



SAMOA

## NATIONAL INVESTMENT CORPORATION ACT 1981

### Arrangement of Provisions

<b>PART 1 PRELIMINARY</b>	22. Disclosure of interest 23. Delegation by Board
1. Short title 2. Interpretation	<b>PART 4 STAFFING</b>
<b>PART 2 NATIONAL INVESTMENT CORPORATION</b>	24. General Manager 25. Staffing
3. Establishment of National Investment Corporation 4. Functions of Corporation 5. Powers of Corporation 6. Restriction on borrowing 7. Principles of investment 8. Enterprises or projects in national interest 9. Separate accounts for investments under section 8	<b>PART 5 FINANCE</b>
<b>PART 3 BOARD OF CORPORATION</b>	26. Capital of the Corporation 27. Initial subscription for shares 28. Controlling interest in Corporation 29. Issue of shares 30. Transfer of shares 31. Share transactions by Corporation 32. Price of shares 33. Surrender of shares by non- eligible persons 34. Register 35. Reserve fund 36. Distribution of profit 37. Bank account 38. Application of money by Corporation 39. Liability to taxation 40. Audit
10. Establishment of Board 11. Membership of Board 12. Term of Directors 13. Qualification of Directors 14. Appointment of Chairperson 15. Extraordinary vacancies 16. Deputies of Directors 17. Remuneration 18. Liability of Directors 19. Meetings 20. Minutes of meetings 21. Secrecy	

**PART 6  
MISCELLANEOUS**

- 41. Report and financial statements
- 42. Annual general meeting
- 43. Application of Public Corporations (Securities) Act 1976

- 44. Application of Monetary Board of Samoa Act 1974
- 45. Contracts by Corporation
- 46. Regulations

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**NATIONAL INVESTMENT CORPORATION ACT 1981  
1981**

**No.14**

**AN ACT** to establish a National Investment Corporation of Samoa.

*[Assent and commencement date: 31 December 1981]*

**PART 1  
PRELIMINARY**

**1. Short title** – This Act may be cited as the National Investment Corporation Act 1981.

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

“appointed Director” means a director appointed under section 11(1)(a);

“Board” means the Board of Corporation established under section 10;

“Companies Act” means the Companies Act 2001;

“controlling interest” means the right to a majority of the voting rights at a general meeting of a company and a right to participate in a majority of profits or assets of company and the right to a majority on the board of that company;

“Corporation” means the National Investment Corporation of Samoa established by section 3;

“eligible person” means:

(a) a person who is a citizen of Samoa;

(b) a company—

(i) that is established under, and is subject to, the law of Samoa;

- (ii) that has its principal place of business in Samoa; and
  - (iii) in which Samoa citizens are the beneficial owners of shares in respect of which they are entitled to not less than 75% of the controlling interest and not less than 75% of any profit earned or distributed;
- (c) an unincorporated body comprising wholly of Samoa citizens, being subject to the laws of Samoa whose principal place of business is in Samoa;
- “enterprise” means:
- (a) a company whether formed or incorporated in Samoa or not;
  - (b) a partnership, firm, joint venture, or other commercial entity;
  - (c) a person, sole or otherwise, engaged in, or proposing to become engaged in, the carrying on of a business or activity for gain;
- “Minister” means the Minister of Finance;
- “Reserve Fund” means the Fund established under section 35;
- “shares” in relation to a company, means shares in the capital of the Company and includes stock, an interest in, or an option to, buy shares;
- “share transaction” includes the acquisition and disposal by any means of a share, unit or sub-unit in a company, unit trust or mutual fund.

## **PART 2**

### **NATIONAL INVESTMENT CORPORATION**

**3. Establishment of National Investment Corporation** – (1) There is established by this section a Corporation to be known by, the name of the National Investment Corporation of Samoa.

