

ACTS INTERPRETATION BILL 2015

SAMOA

Explanatory Memorandum

Introduction

The Bill seeks to repeal and replace the current Act. The purposes of the Bill are:

- (a) to provide basic rules for interpreting a provision of an Act; and
- (b) to provide definition of words commonly used in Acts so that they are not repeated; and
- (c) to provide rules which regulate operations of Acts; and
- (d) to provide standard provisions commonly used in Acts.

Clauses:

PART 1 - PRELIMINARY

- Clause 1:** - states that, when enacted, the Bill will be called the Acts Interpretation Act 2015. It will commence on the date it is assented to by the Head of State.
- Clause 2:** - provides that it applies to the interpretation of all Acts, including its application on the Government.

PART 2 - DEFINITIONS AND INTERPRETATION OF ACTS

- Clause 3:** - provides for definitions of words that are normally used in Acts and definitions of official titles and names of persons and other institution of the State and the Government.
- Clause 4:** - provides that definitions in an Act apply to its subsidiary legislation (regulations, rules, orders, etc).
- Clause 5:** - provides that when a word is used it refers to all its grammatical forms and roots, including singular and plural and gender.
- Clause 6:** - clarifies that reference in an Act to “Gazette” includes reference to the Savali and publication in either of them satisfies the requirement of publication. It also clarifies that the non-publication does not affect the validity of the things required to be published.
- Clause 7:** - provides for the principles or rules that are to apply when interpreting a provision of any Act. It does not limit the power of the courts to use other principles or rules of interpretation that are not covered.
- Clause 8:** - provides for the definition of “shall”, “must” and “may” as enacting verbs of a provision of an Act.

PART 3 - GENERAL, COMMENCEMENT AND CITATION

Division 1 - General matters

- Clause 9:** - provides that Acts are to be judicially noticed (i.e. the courts will recognize an

Act without requiring for its proof to be made), how Acts are to be numbered and divided into sections, parts and other units.

- Clause 10:** - provides that when a provision does not specify which Act, section, etc., is the provision for, then the provision is the provision of that Act, section, etc.
- Clause 11:** - provides that the English and Samoan versions of an Act have equal authority but if there is a conflict, the English version prevails.

Division 2 - Assent and commencement

- Clause 12:** - obligates the Clerk of Parliament to insert the date of Assent immediately after the long title to an Act, which will become part of the Act.
- Clause 13:** - provides for the rules about commencement of an Act, including making an Act to commence on a date before its assent (rule on retrospective commencement of an Act).
- Clause 14:** - provides for the difference in the time of commencement, normally called the “mid-night rule”. If the word “on” is used the Act commences on 12am beginning that day. If the word “from” is used, then the Act commences on 12am beginning the following day.
- Clause 15:** - provides that it is not necessary for an Act to be Gazetted, but a person can buy a copy from the office of the Clerk or other places authorised by the Clerk.

Division 3 - Citation

- Clause 16:** - provides the rules about citing or naming an Act. If no short title is provided, then it can be cited by reference to the year. The year is the year in which the Act is passed.
- Clause 17:** - provides that reference to an Act is reference to the copy published by the Government Printer, Legislative Assembly of the Speaker.
- Clause 18:** - provides that reference to an Act includes any amendment or later Act that substitutes that Act.

PART 4 - AMENDMENTS AND REPEALS*Division 1 - Amendments*

- Clause 19:** - provides that an amendment Act is to be read and construed according to the definitions of the principal Act and the amendments will become part of the principal Act.
- Clause 20:** - sets out the effect of an amendment, including the rule that an amendment Act becomes spent when it commences except its transitional provisions.

Division 2 - Repeals

- Clause 21:** - provides the effect of a repealed Act. It does not affect any transitional or saving provision in the repealed Act or revive any Act that was repealed by the repealed Act or revive a thing existing at the time the repealed Act commences.

- Clause 22:** - provides for the application of repeal to any Act referred to in it or things done under the repeal provision.
- Clause 23:** - provides saving provisions for any investigation, proceedings, liability for penalties before the repeal commences.
- Clause 24:** - provides that if Acts are consolidated, then certain powers can continue to be exercised under the consolidating Act if they substantially correspond to the powers in the repealed Acts.
- Clause 25:** - provides for the effect of repeal on things already done under the repealed Act, including the power to complete things before the commencement of the repealed Act.
- Clause 26:** - provides that if an Act is repealed and replaced, then reference in any other Act to the repealed Act will be reference to the replacement Act.

PART 5 - APPOINTMENTS, DUTIES AND POWERS

Division 1 - Appointment and powers

- Clause 27:** - provides for the powers that may be carried out before the commencement of an Act, but they are to take effect on the commencement of the Act.
- Clause 28:** - provides for the extent to which statutory powers are to be exercised.
- Clause 29:** - provides for the implied powers.
- Clause 30:** - provides power to make appointments including the power to appoint a person

by name or by office which the person holds.

- Clause 31:** - provides for the implied powers of appointment, such as power to suspend, remove, etc.
- Clause 32:** - provides that if an office is abolished or no person has been appointed to carry the power or duty, then the power or duty can be carried out by the Head of State or a holder of another office ordered by the Head of State.
- Clause 33:** - provides that the power of a Minister can be signed by another Minister.
- Clause 34:** - provides that if a person is empowered to hear and determine an appeal, the person can appoint a qualified person or a panel of two (2) or three (3) members to hear the appeal and make recommendations to the person.
- Clause 35:** - provides that if an Act gives duty or power to Cabinet, the exercise of the duty or power can be signed on behalf of Cabinet by the Secretary to Cabinet.
- Clause 36:** - provides that the power to do a thing can be exercised again to correct an error.

Division 2 - Corporate and unincorporated bodies

- Clause 37:** - provides for the normal powers of a corporate body.
- Clause 38:** - provides for the power to appoint alternate or acting member for members of a body corporate.
- Clause 39:** - provides for the appointment of chairperson, etc and secretary of members of a body corporate.

