



SAMOA

**OCEANIA UNIVERSITY OF MEDICINE (SAMOA)
ACT 2002**

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**OCEANIA UNIVERSITY OF MEDICINE (SAMOA)
ACT 2002**

2002

No. 2

AN ACT to establish the Oceania University of Medicine (Samoa).

[Assent date: 29 January 2002]

[Commencement date: 1 January 2002]

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 Oceania University of Medicine (Samoa) Act 2002.

(2) This Act comes into force on 1 January 2002.

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

“Charter” means the Charter of the University prepared and approved under Part 4;

“Chief Executive Officer” means the person appointed by the Council under section 12 who may also be addressed as the Vice Chancellor of the University;

“Council” means the Council of the University constituted under section 10;

“academic year” means a period of 12 months commencing on 1 January in any year and ending on 31 December in the same year;

“Statute” means any statute made under section 17;

“University” means the Oceania University of Medicine (Samoa) established by this Act.

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

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

PART 1A ESTABLISHMENT

3. Establishment of the University of Medicine – (1) There is established the Oceania University of Medicine (Samoa) whose main Campus shall be based and operated from Samoa.

(2) The University is a specialist university in the study, training and research in medicine and health care in its various disciplines inclusive of medical, dental and nursing.

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

5. Academic freedom – (1) In enacting this Act, it is declared to be the intention of Parliament that the academic freedom and the autonomy of the University are to be preserved.

(2) For the purposes of this section, “academic freedom”, in relation to the University means:

- (a) the freedom of academic staff and students, within the law, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions;
- (b) the freedom of academic staff and students to engage in research;
- (c) the freedom of the University and its staff to regulate the subjectmatter of the various courses in medical, dental and nursing taught at the University;
- (d) the freedom of the University and its staff to teach and assess students in the manner they consider best promotes learning;
- (e) the freedom of the university through its Chief Executive Officer to appoint its own staff.

(3) In exercising its academic freedom and autonomy, the University shall act in a manner that is consistent with the need for the maintenance of the highest ethical standards and the need to permit scrutiny to ensure the maintenance of those standards.

6. Governing body – The governing body of the University is the Council 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 or the Chief Executive Officer (under the authority of the Council) shall be deemed to have been done by the University.

7. Chancellor – (1) The Chancellor shall be appointed by the Council after consultation with the Prime Minister.

(2) As titular head of the University the Chancellor shall be responsible for the conferment of degrees, diplomas, awards and any other certificates of merit to persons who have successfully completed courses at the University.

PART 2 POWERS AND FUNCTIONS OF THE UNIVERSITY

8. Functions of the University – The functions of the University are:

- (a) the establishment of a centre of excellence in the study, training and research in medicine and health care in its various disciplines inclusive of medical, dental and nursing;
- (b) the acquisition and transmission of knowledge in medicine and health care by teaching, research and consultancy;
- (c) the encouragement of intellectual independence;
- (d) the fulfilment of the goals and guiding principles of the University as set out in the Charter.

9. Powers of University – (1) The University has:

- (a) the rights, powers, and privileges of a natural person; and
- (b) the power to issue debentures; and
- (c) the power to grant floating charges on the University's undertaking or property, or any of it; and
- (d) the power to do any other thing it is authorised to do by this Act, by any other enactment, or by any rule of law.

PART 3 COUNCIL OF THE UNIVERSITY

10. Council of the University – (1) The constitution, composition and all other terms for the Council of the University shall be determined by the Board of the Oceania College of Medicine Company Ltd, a company duly incorporated in Samoa.

(2) The Board of Oceania College of Medicine Company Ltd shall within 3 months from the date of this enactment provide a Constitution for the Council of the University.

(3) Prior to providing a Constitution for the Council of the University the Board of the Oceania College of Medicine Company Limited shall authorise such persons to operate and manage the affairs of the University until a Constitution has been determined and Council established pursuant to that Constitution.

(4) The Board of Oceania College of Medicine Company Ltd has, in providing a constitution for the Council of the University, the power to determine:

- (a) the composition of the Council;
- (b) the term of office, casual vacancies and vacation of office of council members;
- (c) the procedure and mode of meetings of the Council;
- (d) the payment of fees, allowances and any other benefits to council members;
- (e) the criteria for becoming council member; and
- (f) all and any other matters relevant to the constitution of the Council.

(5) A matter which affects or may potentially affect the interests of the Government relating to the Council shall be the subject of consultation with the Prime Minister.

(6) An amendment to the constitution, composition and any other matter relating to the Council shall be provided to the Prime Minister.

11. Personal liability – No member of the Council of the University shall be personally liable for any act done or omitted by the member or by the Council:

- (a) in good faith; and
- (b) in pursuance or intended pursuance of the functions of the University or of the Council.