(2) The Corporation:

- (a) is a body corporate, with perpetual succession;
- (b) shall have a seal;
- (c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) All Courts, judge and persons acting judicially shall take judicial notice of the seal of the Corporation affixed to a document and shall presume that it was duly affixed.

**4. Functions of Corporation** – Subject to this Part, the functions of the Corporation are to promote the establishment, development and advancement of industry, agriculture and commerce in Samoa by:

- (a) securing to the greatest extent possible or practicable, participation by eligible persons in the ownership of the Corporation and control of an enterprise or project in Samoa;
- (b) providing funds for investment in an enterprise, a development plan or project; and
- (c) otherwise participating or engaging in a development plan or project or enterprise.

**5. Powers of Corporation** – (1) The Corporation has power to do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions and in accordance with the objects of the Act.

(2) Without limiting subsection (1), but subject to this Part, the powers of the Corporation referred to in that subsection includes power:

- (a) to borrow money;
- (b) to lend money;
- (c) to issue shares for subscription;
- (d) to execute, make, draw, accept, endorse, discount, issue and negotiate cheques, promissory notes, bills of lading, bankers drafts and other drafts, warrants, bonds, debentures, coupons, or other securities, and other negotiable or transferable instruments, and buy, sell or otherwise deal in the same;
- (e) to form, or participate in the formation of an enterprise;
- (f) to subscribe for, or otherwise to acquire, invest or dispose of, shares in, debentures, or other securities of an enterprise;

- (g) to enter into a partnership or an arrangement for sharing of profits;
- (h) to establish credits and give guarantees;
- (i) to underwrite issues of shares in, debentures or other securities of, or on an enterprise;
- (j) to act as agents for the Government, an enterprise or other person;
- (k) to establish and manage unit or investment trusts;
- (l) to provide general advice and management and investment services to persons incorporated or otherwise;
- (m) to promote trade and commerce between Samoa and other countries;
- (n) to appoint person to members of boards of an enterprise;
- (o) to give and take security, and to give charges, on its assets;
- (p) to buy or otherwise acquire, hold, maintain, repair, improve, develop and manage real and personal property and to sell, lease or otherwise deal with any such property, and for any such purpose to have, exercise or perform any of the powers, functions, duties and responsibilities of an owner of the property in question; and
- (q) to do anything incidental to its powers.

**6. Restriction on borrowing** – The Corporation shall not borrow money (otherwise than for a period not exceeding 6 months) if as a result of the borrowing, the total amount borrowed by the Corporation (otherwise than for a period not exceeding 6 months) and not repaid would exceed half the sum of:

- (a) the amount of the paid up capital of the Corporation; and
- (b) any amount set aside by the Corporation in the Reserve Fund.

**7. Principles of investment** – (1) In the exercise of its functions and powers the Corporation shall act in accordance with sound financial principles.

(2) The Corporation shall not invest in an enterprise unless the Board, upon scrutiny of a feasibility report submitted by the enterprise or its promoters and such other enquiries as required by the Board, considers that the enterprise will operate in accordance with sound financial principles.

(3) The Corporation shall not engage or participate in a development plan or project unless such project will, in the opinion of the Board after consideration of a detailed report submitted by that project plan or enterprise and such other enquiries as required by the Board, be carried out in an efficient manner and in accordance with sound financial principles.

(4) Prior to investing in, or participating in an enterprise or plan or project the Corporation shall have regard to:

- (a) the earnings and dividend history of the enterprise or development project, if any;
- (b) the prospective growth in earnings of that enterprise or project;
- (c) the net asset backing of the shares being offered for purchase by the enterprise;
- (d) the relevance and importance of such investment or participation by the Corporation to the economy of Samoa; and
- (e) the advantage of such investment for the performance of the Corporation in the exercise of its functions.

(5) The Corporation shall not, in the exercise of its functions, acquire or seek to acquire, a controlling interest in an enterprise or development plan project in which eligible persons have a controlling interest other than where:

- (a) the acquisition is necessary to prevent a non-eligible person acquiring a controlling interest in the enterprise or development plan project; or
- (b) the acquisition takes place with the consent of the Board of Directors, or those in control, legally and equitably, of that enterprise or development plan or project.