- Clause 40:** - provides for the rules about signing of documents, etc.
- Clause 41:** - provides for the general rules for meetings of a body corporate.
- Clause 42:** - clarifies that carrying of the powers of a body corporate is not affected by any vacancy in the membership.

Division 3 - Delegation

- Clause 43:** - provides for powers of delegation.
- Clause 44:** - provides for the extent of delegation.

PART 6 - TIME AND DISTANCE

- Clause 45:** - provides for the standard time, which is the standard time set out in section 4 of the International Date Line Act 2011.
- Clause 46:** - provides for the rules for determining time in which things may be required to be done under an Act.
- Clause 47:** - provides for the rule where time is not provided to do a thing.
- Clause 48:** - provides for the rule for measuring distances.

PART 7 - SUBSIDIARY LEGISLATION

- Clause 49:** - provides that subsidiary legislation is to be judicially noticed.
- Clause 50:** - provides that reference to a subsidiary legislation is a reference to the principal subsidiary legislation, including amendments.
- Clause 51:** - provides for the general provisions relating to subsidiary legislation.

- Clause 52:** - provides for the extent of the power to prescribe or determine fees and charges.
- Clause 53:** - provides for the extent of power to make rules of courts.

**PART 8 - OFFENCES, PENALTIES,
PROCEEDINGS AND EVIDENCE**

Division 1 - Offences and penalties

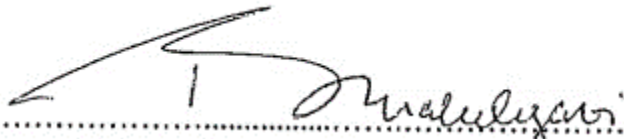
- Clause 54:** - provides that the penalties are maxima and can be imposed cumulatively.
- Clause 55:** - provides that penalties can simply be stated at the foot of a provision.
- Clause 56:** - provides for the rule for offences against body corporate.
- Clause 57:** - provides for that fines and penalties are to be paid into the Treasury Fund.

Division 2 - Proceedings and evidence

- Clause 58:** - provides that a proceeding is not discontinued or abated if the holder of an office resigns, dies or is removed from office.
- Clause 59:** - provides that the imposition of a fine does not affect civil action.
- Clause 60:** - provides that a thing forfeited is forfeited to the State.
- Clause 61:** - provides for evidentiary rules for documents as evidence of facts in the documents.
- Clause 62:** - authorises a person given power under an Act to hear and determine a matter to administer oath.

PART 9 - MISCELLANEOUS

- Clause 63:** - provides substantial compliance with a form, and minor changes may be made in a form.
- Clause 64:** - provides for rules of service of documents.
- Clause 65:** - provides for the rules to make corrections.
- Clause 66:** - provides for rules about using examples in Acts.
- Clause 67:** - provides that an Act does not bind the Government unless expressed or implied in an Act.
- Clause 68:** - repeals the Acts Interpretation Act 1974.



(Hon TUILAEPA Fatialofa Lupesoliai Aiono Neioti Saialele
Malielegaoi)

PRIME MINISTER

ACTS INTERPRETATION BILL 2015

SAMOA

Arrangement of Provisions

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2. Application

PART 2 **DEFINITIONS AND INTERPRETATION OF ACTS**

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4. Definitions in Acts apply to subsidiary legislation
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7. Principles of interpretations
8. Interpretation of “shall” and “may”

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AND CITATION

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10. References in provisions of Acts
11. English and Samoan versions of Acts

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12. Insertion of date of assent
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14. Time of commencement
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Division 3 - Citation

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33. Exercise of Minister's powers
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PART 8
**OFFENCES, PENALTIES,
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2015, No.

A BILL INTITULED

AN ACT to provide the principles and rules for interpretation of and general definitions for Acts, to shorten Acts, to promote consistency in the language and form in Acts and for related purposes.

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 Acts Interpretation Act 2015.

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

2. Application-(1) This Act applies to:

- (a) all Acts, and the construction of their words or expressions, enacted before or after this Act; and
- (b) this Act and the construction of words or expressions used in this Act; and
- (c) the Government.

(2) This Act does not apply if:

- (a) a provision of this Act is inconsistent with the intent, object of, or a definition or interpretation in an Act; or
- (b) the interpretation of a provision of this Act and a word, expression, or section in an Act would be inconsistent with the context of that Act; or
- (c) a contrary provision, context or intention is provided in an Act.

(3) It is not necessary to state in an Act that a definition in, or a provision of, or this Act applies to that Act.

PART 2
DEFINITIONS AND
INTERPRETATION OF ACTS

3. Definitions-(1) In an Act:

“act”:

- (a) for an offence or civil wrong, includes a series of acts, and any word (which refers to acts done) extends to illegal or tortious omissions;
- (b) for any other act, includes the causing of the act.

“Act” means an Act of Parliament or Ordinance, and includes subsidiary legislation made under the Act or Ordinance or a portion of an Act, Ordinance or subsidiary legislation;

“adult” means a person aged 21 or over;

- “affidavit” means a written statement made under oath or affirmation;
- “aircraft” includes any type of craft used in aerial navigation;
- “amend” includes vary, add, substitute, replace, omit, repeal, revoke, rescind or cancel;
- “Attorney-General” means the person appointed as the Attorney-General under Article 41(1) of the Constitution;
- “Auditor-General” means the person appointed as the Controller and Auditor-General under Article 97(1) of the Constitution;
- “barrister and solicitor”, means a person admitted as such to practise law under the Lawyers and Legal Practice Act 2014;
- “boat” has the same meaning as “ship”;
- “Cabinet” means the Cabinet of Ministers constituted under Article 32 of the Constitution;
- “Central Bank” means the Central Bank of Samoa established by the Central Bank of Samoa Act 1984;
- “chartered accountant” has the same meaning as “public accountant”;
- “Chief Executive Officer”, for a Ministry, means the person appointed as the administrative head of the Ministry, and includes the head of a constitutional authority;
- “Chief Justice” means the person appointed under Article 65(2) of the Constitution as the Chief Justice of the Supreme Court;
- “citizen” means a citizen of Samoa;
- “Clerk” means the person appointed as the Clerk of the Legislative Assembly;
- “coin” means a coin legally current in Samoa;
- “commencement”, of an Act, means the date on or from which the Act comes into force or operation;

