



SAMOA

## HEAD OF STATE ACT 1965

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## HEAD OF STATE ACT 1965

1965

No. 13

**AN ACT** to make provision for the emoluments, privileges and immunities of the Head of State and other matters pertaining to that Office.

*[Assent date: 31 August 1965]*

*[Commencement date: 1 January 1962]*

**1. Short title** – This Act may be cited as the Head of State Act 1965.

**2. Commencement** – This Act is deemed to have come into force on 1 January 1962.

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

“Minister” means the Minister of the Prime Minister and Cabinet or the Prime Minister;

“Ministry” means the Ministry responsible for the implementation of this Act.

**3. Style and title of the Head of State – (1)** The style, title and mode of address of the Head of State during a term of office is:

“Afioga i le Ao o le Malo”.

**(2)** The style and mode of address of the wife of the Head of State during a term of office is:

“Afioga i le Masiofo/Ali’i”.

**4. Honours and civil dignities –** The Head of State, acting on the advice of the Prime Minister, may create and bestow any titles of honour, order, or civil dignities in recognition of parliamentary or other public service at the Head of State’s pleasure.

**5. Immunity from legal process– (1)** Subject to subsection (2), the Head of State is accorded immunity from suit and legal process of any kind whether civil or criminal, including freedom from the arrest of the Head of State’s person, during the Head of State’s term of Office.

**(2)** Nothing in subsection (1) affects the charging, prosecution and arrest of the Head of State where the Head of State is suspected of or is charged with a crime established under the Rome Statute of the International Criminal Court.

**6. Exemptions from taxation –** The Head of State is exempted during the term of office from liability to pay any of the following taxes or charges:

- (a) income tax in respect of income derived from the office;
- (b) customs duty on all goods imported for household consumption, and on not more than one motor car imported during each 5 years of the term or terms of office, in every case whether for official or private use:

**PROVIDED THAT** on the goods or motor car purchased by the Head of State in Samoa, the Head of State is entitled to a drawback of any customs duty paid on the importation thereof into Samoa:

**PROVIDED FURTHER THAT** if and when the Head of State sells, gives away or otherwise disposes of any such motor car within 3 years of importing or purchasing the same, the Head of State shall thereupon become liable to pay customs duty, at the rate current at the date of sale, gift or other disposition, on the depreciated value of such motorcar at the last-mentioned date as determined by the Comptroller of Customs:

- (c) registration and other charges in respect of motor vehicles which are the Head of State's personal property or which are provided for official use;
- (d) motor driving licence fees;
- (e) radio, gun and dog licence fees;
- (f) charges for electric power consumption and water rates in respect of the official residence;
- (g) telephone rental and charges;
- (h) rental for a post office mail box.

**7. Salary and allowances of the Head of State**– (1) The Head of State must be paid a salary based on the Government salary scale and as prescribed by regulations.

(2) The Head of State must be paid an allowance at a rate fixed from time to time by Cabinet for the following:

- (a) telephone;
- (b) overseas official travels.

**8. Medical Entitlements** – If Cabinet is satisfied that the Head of State is ill and cannot obtain adequate treatment for the illness in Samoa, but could and intends to obtain such treatment in an overseas country, Cabinet may authorise payment of the cost of transporting the Head of State (and an attendant or attendants, including the spouse of the Head of State, thought by Cabinet to be necessary or advisable) from Samoa to that country and back, any medical and hospital costs incurred by the Head of State in that country, and any hotel expenses properly incurred by the Head of State and any such attendant or attendants in that country.

**9. Allowance and privilege for Spouse of the Head of State** – If the Head of State is living with his or her spouse at the

time of his or her death, the spouse is entitled to be paid an amount equal to the salary of the Head of State for 3 months from the date of death of the Head of State, as a one off payment.

**10. Official residence** – (1) There shall be made available free of charge to the Head of State an official residence appropriate to the dignity of the position equipped with adequate household, domestic and ground staff.

(2) *Repealed by section 7 of the Head of State Amendment Act 2019, No.25.*

*11. Repealed by section 8 of the Head of State Amendment Act 2019, No.25 Act.*

**12. Transport**– (1) The Head of State shall have 2 official motor vehicles and 1 chauffeur available at the Head of State’s disposal free of charge at all times during the term of office.

(2) The cost of repairs, maintenance, oil, fuel and running expenses of the motor vehicles are to be paid for by the annual appropriation under the Ministry budget.