(6) The Corporation shall not exercise or purport to exercise any power of compulsion over, or in relation to, any enterprise or its shareholders, except in so far as such a power is conferred on it by, or under, any agreement or arrangement with the enterprise or its shareholders.

(7) Subject to section 8, nothing in this Act compels or shall be deemed to compel the Corporation to take up an equity holding or to exercise or perform any of its powers or functions in relation to an enterprise or development plan, except in so far as a duty to do so is imposed on it by, or under, any agreement or arrangement with the enterprise or its shareholders.

(8) Nothing in this Act is taken to require the Corporation to dispose of shares in an enterprise at a loss or to dispose of shares in an enterprise so as to reduce the extent of the participation by eligible persons in the ownership of the capital, or in the control, of the enterprise.

**8. Enterprise or projects in national interest – (1)** The Minister may, on advice from Cabinet, inform the Corporation by notice in writing of the policy of the Government in relation to the establishment, development and advancement of a project or enterprise referred to in that notice, or in relation to the participation by eligible persons in such an industry or enterprise or in an activity that is connected with, or incidental to, such a project or enterprise.

(2) Subject to subsection (3), where the Board has been notified under subsection (1) that an enterprise or project should be carried out or that the Corporation should invest, engage, or participate in that enterprise or project and the Board decides not to invest, engage or participate in that project or enterprise, the Board shall provide a report in writing to Cabinet in relation to the enterprise or project specifying the reasons for its decision.

(3) The Board shall not furnish a report under subsection (2) in relation to an investment by the Corporation in a company or in relation to an enterprise or project, or the engaging or participation by the Corporation in an enterprise or project in association with a company, except with the consent of that company.

(4) If Cabinet considers that:

- (a) the carrying out of an enterprise or project; and
- (b) investment by the Corporation in relation to the enterprise or project or the engaging or participation of the Corporation in that enterprise or project, would be in accordance with the policy of Government, the Cabinet may direct

the Corporation to furnish to Cabinet a report in writing in relation to the enterprise or project.

(5) Where Cabinet receives a report under subsection (2) or (4) in relation to an enterprise or project, the Cabinet may authorise the Corporation to conduct such enquiries, investigations, studies or negotiation in connection with the enterprise or project as are necessary to determine whether, and by what means, Cabinet could enable the Corporation to invest in, or to engage or participate in, the enterprise or project.

(6) Where Cabinet, after receiving a report under subsection (2) or (4) and the results of enquiries, investigations, studies or negotiations under subsection (5) in relation to an enterprise or project, is of the opinion that it is in the national interest that the Government should invest or participate in an enterprise or project, it may request the Corporation to invest or participate in an enterprise or project.

(7) Subsequent to a request by Cabinet under subsection (6), Cabinet shall provide funds for that investment or participation by way of:

- (a) an advance under Public Finance Management Act 2001; or
- (b) out of monies appropriated by the Parliament for that purpose.

(8) Where monies are provided to the Corporation in accordance with subsection (7)(a) and (b) in relation to an enterprise or project:

- (a) the Corporation shall apply those monies for the purpose for which they were provided to the Corporation;
- (b) those money shall not be taken into account for the purpose of section 6 and Part V; and
- (c) the Corporation shall not repay those monies or pay interest or dividend on those monies, out of monies of the Corporation other than monies, or the proceeds of the sale of assets, acquired by the Corporation as a result of the application of the first-mentioned monies in providing finance in relation to, or engaging or participating in, the enterprise or project.



**9. Separate accounts for investments under Section 8 – (1)** In relation to monies granted or issued to the Corporation under section 8, the Corporation shall keep separate accounts and records in relation to the operations of the Corporation.