- “Commissioner of Police” means the person appointed as the Commissioner of the Samoa Police Service under the Police Service Act 2009;
- “Commissioner of Prisons” means the person appointed as the Commissioner of Prisons and Corrections under the Prisons and Corrections Act 2013;
- “company”, includes the successors and assigns of the company;
- “Comptroller” means the Comptroller of Customs established under the Customs Act 1977;
- “condition” includes qualification, limitation, control, exception, restriction or prohibition;
- “constable” has the same meaning as “police officer”;
- “Constitution” means the Constitution of the Independent State of Samoa;
- “constitutional authority” has the meaning given in the Public Service Act 2004;
- “contravene” includes fail to comply, breach or violate;
- “conviction”, relating to an offence, means a finding of guilt by a court, whether or not the conviction is recorded;
- “counsel” has the same meaning as “barrister and solicitor”;
- “country”, other than Samoa, includes a state, province, territory or similar division of a country;
- “court” means a court of competent jurisdiction of Samoa constituted under the Constitution or an Act;
- “Court of Appeal” means the Court of Appeal of Samoa constituted under Article 75 of the Constitution;
- “customary land” has the meaning in Article 101 of the Constitution;
- “customs” means the customs, usages and traditional practices of the Samoan people existing in relation to the matter in question at the time when the matter arises, regardless of whether or not the custom, usage or practice has existed from time immemorial;
- “date of assent” in relation to an Act or subsidiary legislation, means the date the Act is signed by the Head of State or

- for any subsidiary legislation made by the Head of State, the date the subsidiary legislation is signed by the Head of State;
- “definition” means the meaning given to a word or expression in an Act;
- “district” means an administrative district of Samoa;
- “District Court” means a District Court constituted under the District Court Act 1969;
- “document” means a record of information, including the following:
- (a) anything on which there is writing;
 - (b) anything on which there are figures, marks, numbers, perforations, symbols or anything else having meaning for persons qualified to interpret them;
 - (c) anything from which images, sounds, messages or writing can be produced or reproduced, whether with or without the aid of anything else;
 - (d) a drawing, map, photograph or plan.
- “doctor” has the same meaning as “medical practitioner”;
- “enactment” means a provision of an Act, Ordinance or subsidiary legislation;
- “estate” includes an interest, charge, right, title, claim, demand, lien or encumbrance in or in respect of land, at law or in equity;
- “exclusive economic zone” has the meaning given in the Maritime Zones Act 1999;
- “Executive Council” means the Executive Council established under Article 39 of the Constitution;
- “export” means to take out of the territory of Samoa;
- “false” means contrary to fact or misleading in a material particular;
- “father”, includes an adoptive father;
- “financial year”, means a period of 12 months ending on 30 June;
- “freehold land” has the same meaning in Article 101(3) of the Constitution;

- “function” includes power, duty, authority or jurisdiction;
- “*Gazette*” or “*Samoa Gazette*” means the *Gazette* published by or under the authority of the Government, and includes a publication of the Savali;
- “gazetted” means published in the *Gazette* or Savali;
- “Government” means the Executive Government of Samoa, and includes:
- (a) the Cabinet; and
 - (b) the Prime Minister; and
 - (c) Ministers; and
 - (d) all Ministries, departments and other administrative units of a Ministry or the Government, however described or established, including its officers and employees; and
 - (e) any government statutory body or government corporation or other government entity.
- “Head of State” means the Head of State of Samoa known as *O Le Ao o le Malo* elected under Part III of the Constitution;
- “healthcare professional” has the meaning in the Healthcare Professions Registration and Standards Act 2007;
- “high water mark” has the meaning given in the Maritime Zones Act 1999;
- “holiday” includes Sundays, Christmas Day, New Year’s Day, Good Friday, or a day declared to be a public holiday under an Act;
- “immovable property” means:
- (a) land, whether covered by water or not; and
 - (b) any estate, right, interest or easement in or over land; and
 - (c) things attached to land or permanently fastened to anything attached to land.
- “import” means to bring into the territory of Samoa;
- “internal waters” has the meaning given in the Maritime Zones Act 1999;

- “Judge” means the Chief Justice or a Judge of the Supreme Court or a District Court, and includes a person appointed temporarily to be or to act as a Judge of the Supreme Court or a District Court;
- “judicial proceedings” includes a proceeding at or taken in or before a tribunal, commission of inquiry, or person, in which evidence may be taken on oath;
- “Judiciary” means the Judiciary established under Part VI of the Constitution;
- “Judge of Appeal” means a Judge of the Court of Appeal, and includes a person appointed temporarily to be or to act as a Judge of Appeal;
- “Komesina o Sulufaiga” means the person appointed as the Ombudsman under the Ombudsman (*Komesina o Sulufaiga*) Act 2013;
- “land” includes one (1) or more of the following:
- (a) an estate or interest in land;
 - (b) a thing growing or matter on land;
 - (c) a thing permanently fixed to the land, including a cellar, drain, pipe or culvert in or under the land;
 - (d) a house, building or similar structure on the land;
 - (e) land covered by water.
- “Land and Titles Court” means the court established as such under Article 103 of the Constitution and the Land and Titles Act 1981;
- “law” means the Constitution, an Act, common law, equity or any other law that applies to or is in force in Samoa;
- “lawyer” or “legal practitioner” has the same meaning as “barrister and solicitor”;
- “Legislative Assembly” means the Legislative Assembly constituted under Article 44 of the Constitution;
- “limits of Samoa” has the same meaning as “territorial limits of Samoa”;
- “low water mark” has the meaning given in the Maritime Zones Act 1999;