*13. Repealed by section 10 of the Head of State Amendment Act 2019, No.25 Act.*

**14. Office** – (1) The State shall provide for the Head of State an office for the discharge of the official duties, together with such staff, office and other equipment as the Head of State may need for the efficient administration thereof.

(2) There shall be a Secretary to the Head of State appointed by Cabinet on a contractual basis for 3 years who will be responsible for the administration of the Office.

(3) Budget allocation for the administration of the Office will be funded under the Ministry.

**15. Official Government functions** – (1) There is to be set aside by the Ministry an annual sum to cover the cost for any of the following official Government functions hosted by the Head of State:

- (a) presentation of a credential;
- (b) a courtesy visit;
- (c) welcoming or a farewell for –

- (i) a respective ambassador;
- (ii) High Commissioner; or
- (iii) a foreign delegation.

(2) The Secretary to the Head of State shall submit an annual estimate of the above expenditure to the Treasury for the purpose of ascertaining the amount to be appropriated each year by the Ministry under this section.

**15A. Entitlements** - The Head of State is entitled to the following entitlements when his or her term has expired as per Article 19 of the Constitution:

- (a) a salary equivalent to 3 months as a one off payment;
- (b) a duty free exemption if the Head of State decides to purchase a motor vehicle from overseas.

**16. Remuneration of Council of Deputies** – (1) The Council of Deputies must be paid a salary based on the Government salary scale and as prescribed by regulations.

(1A) When and so often as there occurs a general wage and salary increase for Public Servants by which wages and salaries of Public Servants are increased by a fixed percentage the salary of the Council of Deputies shall by authority of this Act be increased by a like percentage.

(2) No salary allowance payable under subsection (1) is payable to a member of the Council of Deputies for a period during which the member is a full-time salaried employee of the Government.

**16A. Transport for Council of Deputies** – (1) The Government may provide each Member of the Council of Deputies with 1 official motor vehicle and a chauffeur to be at the member's disposal free of charge at all times during the member's term of office.

(2) The cost of repairs, maintenance, oil, fuel and other running expenses in respect of such official motor vehicle must be met by annual appropriation by the Ministry.

**16B. Office of the Council of Deputies** – The Government must provide an Office for members of the Council of Deputies.

**16C. Regulations** - Regulations may be made, to give effect to this Act, and in particular for the following purpose:

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- (a) to prescribe matters relating to the salary and allowance of the Head of State; or
- (b) to prescribe matters relating to the salary and allowance of the Council of Deputies.

**17. Repeal** – The Head of State Ordinance 1961 is repealed.

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**REVISION NOTES 2008 – 2022**

This is the official version of this Act as at 31 December 2022.

This Act has been revised by the Legislative Drafting Division from 2008 to 2022 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
  - (i) “Every” and “any” changed to “a”
  - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
  - (iii) “shall have” changed to “has”
  - (iv) “shall be guilty” changed to “commits”
  - (v) “notwithstanding” changed to “despite”
  - (vi) “pursuant to” changed to “under”
  - (vii) “it shall be lawful” changed to “may”
  - (viii) “it shall be the duty” changed to “shall”
  - (ix) Numbers in words changed to figures
  - (x) “hereby” and “from time to time” (or “at any time” or “at all times” removed
  - (xi) “under the hand of” changed to “signed by”

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

*By the Head of State Amendment Act 2019, (No. 25), commencing on 1 July 2019:*

**Section 2A** new section 2A inserted titled “Interpretation” with the definitions for “Minister” and “Ministry” provided.

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- Section 3(1)** amended by substitutng “His Highness the Head of State of Samoa” with “Afioga i le Ao o le Malo”.
- Section 3(2)** amended by substituting “Her Highness the Masiofo” with “Afioga i le Masiofo/Ali’i”.
- Section 7** substituted section 7 to provide the Head of States salary must be based on Government salary scale and as prescribed by Regulations.
- Section 8** substituted “Illness allowances” (heading of section) with “Medical Entitlements” and substituted “his Masiofo” with “the spouse of the Head of State”.
- Section 9** substituted.
- Section 10(2)** repealed.
- Section 11** repealed.
- Section 12(2)** substituted.
- Section 13** repealed.
- Section 14(2)** substituted with new subsections (2) and (3).
- Section 15** substituted.
- Section 15A** new section 15A inserted to provide the Head of State’s entitlement to salary and free exemption upon expiry of term in office.
- Section 16(1)** substituted.
- Section 16A(2)** substituted “Legislative Assembly” with “Ministry”.
- Section 16B** substituted.
- Section 16C** new section 16C inserted after section 16B.

*This Act is administered by  
the Office of the Legislative Assembly*