**(2)** In relation to an enterprise or project to which money is provided in accordance with section 8, the Board shall submit a separate report to the Minister for laying before Parliament at the end of each financial year including full and detailed financial statements for each separate financial investment in which the Corporation is involved under section 9.

### **PART 3 BOARD OF CORPORATION**

**10. Establishment of Board – (1)** The control and management of the Corporation shall be conducted by a Board of Directors which shall be constituted in accordance with section 11.

**(2)** All acts or things done in the name of, or on behalf of, the Corporation by the Board, or with the authority of the Board, shall be deemed to have been done by the Corporation.

**11. Membership of Board – (1)** The Board shall consist of:

- (a) five Directors to be appointed by the Head of State, acting on the advice of Cabinet;
- (b) the Financial Secretary or a senior officer of the Treasury to be appointed by the Cabinet to be a permanent director on the Board;
- (c) the Director of Economic Development, or a senior officer of the Department of Economic Development to be appointed by the Cabinet to be a permanent director on the Board.

**(2)** The performance of the functions or the exercise of the powers of the Corporation is not affected:

- (a) where there is a vacancy in the office of Chairperson; or
- (b) where the number of directors attending meeting other than the directors taking office or appointed under subsection (1)(b) and (c) falls below 3 for a period of not more than 3 months.

**12. Term of Directors** – (1) Subject to subsection (2), the directors appointed under section 11(1)(a) shall be appointed for period not exceeding 3 years as determined by the Head of State and the periods of appointment shall be so determined as to ensure that the period of appointment of at least 1 of those members expires at the end of each year of the period of 3 years commencing on the date from where the first such appointment takes effect, and each director is eligible for reappointment for a further term or terms.

(2) An appointed director, unless he or she sooner vacates his or her office under section 15 shall continue to hold his or her office until his or her successor comes into office.

**13. Qualification of Directors** – A person is not eligible for appointment as a director unless he or she appears to Cabinet to be suitably qualified for appointment by virtue of his or her knowledge of, or experience in, commerce, industry and agriculture, or the investment of monies and the evaluation of the suitability of enterprises or projects for the investment for monies.

**14. Appointment of Chairperson** – (1) The Head of State, acting on the advice of Cabinet, shall appoint 1 of the members of the Board to be Chairperson of the Board for such period as the Cabinet determines.

(2) The Chairperson of the Board holds office as Chairperson until the expiration of his or her period of appointment or until he or she ceases to be a member of the Board, whichever first occurs.

(3) The Chairperson may resign his or her office as Chairperson by writing under his or her hand addressed to the Minister who shall submit it to the Cabinet.

**15. Extraordinary vacancies** – (1) An appointed director may at any time be removed from office by the Head of State, acting on the advice of Cabinet:

- (a) for disability;
- (b) for bankruptcy;
- (c) for neglect of duty or misconduct;

- (d) if he or she is absent, except by leave of the Board, from 3 consecutive meetings of the Board or from more than one-third of the meetings held in any 12 month period; or
- (e) if he or she fails to comply with his or her obligations under the Act;

(2) An appointed director may at any time resign his or her office by notice in writing given to the Minister.

(3) If an appointed director dies, or resigns, or is removed from office, his or her office shall become vacant and the vacancy is taken to be an extraordinary vacancy.

(4) An extraordinary vacancy shall be filled by the appointment of a person under section 11(1)(a).

(5) A person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating director was appointed.

(6) The powers of the Corporation are not affected by a vacancy in the membership of the Board.

**16. Deputies of Directors** – (1) Where an appointed director is temporarily incapacitated by illness or for other good reason cannot attend the meeting, the Minister may nominate a person to attend that meeting as his or her deputy.

(2) No deputy shall act as Chairperson of the Board.

(3) The deputy of a director, while attending a meeting as a deputy, is taken to be a director.

(4) The nomination of deputy of a director and any act done by a deputy of a director, shall not be questioned in any proceedings on the grounds that the occasion for his or her nomination had not arisen or had ceased.