- “master”, for a ship, means a person (except a pilot or harbour master) who is in control or charge of the ship;
- “medical practitioner” means a person who is qualified and registered as a medical practitioner under the Healthcare Professions Registration and Standards Act 2007 or under any other Act regulating registration or licensing of medical practitioners;
- “Minister” means the Minister who is directed under Article 35 of the Constitution to be responsible for the administration of a department, subject or an Act or for the Ministry that administers the department, subject or Act, and includes the Prime Minister or an acting Minister but does not include an associate Minister;
- “Ministry” means a Ministry specified under the Ministerial and Departmental Arrangements Act 2003 responsible for the administration of an Act or a business or service of the Government, and includes a constitutional authority or a Ministry established by an Act;
- “minor” means a person aged under 21 years;
- “month” means a calendar month;
- “movable property” means a property, other than immovable or real property;
- “National Revenue Board” means the National Revenue Board established under the Public Finance Management Act 2001;
- “newspaper” means a paper published and printed in Samoa containing public news or observations for sale or distribution to the public;
- “oath” includes affirmation or statutory declaration;
- “occupy” includes use, inhabit, be in possession of or enjoy the land or premises to which the word relates, otherwise than as a mere employee or for the mere purpose of the care, custody or control of the land or premises;
- “offence” means an act of omission for which a person can be punished under an Act or law;

- “Official Assignee” means the person appointed as the Official Assignee under the bankruptcy legislation;
- “Ombudsman” has the same meaning as Komesina o Sulufaiga (Ombudsman);
- “Parliament” means the Parliament of Samoa constituted under Article 42 of the Constitution;
- “party” has the same meaning as “person”;
- “penalty unit” means the penalty unit fixed under the Fines (Review and Amendment) Act 1998 ;
- “person” includes a corporation sole, or a body of persons, whether corporate or unincorporated;
- “personal property” has the same meaning as “movable property”;
- “Police” means the Samoan Police Service established under the Police Service Act 2009;
- “police officer” means a sworn member of any rank of the Police;
- “power” includes a privilege, authority, jurisdiction or direction;
- “prescribed” means prescribed by the Act in which that term is used, or by regulation made under that Act;
- “principal Act”, when used in amending an Act, means the Act which the amending Act seeks to amend;
- “property” includes immovable (or real) or movable (or personal) property, an estate or interest in an immovable (or real) or movable (or personal) property, a debt, a thing in action, or any other right or interest;
- “prosecutor”:
- (a) means the Attorney General or a barrister and solicitor acting under the authority of the Attorney General; and
 - (b) includes a police prosecutor, or a person authorised under an Act to undertake prosecution or a private prosecutor.
- “publication” includes one (1) or more of the following:
- (a) a written or printed matter;

- (b) a record, tape, wire, perforated roll, cinematograph film or other thing by means of which a word or idea may be mechanically, electronically or electrically produced, reproduced, represented or conveyed;
 - (c) anything whether or not of a similar nature to the matter in paragraph (b), containing any visible representation, or by its form, shape, or in a manner, capable of producing, reproducing, representing or conveying a word or idea;
 - (d) a copy or reproduction of a matter in paragraph (a), (b), or (c);
 - (e) publication on any internet site (including publication on any linking mobile or portable device or similar device) that is generally accessible to the public or some other similar electronic means.
- “public accountant” has the meaning under the Samoa Institute of Accountants Act 2006;
- “public notice”, for a matter not specifically required by law to be published in a particular manner, means a notice published in the *Gazette* or Savali, or in a newspaper circulating in the place to which the act, matter, or thing required to be publicly notified relates or refers, or in which it arises;
- “public office” means the office of:
- (a) a public servant;
 - (b) a person listed in Articles 83(a) to (m) of the Constitution;
 - (c) a person whose office is deemed to be a public office under an enactment;
 - (d) a person employed in a public body established by an enactment.
- “public place” includes any road, street, building or place to which the public have access whether as of right or otherwise;

- “public road” includes a road, highway, market place, square, street, bridge or other way which is used by the public whether by lawful right or by usage;
- “public servant” means a person employed in the public service, and includes a person taken to be a public servant under any enactment;
- “public service” has the meaning given in the Public Service Act 2004;
- “Public Service Commission” means the Public Service Commission established by Article 84 of the Constitution;
- “real property” has the same meaning as “immovable property”;
- “registered” used with reference to a person, document or the title to an immovable property, means registered under the Act applying to the registration of the person, document or title;
- “regulation”, when used in an Act, means regulation made under that Act;
- “Remuneration Tribunal” means the Remuneration Tribunal established under the Remuneration Tribunal Act 2003;
- “road” includes a highway, street, bridge, square, court, alley, lane, bridge-way, footway, parade, thoroughfare, passage or open space to which the public are entitled or permitted to have access whether on payment or not;
- “Rules Committee” in relation to Rules of the Courts, means the Rules Committee established under section 40 of the Judicature Ordinance 1961;
- “Samoa” means:
- (a) when used in the context of a sovereign state, the Independent State of Samoa; or
 - (b) when used in the context of territorial description, the territory of Samoa comprising the islands of Upolu, Savaii, Manono, Apolima and any other island adjacent to it and lying between 13° and 15° south latitude and 171° and 173° longitude

west of Greenwich; and includes all waters within the outer limits of the territorial sea of Samoa and the exclusive economic zone.

“Samoa waters” has the same meaning as “territorial sea of Samoa”;

“Savali” means the publication published under that name by the Government containing:

- (a) notices required under an Act to be published in the Savali; or
- (b) other notices required by the Government to be published in the Savali.

“Secretary to Cabinet” means the person appointed as the Secretary of Cabinet established by Article 37(2) of the Constitution;

“sell” includes to barter, exchange, offer or attempt to sell, or receive for sale, or have in possession for sale, or expose for sale, or send or deliver for sale, or cause or permit to be sold, offered, or exposed for sale;

“ship”, includes a vessel, boat or any other type of vessel used in water navigation;

“sign” in relation to a person who is unable to write, includes the affixing or making a seal, mark or thumb print by the person;

“solicitor” means barrister and solicitor who practises law as a solicitor;

“Speaker” means the member of Parliament elected as the Speaker of the Legislative Assembly under Article 49 of the Constitution, and includes the Deputy Speaker;

“State” means the Independent State of Samoa, and includes:

- (a) the Head of State; and
- (b) the Legislative Assembly and Parliament; and
- (c) the Judiciary; and
- (d) the Government.

