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2015, No. 25

AN ACT to establish the Media Council and the Journalists Association of Samoa (JAWS), to provide for the development, application and enforcement of a code of practice relating to the news media, and to promote and enhance professional journalism, and for related purposes. *[09th July 2015]*

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 Media Council Act 2015.

(2) This Act commences on the date of assent by the Head of State.

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

“Association” means the Journalist Association of Samoa (JAWS) established under section 30;

“Chairperson” means the person appointed as such under section 6(1)(a);

“Code of Practice” means the Code of Practice approved under section 13;

“Council” means the Media Council established under section 6;

“Executive Committee” means the Executive Committee of the Association established under section 36;

“investigation committee” means an investigation committee appointed under section 21(2);

“lawyer” means a person admitted to the Supreme Court as a barrister and solicitor under the Law Practitioners Act 1976;

“member of the media” means a person engaged in the practice of collecting, writing, editing and presenting news or news articles in magazines, newspapers, radio or television broadcasts, over the internet or any other manner;

“person” includes any media related organisation, company or agency;

“publication” means the dissemination to the public of any written, digital, audio or video material, and includes any material disseminated through the internet.

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

4. Purpose-(1) The purpose of this Act is to promote professional journalism and integrity in the news media, while observing the fundamental rights under Part II of the Constitution.

(2) This Act must be applied, implemented and enforced in a manner which fully respects and acknowledges Samoan tradition, culture and community values.

5. Act in addition to other laws-(1) This Act is in addition to and not in derogation of:

(a) any requirement or code of practice applying under the Broadcasting Act 2010; or

(b) any requirement for registration, the identification of publishers and printers, and any other regulatory requirement applying under the Newspapers and Printers Act 1992/1993.

(2) Any law which relates to the publication and broadcast of news must be read, construed and applied pursuant to this Act and the Code of Practice.

(3) This Act prevails if there is any inconsistency between this Act and any other enactment.

(4) Nothing in this Act affects the Film Control Act 1978 or the powers of the Film Control Board under that Act.

PART 2
MEDIA COUNCIL

6. Media Council-(1) The Media Council is established consisting of the following members who are to be appointed by the Executive Committee:

- (a) a lawyer who has at least five (5) years experience as a lawyer or as a judge and has no direct interest in the Association, as Chairperson;
- (b) five (5) media representatives;
- (c) five (5) community representatives.

(2) The representatives under subsection (1)(b) and (c) are to be appointed as follows:

- (a) for media representatives, from a list of 20 members of the media, nominated by the Association; and
- (b) for community representatives, from a list of 20 members of the community, nominated by the Association.

(3) The appointment of members must:

- (a) provide a fair representation based upon gender, employment, educational background and community interests; and
- (b) ensure that no gender has less than three (3) members of the total membership of the Council.

(4) The Deputy Chairperson is to be appointed from amongst the members in subsection (1)(b) or (c).

(5) A member of the Executive Committee must not be appointed to the Council.

(6) A person who makes a nomination under this section must sign a supporting character reference for the intended nominee.

(7) The Executive Committee:

- (a) has authority to determine and apply any necessary processes and requirements to enable nominations and appointments to be made in accordance with this section; and
- (b) when acting under this section, must act independently, free of any political pressure, and without regard to any political interest.

7. Term of office and remuneration - A member of the Council:

- (a) holds office for three (3) years; and
- (b) is eligible for re-appointment; and
- (c) is entitled to remuneration and allowances as are fixed by the Executive Committee; and

- (d) on expiry of the term of appointment, continues in office until re-appointed or a successor is appointed.

8. Disclosure of interest-(1) A member who, otherwise than in his or her capacity as a member, is directly or indirectly interested in any matter under consideration by the Council, must as soon as possible after the relevant facts have come to his or her notice, disclose the nature of the interest to the Council.

(2) A disclosure under this section must be recorded in the minutes of the meeting of the Council, and the member must not take part after the disclosure in any deliberation or decisions relating to that matter, but is to be counted as present for the purpose of forming a quorum of the Council for any such deliberation or decision.

(3) The Executive Committee may terminate the appointment of a member of the Council if a member:

- (a) acts contrary to the provisions of this Act; or
- (b) uses information obtained through the Council for personal gain (or the gain of any other person); or
- (c) acts in a manner that brings the Association or the Council into disrepute.

(4) A person terminated under subsection (3) is not eligible for re-appointment as a member of the Council.

(5) During any meeting of the Council, and whenever they are acting on behalf of the Council on its business, members:

- (a) are expected to act in the Council's interest and in the interest of professional journalism; and
- (b) must avoid acting as a delegate of any business interest, and avoid and resist receiving or accepting directions from any business interest in respect of duties to be performed under this Act.

9. Requirements for determinations and documents of the Council - All determinations of the Council, and any other document requiring due execution on behalf of the Council, must be:

- (a) in writing; and
- (b) signed by any person or persons acting under a general or specific direction of the Council.

10. Committees-(1) The Executive Committee may:

- (a) appoint any advisory, regulatory and technical committees as it determines, to discharge the Council's functions; and
- (b) determine the functions of the committees; and