**17. Remuneration** – An appointed director shall be paid out of the funds of the Corporation such remuneration, travelling expenses or other expenses reasonably incurred by him or her at such rates as Cabinet may determine.

**18. Liability of Directors** – No director or deputy of a director shall be personally liable for an act done, or omitted to be done, in good faith in the exercise or performance of the functions, powers and duties of the Corporation.

**19. Meetings** – (1) Meetings shall be held at such times and at such places as the Chairperson from time to time determines.

(2) Every meeting of the Corporation shall be presided over by the Chairperson or if the Chairperson is not present by a deputy Chairman appointed by directors present at that meeting.

(3) In the absence of the Chairperson the Directors shall appoint<sup>1</sup> of their fellow-directors to be a deputy Chairperson.

(4) Any 2 directors, may request the convening of a special meeting of the Board by notice in writing to the Chairperson stating the business to be transacted.

(5) Upon receipt of a notice in writing under subsection (4) the Chairperson shall convene a meeting.

(6) At every meeting the quorum shall be 4 directors or their deputies.

(7) A question before a meeting of the Board shall be resolved by a majority of the valid votes of the directors, or their deputies, present.

(8) A resolution signed or assented to by letter by a majority of the directors has the same effect as a resolution passed at a meeting of the Board under subsection (7) so long as the number of directors signing a letter under this subsection is at least 4.

(9) The Chairperson at any meeting has a deliberative vote, and in the event of an equality of votes, also has a casting vote.

(10) Subject to this Act and regulations the Board may regulate its proceedings in such manner as it thinks fit.

**20. Minutes of Meetings** – (1) The Board shall cause minutes to be kept, in a book provided for that purpose, and shall record the names of all persons present, all proceedings of meetings of the Board and all resolutions passed under section 19.

(2) The minutes of every meeting shall, if signed by a person purporting to be the Chairperson of any meeting, be received in evidence without further proof.

(3) A copy of the minutes shall be furnished to every director within 7 days after the completion of every meeting.

**21. Secrecy** – No director of the Corporation shall communicate or reveal to any person any matter which becomes known to him or her as a director of the Corporation except

with the approval of the Corporation or as required for the due discharge of his or her official duties as a director of the Corporation.

**22. Disclosure of interest – (1)** A director who has a direct or an indirect interest in a matter being considered or about to be considered by the Board otherwise than as a director shall, as soon as possible after the relevant facts have come to his or her notice, disclose the nature of his or her interest at a meeting of the Board.

**(2)** The disclosure under subsection (1) shall be recorded in the minutes of the meeting and, except as otherwise provided by a resolution of the Board, the director shall leave the meeting after the disclosure during any deliberation or decision relating to that business, but shall be counted as present for the purpose of forming a quorum for the meeting on any such deliberation or decision.

**23. Delegation by Board – (1)** The Board may, by resolution, either generally or as otherwise provided by the resolution, delegate to a person any of its powers under this Act, other than this power of delegation.

**(2)** A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Board.

**(3)** A delegation of a power under this section:

- (a)** may be revoked by resolution of the Board (whether or not constituted by the persons constituting the Board at the time the power was delegated);
- (b)** does not prevent the exercise of the power by the Board; and
- (c)** continues in force despite a change in the membership of the Board.

**(4)** A certificate signed by the Chairperson stating any matter with respect to a delegation of a power under this section is *prima facie* evidence of that matter.

**(5)** A document purporting to be a certificate mentioned in subsection (4) is, unless the contrary is established, taken to be such a certificate and to have been duly given.

**PART 4**  
**STAFFING**

**24. General Manager** – (1) The Board may appoint a General Manager of the Corporation who shall be:

- (a) appointed subject to such terms and conditions as it sees fit for a period not less than 2 years and not exceeding 5 years as determined by the Board; and
- (b) eligible for reappointment.