“statutory declaration”, means:

- (a) if made in Samoa, a declaration made under an Act or law authorising a declaration to be made except in the course of a judicial proceeding; or
 - (b) if made in another country, means a declaration made by a person having authority under the law of that country to take or receive a declaration.
- “subsidiary legislation” means a bylaw, order, proclamation, notice, regulation, rule, rule of court, or other document authorised to be made under an Act of Parliament or Ordinance;
- “Supreme Court” means the Supreme Court of Samoa constituted under Article 65 of the Constitution;
- “swear” includes affirm or declare for persons authorised by an Act or law to affirm or declare instead of swearing, or a voluntary or other declaration authorised by an Act or law;
- “territorial limits of Samoa” means the outer limits of the territorial sea of Samoa;
- “territorial sea of Samoa” or “territorial waters of Samoa” has the same meaning in the Maritime Zones Act 1999;
- “Treasury Fund” means the Fund established by Article 90 of the Constitution, and includes other public funds established under an Act;
- “village Fono”, in relation to a village, means the assembly of the Alii and Faipule of the village meeting under the custom of that village;
- “will” includes a codicil;
- “word” includes a figure or symbol;
- “working day” means a day of the week, other than a Saturday, a Sunday or a public holiday;
- “writing”, means representing or reproducing words, figures, or symbols or drawings in a visible and tangible form and medium, such as in print;
- “year” means a calendar year.
- (2) A word or expression defined or interpreted in an Act has the meaning or interpretation given to it in that Act unless the context otherwise requires.

(3) If an amending Act inserts a definition in a provision of the Act being amended but does not specify the position in that provision where it is to be inserted, the definition is taken to be inserted in its appropriate alphabetical position.

(4) If a word or expression in a section or other provision of an Act is placed in parentheses and with or without inverted commas, the word or expression is to be read as reference to or the word or expression immediately before it in that section.

(5) A reference in an Act to an office, position or body, includes the office, position or body that replaces it.

4. Definitions in Acts apply to subsidiary legislation-(1) A word or expression defined in an Act has the same meaning in subsidiary legislation made under that Act.

(2) A word or expression defined in subsidiary legislation of an Act does not apply to the Act.

(3) A reference in subsidiary legislation to “the Act” is a reference to the Act providing the power to make subsidiary legislation.

(4) A reference to an Act in another Act includes a reference to subsidiary legislation made under the Act to which reference is made.

(5) An act is taken to be done under an Act if the act is done under subsidiary legislation made under that Act.

5. Gender, number and grammatical forms - In an Act:

- (a) a word in singular includes plural, and plural includes singular; and
- (b) a word that denotes masculine gender to male includes female; and
- (c) a word that denotes feminine gender to female includes male; and
- (d) a defined word or expression includes parts of speech, the grammatical forms or cognate or related expressions of the word or expression.

6. Reference to *Gazette* includes Savali-(1) If an Act makes reference to the “*Gazette*” or the “*Samoa Gazette*” or “the *Gazette* and the Savali”, or words to that effect, the reference is taken to mean the *Gazette* or the Savali and the publication of a notice in either the *Gazette* or the Savali is sufficient publication of the notice.

(2) If an Act requires anything to be published in the *Gazette*, Savali or any other publication, it is presumed, unless the contrary is proved, that the *Gazette*, Savali or publication is evidence of the matters contained in it.

(3) If a subsidiary legislation, notice, document or other statutory instrument is required to be published in the *Gazette*, Savali or a newspaper, the validity of subsidiary legislation, notice, document or other statutory instrument is not affected if it is not so published.

7. Principles of interpretations-(1) An Act is considered as speaking from time to time, and if a matter or thing is expressed in the present tense, the Act applies to the circumstances as they arise, so that effect may be given to the Act according to its spirit, true intent, and meaning.

(2) An Act must be interpreted in such manner as best corresponds to the intention of Parliament.

(3) The intention of Parliament is to be derived from the words of the Act, having regard to:

- (a) the plain meaning of ordinary words; and
 - (b) the technical meaning of technical words; and
 - (c) the whole of the Act and the specific context in which the words appear; and
 - (d) headings and any limitation or expansion of the meaning of words implied by them; and
 - (e) grammar, rules of language, conventions of legislative drafting and punctuation.
- (4) If the application of subsection (3) would produce:
- (a) an ambiguous result; or

(b) a result which cannot reasonably be supposed to correspond with the intention of Parliament, the words are to receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act according to its true intent, meaning and spirit.

(5) In applying subsection (4), the intention of Parliament may be ascertained from:

- (a) the legislative history of the Act or provision in question; and
- (b) the explanatory memorandum or any other material that was before Parliament; and
- (c) the second reading speech made to Parliament during the passage of the Bill that became the Act;
- (d) any relevant report of a commission, committee (including a committee of Parliament) or other similar body that was tabled in Parliament before the Act was passed;
- (e) the official record of proceedings of Parliament; and
- (f) treaties and conventions to which Samoa is a party.

(6) This section does not limit the material, rules or principles of interpretation that may be considered by the courts in interpreting an Act.

(7) A reference in an Act to another Act, document, licence, permit or other authority refers to the Act, document, licence, permit or other authority that is in force.

(8) If:

- (a) a provision of an Act expresses an idea in particular words; and
- (b) either -
 - (i) a provision of the Act or another Act enacted later appears to express the same idea in different words; or
 - (ii) the provision is replaced by another provision (whether or not in the same location) that appears to express the same idea in different words,

the ideas in the two (2) provisions must not be taken to be different only because different words are used or the provisions are structured in different ways.

(9) An Act or law in force immediately before the commencement of the Constitution is, subject to the Act giving it force or application in Samoa, to be read with the modifications necessary for its application in Samoa, without affecting the substance or effect of the Act or law.

