers applicable.

PART 3

INDEPENDENT WATER SCHEMES ASSOCIATION

Division 1 - Association

16. Continuation of Association-(1) The Independent Water Schemes Association incorporated under the Incorporated Societies Ordinance 1952 continues as if it were established by this section as a body corporate with perpetual succession and a common seal.

- (2) The Association may:
- (a) hold and dispose of property; and
 - (b) enter into contracts or other arrangements; and
 - (c) sue and be sued; and

- (d) do and suffer any other thing that bodies corporate may do and suffer.

17. Membership - The Association may register a community water committee as a member if:

- (a) the responsible Village Fono has -
 - (i) submitted a letter of application to the Association which confirms that the village has its own water source that is gravity-fed, supplying water to its village customers and is signed by at least three (3) matais of the Village Fono, one of which is the Sui-o-le-Nuu; and
 - (ii) set up a Community Water Committee and elected its officers; and
 - (iii) paid the application fee determined under section 30; and
- (b) the Association has conducted an inspection to confirm the existence of the Water Scheme at the village.

18. Functions and powers-(1) The functions of the Association are:

- (a) to protect the interests of the Association and the interests of the village community in relation to water services supplied by the Independent Water Scheme; and
- (b) to liaise with the Ministry of Health and the Water and Sanitation Sector to promote and encourage its members to take practicable steps to ensure compliance with the National Drinking Water Standards which includes developing Water Safety Plans that take into account all of the following -
 - (i) using filters for drinking taps;
 - (ii) promoting boiling of water for drinking and cooking purposes;
 - (iii) maintaining cleanliness of the water resources and its surrounding environment; and

- (c) to liaise with the Ministry of Health and the Water and Sanitation Sector to promote and encourage its members to take practicable steps to ensure compliance with the requirements of the National Sanitation Policy and consider the use of septic tanks in villages; and
- (d) to liaise with the Samoa Water Authority on sharing resources and infrastructure development to ensure compliance with standards for building water infrastructure; and
- (e) to liaise with the Ministry of Natural Resources and Environment on the promotion and protection of water resources and surrounding environment;
- (f) to provide capacity building through training workshops for its members on various issues and topics relating to its services; and
- (g) to facilitate access by its members to financial and technical resources provided by the Government and other sources; and
- (h) to carry out public awareness about the Water and Sanitation Sector Plan activities; and
- (i) to liaise with stakeholders of the Water and Sanitation Sector on issues that concern its members and to report on activities and matters related to the Water Scheme; and
- (j) to affiliate the Association with any organisation, association or body corporate, locally and regionally, with similar objects to those of the Association for the benefit of the Water Scheme; and
- (k) to carry out other functions conferred on it under this Act or any other enactment.

(2) The Association has all the powers that are necessary or expedient to enable it to carry out its functions.

Division 2 - Executive Committee of the Association

19. Establishment-(1) The Executive Committee of the Association is established consisting of all of the following

officers elected from the members of the Association at an Annual General Meeting:

- (a) the President;
- (b) the Vice-President;
- (c) the Secretary;
- (d) the Treasurer;
- (e) seven (7) other members.

(2) The members under subsection (1) are to be elected as follows:

- (a) six (6) members from Upolu; and
- (b) five (5) members from Savaii,

at least one (1) member elected from subsection (2)(a) and (b) must be a woman.

20. Terms of office - A member of the Executive Committee:

- (a) holds office for three (3) years; and
- (b) is eligible for re-election; and
- (c) on expiry of the term of three (3) years, continues in office until re-elected or a successor is elected.

21. Resignation, removal and replacement-(1) A member of the Executive Committee may:

- (a) resign from office in writing to the Executive Committee; or
- (b) be removed from office by the Association at the Annual General Meeting or a Special General Meeting on any or more of the following grounds -
 - (i) disability;
 - (ii) inefficiency;
 - (iii) neglect of duty;
 - (iv) misconduct;
 - (v) bankruptcy;
 - (vi) conviction in Samoa or elsewhere of an offence punishable by death or imprisonment for a term of at least two (2) years or a fine of at least 20 penalty units;
 - (vii) permanent departure from Samoa.

(2) If there is a vacancy in the Executive Committee, the Association may, in a Special General Meeting, elect a member of the Association to fill the vacancy for the unexpired term.

(3) A defect or irregularity in the election of a member of or the vacancy of a membership in the Executive Committee does not affect the validity of its act or decision.