(2) The General Manager is responsible for the control and efficient management of the Corporation, and shall in relation to the management of the Corporation act in accordance with its policy and with the direction of the Board.

(3) The appointment of a person to the office of the General Manager is terminated if the person:

- (a) becomes permanently incapable of performing his or her duties;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her salary for their benefit; or
- (c) resigns his or her office by writing under his or her hand to the Chairperson who shall advise the Cabinet as soon as possible.

**25. Staffing** – (1) The Board may appoint such officers and engage such employees as it thinks necessary for the purpose of this Act.

(2) The terms and conditions of employment of persons appointed or engaged under subsection (1) shall be as determined by the Board.

(3) The Board may pay such allowances, and provide any other benefits (whether of a pecuniary nature or otherwise, including benefits by way of financial or other assistance in connection with housing, transport, insurance or superannuation), for the General Manager, or for an officer or employee of the Corporation, that in the opinion of the Board are necessary or desirable to assist the General Manager, officer or employee in, or place him or her in a position that will facilitate the performance

of his or her duties, or reimburse him or her for any loss or expenditure incurred by him or her by reason of, or in the course of, the performance of his or her duties or that in the opinion of the Board, having regard to the interest of the Corporation, are necessary or desirable for any other reason.

(4) All appointments, appeals, dismissals, condition of leave, salary scales, promotions and other matters relating to the conditions of employment of persons in the service of the Corporation shall be under the jurisdiction of the Board.

(5) Nothing in this Act shall be construed to place any officer or employee of the Corporation within the term “service of Samoa” as defined in the Constitution.

## **PART 5 FINANCE**

**26. Capital of the Corporation** – The authorised share capital of the Corporation shall be \$20,000,000 divided into 20,000,000 ordinary shares of a value of \$1.00 each.

**27. Initial subscription for shares** – On the commencement of this Act the Government shall subscribe \$100,000 to the capital of the Corporation out of monies appropriated by Parliament for that purpose.

**28. Controlling interest in Corporation** – The controlling interest in the Corporation shall at all times remain with eligible persons investing in the Corporation.

**29. Issue of shares** – (1) Subject to subsection (2) in relation to offers to the public for subscription to the capital of the Corporation, the Companies Act applies to the Corporation as if the Corporation were a company incorporated under that Act.

(2) Despite the applicability of the Companies Act as specified in subsection (1), the period for which a prospectus of the Corporation shall remain current, is 12 months.

(3) All shares issued by the Corporation shall rank *pari passu*.

(4) The Corporation shall not, without the prior and written consent of Cabinet, issue shares in its capital other than to:

(a) the Government;

- (b) a Government agency or statutory Corporation of Samoa; or
- (c) eligible persons.

**30. Transfer of shares – (1)** The Corporation shall approve all transfers in relation to shares issued by the Corporation whether that transaction involves Government, Government statutory bodies or eligible person or not.

(2) There is no restriction on the transfer of shares from a person to another person both of whom are eligible persons.

(3) Where there is a share transaction involving a person who is not specified in section 29(4), the prior written consent of the Cabinet shall be required before that transaction is effected.

**31. Share transaction by Corporation – (1)** Despite the application of any provision in this Act, the Corporation shall have the power to buy, sell or otherwise deal in its own shares.

(2) In relation to acquiring shares in an enterprise in which Government has a controlling interest, the Corporation, in accordance with its functions, may acquire shares in that enterprise at a fair and reasonable valuation.

**32. Price of shares – (1)** The Corporation shall determine, in the manner prescribed, the sale price of a share issued by the Corporation.

(2) On the first day of each and every month, the Corporation shall specify the price determined in accordance with subsection (1) of the share by:

- (a) a public notice in a prominent place; and
- (b) a public notice in each issue of 2 or more newspapers circulating in Samoa.

(3) Where the Corporation offers to buy a share in its capital from a subscriber, it may do so at a price, to be known as the Corporation's buying price, up to 5% less than the selling price determined under subsection (1).