12. Functions of the Council – (1) The functions of the Council of the University are:

- (a) to appoint a Chief Executive Officer and such other staff of the University and designate such titles and posts to be held by the staff;
- (b) to appoint any person to any honorary office or post of the University under such title or designation determined by the Council;
- (c) to ensure that the University is managed in accordance with its charter and its statements of objectives;

(d) to determine the policies of the University in relation to the implementation of its charter and the carrying out of its statement of objectives; and

(e) to manage the affairs of the University in accordance with good management practice.

(2) The power to appoint under this section includes the power to promote, discipline or suspend a Chief Executive Officer or staff member of the University.

(3) The Chief Executive Officer or staff member suspended for any reason is entitled to receive one (1) month's remuneration only effective from the date of suspension.

(4) If the Chief Executive Officer or staff member is acquitted and cleared of all allegations or any investigation relating to the subject of his or her suspension, the Chief Executive Officer or staff member must be reinstated without loss of any benefit or status and be paid the salary they lost as a result of any suspension from duty.

(5) The Chief Executive Officer 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.

13. Duties of the Council – It is the duty of the Council in the performance of its functions and the exercise of its powers:

(a) to strive to ensure that the University attains the highest standards of excellence in medical and health care education, training, and research;

(b) to ensure that systems are established for the coordination of, and accountability for activities within the University; and

(c) to ensure that proper standards of integrity, conduct, and concern for the well-being of the students and staff of the University is maintained.

14. Powers of Councils – (1) The Council has all powers reasonably necessary to enable it to perform its functions efficiently and effectively.

(2) Except where they are exercised by delegation under this Act, the following powers of the University shall be exercised only by the Council:

(a) to provide medical, dental and nursing courses of study or training;

- (b) to admit students and confer, through the Chancellor degrees, diplomas, awards and any other certificates of merit;
- (c) to accept gifts, devises and bequests made to the University whether on trust or otherwise;
- (d) to agree to any arrangement for sharing resources with any other University or institution whether in or outside of Samoa;
- (e) to arrange for the manufacture of, and distribution of (whether by way of sale or otherwise), any article or thing bearing a mark, symbol or writing that is associated with the University;
- (f) to arrange for the provision of (whether by sale or otherwise) goods and services to staff or students of the University or other persons using, or otherwise attending at, facilities of the University;
- (g) to prescribe fees payable by students of the University;
- (h) to establish boards, committees or other bodies within the University to give advice to the Council or carry out any function specified by the Council and designate such boards and committees by names determined by the Council;
- (i) to establish in conjunction with the Council of any other university, in or out of Samoa, boards or committees to be designated or named by such title as agreed to between Council members to assist in advancing the interests of universities in Samoa;
- (j) to join any international organisation of universities;
- (k) to arrange for the accreditation of the University to provide and teach courses in medicine and health care in its various diciplines inclusive of medical, dental and nursing by any body or authority in or outside of Samoa;
- (l) to consult such persons, authorities and bodies in or outside of Samoa as it considers appropriate for the purposes of the performance of any of its functions; and
- (m) to do anything incidental to the exercise of any of the preceding powers.

(3) The Council has power to appoint committees 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 16 and such powers as are conferred on them by statutes made by the Council, and to alter, discharge, and reconstitute committees so appointed.

15. Affixing of University's common seal – (1) The Council may, in writing under the University's common seal, authorise any member or members of the Council, the Chief Executive Officer or any member or members of the staff of the University, to execute documents, or documents of a specified class or description, or specified documents, on behalf of the University.

(2) Subject to subsection (6), an authority under subsection (1) may be given:

- (a) unconditionally, or subject to any conditions the Council thinks fit;
- (b) to a specified member or members of the Council or a specified member or members of the staff of the University;
- (c) to a member or members of the staff of the University of a specified class or description;
- (d) to the holder or holders for the time being of a specified office or offices of or in the University; or
- (e) to the holder or holders for the time being of offices of a specified class or description of or in the University.

(3) The University's common seal shall not be affixed to any document except:

- (a) pursuant to a resolution of the Council; or
- (b) by virtue of, and in accordance with, an authority under subsection (1).

(4) The affixing of the University's Common Seal pursuant to a resolution of the Council shall be countersigned:

- (a) in the case of the affixing of the common seal to a degree, diploma, award or any other certificate of merit, by one Council member; or
- (b) in any other case, by at least 2 Council members.

(5) The affixing of the University's common seal by virtue of an authority under subsection (1) shall be countersigned in accordance with the authority.

(6) An authority under subsection (1) shall provide for the affixing of the University's Common Seal to be countersigned by at least two persons.