22. Functions and powers-(1) The Executive Committee has the following functions:

- (a) to act as the executive body of the Association;
- (b) to carry out the functions and powers of the Association;
- (c) to manage the affairs of the Association;
- (d) to consider and decide on applications from independent water schemes to be registered as members of the Association; and
- (e) to recruit staff to manage the Association's office; and
- (f) to appoint committees or sub-committees for such purposes as it thinks necessary;
- (g) to delegate any of its powers to committees or sub-committees;
- (h) to carry out other functions given to it under this Act or any other enactment.

(2) The Executive Committee has all the powers that are necessary to enable it to carry out its functions expeditiously.

Division 3 - Meetings

23. Annual General Meetings-(1) An Annual General Meeting:

- (a) is to be held in the first-quarter of each calendar year, at a date, time and place as determined by the Executive Committee; and
- (b) is to be notified by the Secretary, at least 14 working days before the nominated meeting date, by notice in any newspaper in circulation in Samoa or in any other manner determined by the President; and
- (c) is to be convened with a quorum of at least 25% of the members.

(2) At an Annual General Meeting, the Executive Committee must present:

- (a) a report on the affairs of the Association during the preceding year; and
- (b) the Association's audited financial report.

(3) The Executive Committee must, after the reports are presented at an Annual General Meeting, consult with and submit to the Minister the reports presented under subsection (2) for tabling in Parliament.

24. Special General Meetings-(1) The Executive Committee may, at any time and whenever required to do so by 10% of the members of the Association, call a Special General Meeting of the Association at a time and place (being within 28 working days after receipt of a written notice) determined by the Committee.

(2) The Secretary must publish a notice, at least 14 working days before the nominated meeting date, in any newspaper in circulation in Samoa or in any other manner approved by the President.

25. Meetings of the Executive Committee-(1) The following apply to a meeting of the Executive Committee:

- (a) to meet at the time and place it determines;
- (b) six (6) members constitute a quorum;
- (c) a question is to be determined by a majority of members present;
- (d) the Chairperson or other person presiding has a deliberate vote and a casting vote.

(2) The Executive Committee may invite any person to attend its meeting and participate in its deliberations, but the person has no right to vote on any matter before it.

(3) The Executive Committee may regulate its own procedure.

26. General provisions for meetings-(1) This section applies to:

- (a) an Annual General Meeting of the Association;
- (b) a Special General Meeting of the Association;
- (c) a meeting of the Executive Committee.

(2) A meeting in subsection (1) is to be chaired:

- (a) by the President; or
- (b) if the President is absent, by the Vice President; or
- (c) if the President and Vice President are both absent, by a member of the Executive Committee elected by those present.

(3) The Association may regulate other meeting procedures for Annual General Meeting and Special General Meeting.

27. Minutes of meeting-(1) The Secretary must keep minutes of all resolutions passed at any meeting under section 26(1).

(2) The minutes of a meeting of the Executive Committee must be approved by the Executive Committee at its next meeting and signed by the Chairperson of that next meeting.

(3) A copy of the minutes under subsection (2) must be provided to all members of the Committee.

Division 4 - Funds and accounts

28. Funds and accounts-(1) The funds of the Association consists of:

- (a) membership fees determined under section 30; and
- (b) monies received by or on behalf of the Association from the Government or any other source under section 31.

(2) The Association must:

- (a) establish and maintain an account to be called the “Independent Water Scheme Association Account” at any bank in Samoa; and
- (b) ensure that all monies lawfully received by the Executive Committee or an officer, member or agent of the Association on its behalf, are deposited into the Account.

(3) Funds of the Association may only be drawn by cheque signed by the Treasurer and countersigned by the President and the Secretary as authorised for that purpose by the Executive Committee.

(4) The Executive Committee may open any other account of the Association if it considers appropriate that a separate account should be kept for specific purpose or to ensure that the Association's funds are properly managed and invested.

29. Accounting records and audit-(1) The Association must keep proper records and books of accounts and cause its accounts to be audited annually by an independent external auditor appointed by the Executive Committee.

(2) The Treasurer must provide to any member a copy of the annual accounts and the auditor's report of the accounts at the Annual General Meeting.

(3) This section does not affect the power of the Controller and Auditor General from auditing public funds paid to the Association for the purpose of this Act.

30. Association fees-(1) The Executive Committee may, by Notice in the Savali, determine the fees under this Act by resolution at an Annual General Meeting or a Special General Meeting.

(2) In this section, "fees" includes application fee, registration fee, membership fee, renewal fee, fee to inspect the Register, exemption fee, restoration fee and any other fee for the activities of the Association as may be determined by the Executive Committee.

(3) Non-publication of a Notice in subsection (1) does not invalidate the fees.