(4) On the first day of each month, the Corporation shall, by a public notice in the Savali and in 2 or more newspapers circulating in Samoa, specify the Corporation's buying price.

**33. Surrender of shares by non-eligible persons – (1)** Subject to subsection (2), where a person or Corporation being the



holder of a share was an eligible person at the time of receiving or being issued that share and subsequently ceases to be an eligible person, that person or Corporation shall surrender its share or other holding in the Corporation to the Corporation.

(2) Despite subsection (1), a person referred to in that subsection may retain those shares subject to the consent of the Board.

(3) The Corporation has the first option to repurchase the share surrendered under subsection (1) at the Corporation buying price referred to in section 32(3).

**34. Register – (1)** There shall be a Register of shareholders to be held and maintained by the Corporation at its office.

(2) The Register shall be a list of shareholders who hold shares in the Corporation.

(3) The Register shall be available for public inspection during ordinary business hours.

(4) Subject to this section, the provisions of the Companies Act in relation to share transactions under that Act shall apply to the same extent as if a share transaction under this Act is a transaction to which the Companies Act applies.

**35. Reserve fund –** The Corporation shall establish and maintain a General Reserve Fund.

**36. Distribution of profit – (1)** The net profit of the Corporation in each year shall first be applied against any previous losses carried forward, and the balance shall be appropriated in accordance with this section.

(2) Out of the net profit remaining after the operation of subsection (1), the Corporation shall pay, after 1 year of the commencement of this Act and thereafter at 6 monthly intervals, to the registered shareholders a dividend, the amount of which is determined by the Board.

(3) The total amount of dividend payable shall not exceed 2/3 of the net profit referred to in subsection (2).

(4) The amount of dividend issued to a shareholder shall be in proportion to the number of shares held by that shareholder.

(5) Any net profit not otherwise distributed or appropriated in accordance with this section shall be credited as undistributed

profit to the General Reserve Fund for the use by the Corporation in the performance of its functions.

**37. Bank account** – (1) The Corporation shall open and maintain an account or accounts with a bank or banks and shall maintain at least 1 such account.

(2) The Corporation shall pay all monies of the Corporation including money borrowed by the Corporation into an account referred to in this section.

**38. Application of money by Corporation** – (1) Subject to subsection (2), monies of the Corporation shall be applied only:

- (a) in payment or discharge of the costs, expenses and other liabilities of the Corporation;
- (b) in payment of the remuneration and allowances payable to a person appointed or employed under this Act;
- (c) in making any other payments that the Corporation is authorised or required to make under this Act.

(2) Monies of the Corporation not immediately required for the purposes of the performance of the functions of the Corporation may be invested or dealt with in such manner as the Board thinks fit having regard to the need for the Corporation to obtain revenue for the purpose of meeting expenses incurred in connection with the operations of the Corporation.

**39. Liability to taxation** – The Corporation is subject to taxation under the laws of Samoa.

**40. Audit** – (1) The Controller and Auditor General (“Auditor”) with or without the assistance of another auditor shall inspect and audit the accounts and records of financial transaction at the end of each financial year.

(2) The Auditor or a person authorised by him or her is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Corporation relating directly or indirectly to the receipt of payment of monies by the Corporation or to the acquisition, receipt, custody or disposal of assets by the Corporation.

(3) The Auditor or a person authorised by him or her may make copies of or take extracts from, any such accounts, records, documents or papers.

(4) The Auditor or a person authorised by him or her may require any person to furnish him or her with such information in the possession of the person, or to which the person has access, as the Auditor or person authorised by him or her considers necessary for the purposes of this Act, and the person shall comply with the requirement.

(5) Audited copies of the annual accounts and report of the Corporation shall be laid before the Legislative Assembly by the Minister within 6 months of the end of each financial year by the Board.