8. Interpretation of “shall” and “may” - The expression “shall” or “must” is to be construed as imperative and the expression “may” as permissive.

PART 3 **GENERAL, COMMENCEMENT AND CITATION**

Division 1 - General matters

9. Judicial notice, divisions and parts of Acts-(1) An Act is to be judicially noticed.

(2) An Act is to be numbered in the order in which it was passed by Parliament.

(3) An Act is to be divided into sections, other units of sections, parts, divisions or other units of parts, division, including schedules or appendices of the Act.

(4) The following are taken to be parts of an Act and have effect without introductory words:

- (a) the long title;
- (b) the enacting provision;
- (c) any preamble;
- (d) subject to subsection (4), all material from the first section to the last section of an Act or to the last provision of any schedule or appendix of an Act, including heading to a section, chapter, part or

division or other units of it (but the heading does not affect the interpretation of the Act).

(5) A marginal note, arrangement of sections, footnote, endnote or other note to an Act is not regarded as part of the Act.

10. References in provisions of an Act - In an Act:

- (a) a reference to a provision that does not specify the Act, section, subsection, paragraph, subparagraph or clause to which the provision belongs is a reference to the provision of the Act, section, subsection, paragraph, subparagraph or clause in which the reference occurs; and
- (b) a reference to a Schedule that does not specify the Act to which that Schedule belongs is a reference to a Schedule of the Act in which the reference occurs.

11. English and Samoan versions of Acts-(1) The English and Samoan versions of Acts are equally authoritative.

(2) If there is a difference between the English version and the Samoan version of an Act, the English version prevails.

Division 2 - Assent and commencement

12. Insertion of date of assent-(1) When an Act is assented to by the Head of State, the Clerk shall insert the date of assent immediately after the long title of the Act.

(2) The date of assent is taken to be a part of the Act.

13. Commencement of Acts-(1) An assented Act without an express commencement date commences on the date of assent.

(2) An Act that provides that it will commence on a date fixed in or to be nominated under the Act commences on the fixed or nominated date.

(3) An Act must not be taken to provide for the Act (or another Act) to commence retrospectively unless the Act (or the other Act) clearly indicates that it commences retrospectively.

(4) An Act commences “retrospectively” if it commences before the date of assent.

(5) The power under an Act to nominate a commencement date does not authorise nominating a retrospective commencement date, and the power must only be exercised once except to correct an error or omission under section 35.

14. Time of commencement-(1) When an Act commences “on” a particular day, the Act is taken to commence at the beginning of that particular day.

(2) When an Act commences “from” a particular day, the Act is taken to commence at the beginning of the following day.

15. Gazetting of Acts unnecessary-(1) It is not necessary to gazette an Act of Parliament.

(2) A person may purchase a copy of an Act at the office of the Clerk or at other places authorised by the Clerk.

Division 3 - Citation

16. Citing Acts-(1) An Act having a short title is to be cited by its short title.

(2) An Act that does not have a short title is to be cited by the year in which the Act was made and the number of the Act.

(3) The year in which an Act is made is the year in which the Act is passed by the Legislative Assembly.

17. Reference to printed copies of Acts - The reference to an Act is, in all cases, to be made, according to the copy of the Act published by the Government Printer, the Legislative Assembly or the Speaker.

18. Citation includes amendments and first and last words-(1) A reference to or citation of an Act includes all subsequent provisions passed in amendment or substitution of the Act so referred to or cited.

(2) The citation of an Act or a portion of the Act includes everything from the first to last words, including any section, part, schedule of the Act or a portion of the Act.

PART 4 **AMENDMENTS AND REPEALS**

Division 1 - Amendments

19. Amendments-(1) An Act (“first Act”) passed in amendment or extension of another Act (“second Act”) is to be read and construed according to the definitions and interpretations contained in the second Act.

(2) The second Act (except so far as it is altered by or inconsistent with the first Act) extends and applies to cases provided for by the first Act, in the same way as if the first Act had been incorporated with and formed part of the second Act.

(3) An Act may be amended in the same session or meeting of Parliament in which it is passed, even if it has not commenced.

20. Effect of amendments-(1) An Act and any amendment to it are to be read as one.

(2) Citing the short title of an Act includes the citation of the short title to any amendment to the Act.

(3) An amending Act, which amends a principal Act or provision of another principal Act, becomes spent on the commencement of the amending Act (except any transitional or saving provision) and the amendment becomes part of the principal Act or the provision of that other principal Act on the commencement of the amending Act.

Division 2 - Repeals

21. Repealed Act not revived - The repeal of an Act (“repealed Act”) does not:

- (a) affect a transitional or saving provision in the repealed Act; and
- (b) revive an Act previously repealed or a rule of law previously abolished by the repealed Act;
- (c) revive a thing that is not in force or existing at the time the repealed Act commences.

22. Application of repeal-(1) The repeal of a provision of an Act does not affect an Act in which that provision has been applied, incorporated, or referred to.

(2) As an exception to the repeal provision of an Act, the repealed provision continues and shall be in force for the purpose of continuing and perfecting under the repealed provision an act, matter, or thing, or any proceedings commenced or in progress under it, if there is no substituted provision adapted to the completion of the act, matter, or thing, or proceedings commenced or in progress under the repealed provision.

23. Effect of repeal on prior offences and breaches of enactments-(1) The repeal of an enactment does not affect a liability to a penalty for an offence or for a breach of an enactment committed before the repeal.

(2) A repealed enactment continues to have effect as if it had not been repealed for the purpose of:

- (a) investigating the offence or breach; or
- (b) commencing or completing proceedings for the offence or breach; or
- (c) imposing a penalty for the offence or breach.

24. Powers in Acts repealed by consolidating Act - If an Act consolidating the law on a subject repeals any Act relating to the subject, and contains provisions substantially corresponding to those of the repealed Act for:

- (a) the constitution of an office; or
- (b) the appointment of persons; or
- (c) the making of subsidiary legislation; or
- (d) other similar exercise of powers,

any power exercised under the repealed Act and in force at the time of the repeal, in so far as the power is not inconsistent with the consolidating Act, continues with the like operation and effect as if the power had been exercised under the corresponding provision of the consolidating Act.