(7) The affixing of the University's Common Seal on a document is conclusive proof of the authority of the people who affixed it to do so.

16. Delegation by Council – (1) The Council may, either generally or particularly, by writing signed by at least 2 members of the Council, delegate to the Chief Executive Officer or to a member of the staff of the university or board or committee appointed under section 14 any of its functions or powers under this Act (except the power to appoint a Chief Executive Officer).

(2) A delegation by the Council under this section may be made subject to any general or special directions given or conditions imposed by the Council, and the person or board or committee to whom any functions or powers are delegated under this section may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person, board or committee directly by this Act and not by delegation.

(3) A delegation under this section is revokable at will and, until revoked in writing by at least 2 members of the Council, shall continue in force according to its tenor.

17. Statutes – (1) The Council may make statutes, not inconsistent with this Act on any of the following matters -

- (a) the good government and discipline of the University;
- (b) the imposition, by or on behalf of the Council, of penalties upon staff or students of the university for contravention of or failure to comply with a statute with respect to a matter referred to in paragraph (a);
- (c) the enrollment of persons in any courses of study or training of the university and the admission of persons to examinations of the university;
- (d) approval and regulation of the courses of study and training of the university;
- (e) the determination of degrees, diplomas, awards and such other certificates of merit that may be granted by the Council and the requirements to be met before conferring such degrees,

diplomas, awards and any other certificates of merit;

- (f) the granting by the Council of fellowships, scholarships, bursaries, and prizes;
- (g) the provision of superannuation or retirement benefits for, or in respect of, the Chief Executive Officer or members of the staff of the university;
- (h) any other matter required or permitted by this Act to be provided for by statutes.

(2) If the Council makes a statute under subsection (1)(b) providing for the imposition of penalties upon staff or students the statute shall provide for the Council or a person, board or committee, 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 amount of the penalty, the imposition of the penalty, or both.

PART 4 CHARTER

18. Charter for the University – (1) The Council shall ensure that the University has a written charter, specifying the goals and purposes for the University for each five year period.

(2) It is the duty of the Council:

- (a) as soon as practicable after its first meeting to prepare and finalise a charter for the University; and
- (b) if at any time it appears to the Council that it is desirable that the University's charter shall be amended, then the Council may prepare and approve such amendments.

19. Requirements for the charter – (1) The charter shall specify the goals and purposes for the University and shall include a statement on:

- (a) standards of medical and health care teaching and learning to be achieved at the University; and
- (b) codes and principles of conduct or administration to be observed in the management of the affairs of the University.

(2) The Council may include, in addition to the above matters, such other details relating to the University that it decides to include in its charter.

20. Charter to be available for inspection – The Council shall ensure that a copy of the University's charter is available at the office of the Council for inspection during ordinary office hours by any person without charge and shall forward a copy of the charter and any subsequent amendments to the charter to the Prime Minister.

PART 5 ACCOUNTS

21. Bank accounts – (1) The Council may establish, maintain and operate bank accounts in the name of the University at any registered bank.

(2) As soon as is practicable after receiving any money, the Council shall pay it into one or other of the University's bank accounts.

(3) The Council shall properly authorise every withdrawal and payment of money from any of the University's bank accounts.

22. 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; and
- (b) do all things necessary to ensure that adequate control is maintained over the assets of, or in the custody of the University and over the incurring of liabilities by the University; and
- (c) ensure that the accounts and financial statements are audited by the Controller and Auditor General.

23. Annual report – (1) As soon as practicable after the end of each academic year the Council shall finalise a report on the operations of the University during that year.

(2) The Council shall include in any annual report of the Council the financial statements prepared by the Council, in accordance with accepted financial reporting and accounting practice in respect of the academic year to which the report relates, together with the audit report and the management statement relating to those financial statements.

24. Annual report to be available for inspection – The Council shall ensure that copies of its annual report are available at the office of the Council for inspection during ordinary office hours by any person without charge.

REVISION NOTES 2008 – 2023

This is the official version of this Act as at 31 December 2023.

This Act has been revised by the Legislative Drafting Division from 2008 to 2023 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:
 - “shall have” changed to “has”
 - “hereby” and “from time to time” removed
 - (ii) Numbers in words changed to figures

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

By the Audit Act 2013 (No.22), commenced on 27 January 2014:

Section 22(c) – substituted the words “a qualified Auditor appointed by the Council” with the words “Controller and Auditor General”.

By the Miscellaneous (Salary Conditions Upon Suspension) Amendment Act 2021 No. 6, commenced on 3 March 2021:

Section 12 - insertion of new subsections (2) – (5).



Su'a Hellene Wallwork
Attorney General of Samoa

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