## **PART 6 MISCELLANEOUS**

**41. Report and financial statements** – (1) Subject to this Act, the Board shall within 6 months of the end of each financial year prepare and furnish to the Minister a report together with financial statements in such a form as would be required if the Corporation were a company incorporated under the Companies Act, and required to comply with the provisions of Part 5 of Schedule 2 of the Companies Act in relation to accounts and audit.

(2) The first report and financial statements under this section shall be prepared at the expiry of 12 months or at the financial year after the commencement of this Act which ever later occurs.

(3) Where:

(a) the Board has provided a report to the Minister under this section; and  
(b) the Minister is satisfied that, during the year to which the report relates, the Corporation has failed to comply with its objects and functions, –  
the Minister may, by notice in writing to the Chairperson, request the Chairperson to convene a meeting of the Board.

(4) The Minister, representing Cabinet, shall be given reasonable notice of the holding of, and is entitled to be present at, a meeting convened in pursuance of a request by the Minister under subsection (3) and shall be given a fair opportunity at the meeting of stating the matters in respect of which he or she is

satisfied that, during the year to which the report relates, the Corporation has failed to comply with its objects and functions.

(5) The Minister shall report to Cabinet as soon as possible after the holding of a meeting referred to in subsection (4).

**42. Annual general meeting** – (1) The Corporation shall hold within 6 months of the end of the financial year an annual general meeting.

(2) The provision of the Companies Act in relation to the conduct and substance of an annual general meeting held under subsection (1) shall apply to the Corporation as if the Corporation were a company incorporated under the Companies Act.

**43. Application of Public Corporation (Securities) Act 1976** – The Corporation is declared by this section to be a public Corporation for the purposes of the Public Finance Management Act 2001.

**44. Application of Monetary Board of Samoa Act 1974** – The Corporation is by this section deemed to be a financial institution for the purposes of the Monetary Board of Samoa Act 1974.

**45. Contracts by Corporation** – (1) Contracts by Corporation:

- (a) which, if made between private persons must be by deed shall, if made by the Corporation, be in writing under the common seal of the Corporation;
- (b) which, if made between private persons must be in writing signed by the parties shall, if made by the Corporation, be in writing either under the common seal of the Corporation or signed by any person on behalf of and by direction of the Corporation;
- (c) which, if made between private persons may be made orally, may, if made by the Corporation, be made orally by any person on behalf of and by direction of the Corporation.

(2) The common seal of the Corporation shall not be affixed to any document except under a resolution of the Board, and the

execution of any document so sealed shall be attested by 2 directors.

**46. Regulations – (1)** The Head of State, acting on the advice of Cabinet, may make regulations not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for the carrying out of or giving effect to, this Act.

**(2)** Without limiting subsection (1), regulations may be made for any of the following purposes:

- (a) prescribing procedures of meetings of the Board;
- (b) prescribing a method for the valuation of the sale price of the shares of the Corporation.

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#### REVISION NOTES 2008 – 2019

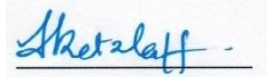
This is the official version of this Act as at 31 December 2019.

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 up-date references to offices, officers and statutes. E.g. reference to Public Moneys Act 1964 and Public Corporations (Securities) Act 1976 both changed to Public Finance Management Act 2001
- (b) Insertion of the commencement date
- (c) Other minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:
  - (i) “Every” and “any” changed to “a/an”
  - (ii) Present tense drafting style: “hereby” and “from time to time” removed
  - (iii) Use of plain language:
    - “notwithstanding” changed to “despite”
    - “in accordance with” changed to “under”
    - “deemed” changed to “taken”
    - “furnish” changed to “provide”
  - (iv) Numbers in words changed to figures
  - (v) Removal of superfluous terms such as “of this Act”
  - (vi) Reference to “Companies Act 1955” changed to “Companies Act 2001”.
  - (vii) Part numbers changed to decimal

There were no amendments made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.



Lemalu Hermann P. Retzlaff  
Attorney General of Samoa

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

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