25. Effect of repeal-(1) The repeal or expiry of an Act does not affect:

- (a) the validity, invalidity, effect, or consequences of anything already done or suffered; or
- (b) an existing status or capacity; or
- (c) a right, interest, or title already acquired, accrued, or established, or any remedy or proceeding in respect of the right, interest, or title; or
- (d) a release or discharge of or from a debt, penalty, claim, or demand; or
- (e) an indemnity; or
- (f) the proof of a past act or thing; or
- (g) a right to government revenues or charges on revenues, or duties, taxes, fees, fines, penalties, or forfeitures, or to prevent the Act from being put in force for the collection or recovery of revenues, charges, duties, taxes, fees, fines, penalties, or forfeitures, or otherwise in relation thereto; or
- (h) a penalty, forfeiture or punishment incurred in respect of any offence under the Act;

- (i) an investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment, and the investigation, legal proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the Act had not been repealed or not expired.
- (2) As an exception to the repeal or expiry of a provision of an Act:
 - (a) a power or act which may be necessary to complete, carry out, or compel the performance of a subsisting contract or agreement lawfully made, entered into, or commenced under that provision may be exercised and performed in all respects as if that provision continued in force; and
 - (b) an offence committed, or penalty or forfeiture incurred, before the repeal or expiry may be prosecuted, punished, and enforced as if that provision had not been repealed or had not expired.

26. Reference to repealed Act in an Act-(1) A reference in an Act to a repealed Act or provision is to be construed as referring to a subsequent Act or provision of an Act enacted in substitution for the repealed Act or provision.

(2) A provision of a subsequent Act, and of a provision of an Act amending the same, is, as regards a subsequent transaction, matter, or thing, taken to have been applied, incorporated, or referred to in the Act.

PART 5

APPOINTMENTS, DUTIES AND POWERS

Division 1 - Appointment and powers

27. Exercise of power before commencement of Acts-(1) The following powers may be exercised before the commencement of an Act:

- (a) to make subsidiary legislation; or
- (b) to make appointment; or
- (c) to establish an office; or
- (d) to prescribe or determine fees or forms; or
- (e) to give direction; or
- (f) to do any other thing for the purposes of the Act.

(2) A matter done under subsection (1) does not take effect until the commencement of the Act.

28. Extent of and implied powers-(1) A power under an Act may be exercised:

- (a) from time to time as the occasion requires; or
- (b) in whole or in part; or
- (c) subject to any condition specified in the document evidencing the exercise of the power; or
- (d) to make different provision in relation to different matters or classes of matter; or
- (e) to apply differently by reference to exceptions or factors specified in the document evidencing the exercise of power.

(2) A power under an Act includes the power to do anything that is:

- (a) necessary or convenient to be done for the exercise of the power; and
- (b) reasonable in the circumstances; and
- (c) not a power given to another person under an Act.

29. Implied power to regulate-(1) A power provided by an Act:

- (a) to provide for, regulate or otherwise control an act or thing, includes a power to do so by the grant of a licence; and

- (b) to grant a licence or an exemption or to give an approval or a direction, includes a power to amend the licence, exemption, approval or direction; and
 - (c) to grant a licence or an exemption or to give an approval, includes a power to impose, vary, suspend or cancel conditions; and
 - (d) to give directions with respect to, or regulate, a matter or thing, includes a power to prohibit that matter or thing; and
 - (e) to approve a person, matter or thing, includes a power to withdraw that approval.
- (2) If subsection (1)(a) applies to a power under an Act, subsection (1)(b) and (c) also applies.
- (3) In this section, “licence” includes authorisation, certificate or permit.

30. Appointment by name or office-(1) A power in an Act to appoint a person includes the power to appoint a person by name or by office.

(2) The appointment by office is to be construed as the appointment of the person holding, acting in or performing the functions of that office.

(3) A reference in an Act to the holder of an office includes the person acting in or performing the functions of the office.

31. Power to appoint-(1) A power in an Act to appoint a person, (subject to any condition which affect the power of appointment) includes the power to suspend, remove, re-appoint or re-instate.

(2) Subject to subsection (3), the power to appoint a person to an office includes the power, to appoint another person to act in that office if:

- (a) there is a vacancy; or
- (b) the holder of the office is suspended; or
- (c) the holder of the office is -

- (i) on leave of absence; or
- (ii) absent from Samoa; or
- (iii) unable to perform or is not readily available to perform the duties of the office.

(3) The power in subsection (2) is subject to any condition in the original power.

(4) An acting appointment may be made in anticipation of any circumstance specified in subsection (2) and, unless it expires or is revoked, the acting appointment continues to operate in accordance with its terms.

(5) In subsection (2) “office” includes position.

32. Exercise of powers in special circumstances-(1) If an Act provides a power or duty on the holder of an office and:

- (a) that office has been abolished; or
- (b) no person has been appointed to discharge the functions of that office,

the power or duty may be exercised or performed -

- (i) for subsidiary legislation, by the Head of State acting on the advice of Cabinet; and
- (ii) for any other case, by the holder of another office as the Head of State may by order direct.

(2) In an Act, words directing or empowering the holder of an office to do any act or thing, or applying to the holder by the name of office, include the successor in that office, the deputy or person acting in that office.

33. Exercise of Minister’s power - If a power is given to a Minister under an Act:

- (a) the exercise of the power may be signified by the signature of another Minister; and
- (b) the Minister who signifies the exercise of the power is taken to be the Minister authorised to exercise the power.

34. Appeals may be heard by qualified person - If, under an Act, an appeal is made to a person to hear and determine the appeal, the person may appoint a qualified person or a panel consisting of two (2) or three (3) qualified persons for the purposes of hearing the appeal and of advising or recommending as to the decision that should be made.