(4) All membership fees are to be paid at the beginning of each calendar year to the Treasurer and all fees are to be receipted and deposited into the Account.

Division 5 - Government assistance

31. Financial assistance to Water Schemes-(1) The Minister may, with or without conditions, allocate funds to any Independent Water Schemes through the Association in the form of grants, loans, or subsidies.

(2) In this section, the funds consist of monies:

(a) appropriated by Parliament; or

(b) from any other source channelled through Government.

(3) Funds may be allocated for the purposes of Independent Water Schemes to carry their functions as water service providers under this Act.

32. Government policies and development initiatives - In the exercise of its functions and powers under this Act, the Association must have regard to the general policies of the Government as they apply to the activities of the Independent Water Schemes.

PART 4 MISCELLANEOUS

33. Disputes-(1) The Association may make rules to resolve any dispute between any of the following:

- (a) the Association and a member;
- (b) two (2) members; or
- (c) a member and a non-member.

(2) If rules are not made under subsection (1), the Association may adopt the provisions under the Alternative Dispute Resolution Act 2007, with necessary modifications, to resolve the dispute.

33A. Interim Executive Council - If the Minister is satisfied that the Association is not effectively carrying out its function under the Act, the Minister may:

- (a) dissolve the Executive Committee; and
- (b) appoint an Interim Executive Committee, subject to terms and conditions, to carry out the functions of the Executive Committee for a term determined by the Minister or until the election of a new Executive Committee at an Annual or Special General Meeting.

34. Protection from personal liability-(1) Any member, officer, employee or agent of the Association or a member of a Village Fono or community water committee is not personally

liable for an act or thing done or omitted while carrying out in good faith any functions, duties or powers under this Act.

(2) An Independent Water Scheme is not liable for any loss or damage suffered by a person:

- (a) where there is an increase, diminution or discontinuance in the supply of water -
 - (i) resulting from the exercise by the Water Scheme of a power under this Act; or
 - (ii) caused by accident, drought or other natural disaster;
- (b) arising from the escape of water from any works authorised by a community water committee to be carried out for the purposes of water supply.

35. General offences - A person who contravenes or fails to comply with a requirement under this Act, for which no other offence or penalty is prescribed, commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units, or to a term of imprisonment not exceeding two (2) months, or both.

36. Regulations - The Head of State, acting on the advice of the Minister, may make regulations to give effect to or for the purpose of this Act, and in particular may make regulations:

- (a) to prescribe fees for the purpose of this Act, subject to prior approval of the National Revenue Board established under the Public Finance Management Act 2001;
- (b) to set out the criteria for the assessment of a community water committee applying to be registered as an Independent Water Scheme;
- (c) to set out the requirements for the use of funds of the Association;
- (d) to prescribe the practicable steps to be taken to ensure compliance of the Act with the Water Resources Management Act 2008, National Policy, Water Services Policy, Water Resources Policy;
- (e) to create offences and penalties.

37. Transitional and saving provisions - At the commencement of this Act:

- (a) the Independent Water Schemes Association incorporated under the Incorporated Societies Ordinance 1952 is taken to have been wound-up voluntarily under that Ordinance;
- (b) the existing members of the Executive Committee continue as if they were elected under this Act until the next Annual General Meeting or unless they are removed before the Annual General Meeting under this Act;
- (c) the existing members of the Association registered as such under the Water Resources Management Act 2008 continue and are taken to be registered under this Act;
- (d) the assets and liability of the predecessor Association remain and vest in the Association continued under this Act;
- (e) reference to predecessor Association in any document is taken to be reference to the new Association under this Act;
- (f) the existing staff of the Association remain as the staff of the Association until the end of the term of employment or unless terms and conditions of employment are varied or employment terminated;
- (g) all contracts and legal proceedings to which the Association is a party continue as if they were made or instituted under this Act;
- (h) an existing community water committee in a village continue as if it was established under this Act;
- (i) the current fees for the supply of water by the Independent Water Schemes remain valid and continue to apply until varied or replaced by regulations made under this Act;
- (j) all by-laws developed by a community water committee and approved by a Village Fono continue in force until varied or replaced or revoked under this Act;

- (k) all rights, entitlements, obligations and liabilities, to which the Association and the Independent Water Schemes are parties to continue unless and until varied under this Act.

REVISION NOTES 2018 – 2020/3 March 2021

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

This Act has been revised in 2019 – 2020/3 March 2021 by Legislative Drafting Division under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The commencement date nominated by the Minister was inserted. This Act is included in the Consolidation of Laws 2018 as it commenced in September 2018.

*This Act is administered by the
Ministry of Women, Community and Social Development.*