35. Power of Cabinet - If an Act provides power or duty to the Cabinet, the exercise of the power or duty by Cabinet may be signed by the Secretary to Cabinet.

36. Power to correct error - A power given to do an act or thing, or to make an appointment, may be exercised to correct an error or omission in a previous exercise of the power, even though the power is not in general capable of being exercised from time to time.

*Division 2 - Corporate
and unincorporated bodies*

37. Powers and duties of corporate bodies-(1) A body corporate established by an Act may:

- (a) sue and be sued in its corporate name; and
 - (b) enter into contracts or other arrangements; and
 - (c) acquire, hold and dispose of movable and immovable property; and
 - (d) do any other thing a legal entity may do in law.
- (2) The body corporate shall:
- (a) have a seal of a design determined by it; and
 - (b) keep its seal in such custody as it directs; and
 - (c) ensure that the seal is not used except as authorised by it.
- (3) A seal affixed to a document is to be:
- (a) judicially noticed; and
 - (b) presumed to be affixed by the body corporate.

(4) A provision of an Act requiring a document to be signed is complied with by a body corporate if the document is sealed by the body corporate.

38. Alternate and acting members, resignation and expert advice-(1) The power under an Act to appoint a member of a body corporate or unincorporated includes a power:

- (a) to appoint an alternate for the member; or
- (b) to appoint a person to act when a member is for any reason unable to carry out the member's function.

(2) The alternate or acting member is taken to be a member of the body when he or she attends a meeting of the body.

(3) A member of a body corporate or unincorporated established by an Act may resign by writing signed by the member and delivered to the appointing authority.

(4) A body corporate or unincorporated may invite any person to provide any expert advice to it but the person does not have a right to vote on any matter before the body.

39. Chairperson and secretary - The power under an Act to appoint the members of a body corporate or unincorporated, includes a power:

- (a) to appoint from amongst the members a chairperson, president, deputy chairperson or vice president of the body; and
- (b) to appoint a member or other person to the office of secretary of the body,

and may stipulate the terms on which the member or person is to hold the office to which the member or person is appointed.

40. Signing of documents - A document, statutory instrument or subsidiary legislation that is required to be made by a board or body corporate or unincorporated may be signed by the chairperson or deputy or if the both are unable to sign, by a member.

41. Meetings and majority-(1) The following rules apply at a meeting of a body corporate or unincorporated:

- (a) the chairperson, or if he or she is absent, the deputy (if any), or if both of them are absent, a member elected by the members present, is to preside;
 - (b) the quorum is the majority of the members;
 - (c) a member who has an interest in any matter for deliberation must disclose that interest and must not take part in the deliberation without affecting the number required for the quorum;
 - (d) a question is to be determined by a majority of the members present, with the chair of the meeting having a deliberative vote, and for equality of votes, a casting vote;
 - (e) the minutes are to be kept and approved at the next meeting and signed by the chair of that meeting.
- (2) If, by an Act, an act or thing may be or is required to be done by more than two (2) persons, a majority of them may do it.

42. Power not affected by vacancy or irregularity-(1) A body corporate or unincorporated established by an Act may act even if there is a vacancy in its membership.

(2) The meeting of a body corporate or unincorporated is not invalidated by:

- (a) the presence or participation of a person not entitled to be present at or to participate in the meeting;
or
- (b) an irregularity in the appointment, nomination or election of a member; or
- (c) a minor irregularity in the convening or conduct of a meeting.

Division 3 - Delegation

43. Delegation of powers and duties-(1) If, by an Act, a function, power or duty is given to the Head of State or the Cabinet, the Head of State or the Cabinet may delegate the function, power or duty to a Minister.

(2) If, by an Act, a function, power or duty is given or delegated to a Minister, the Minister may delegate or sub-delegate the function, power or duty to an Associate Minister or public officer.

(3) If, by an Act, a function, power or duty is given to a person, the person may delegate the function, power or duty to a suitably qualified person.

(4) A delegation under this section may be published in the *Gazette* or *Savali* and may be made subject to conditions, but the non-publication does not affect the validity of the delegation.

(5) Nothing in this section authorises the Head of State or the Cabinet to delegate:

- (a) a power to make subsidiary legislation; or
- (b) a function, duty or power, the delegation of which is expressly prohibited by an Act or law.

(6) Nothing in this section authorises a Minister or person to delegate:

- (a) a power to make subsidiary legislation; or
- (b) a power to decide any appeal; or
- (c) a judicial or quasi-judicial function; or
- (d) a function or duty, the delegation of which is expressly prohibited by the delegation or by law.

44. Extent of delegation-(1) If an Act provides power to a person to delegate a function, duty or power:

- (a) the delegation may be made specifically or generally and with or without conditions; and

- (b) the power that may be delegated does not include the power to delegate or to sub-delegate any delegated function, duty or power; and
 - (c) a function or power so delegated, when performed or exercised by the delegate, is, for the purposes of the Act, to be taken as having been performed or exercised by the person; and
 - (d) a delegation by the person does not prevent the carrying out of the delegated function, duty or power by the person delegating it; and
 - (e) the delegation may be made to one (1) or more persons by name, by reference to the office, position or designation held or occupied by the person or to a person holding, acting in or performing the duties of a named office, designation or position; and
 - (f) if the person is not an individual, subsection (2) applies as if the person were an individual.
- (2) If, by an Act, the carrying out of a function, duty or power by a person is dependent upon the opinion, belief or state of mind of the person in relation to a matter and the function, duty or power has been delegated in pursuance of that Act, the function, duty or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

PART 6

TIME AND DISTANCE

45. Standard time - The standard time throughout Samoa is the standard time set out in section 4 of the International Date Line Act 2011.

46. Determining time-(1) This section applies to:

- (a) a period of time mentioned in an Act; and

(b) things required or allowed to be done on a particular day or within a particular period of time under an Act.

(2) A period of time described as beginning at, on or with a stated day, act or event includes the stated day or the day of the stated act or event.

(3) A period of time described as beginning from or after a stated day, act or event excludes the stated day or the day of the stated act or event.

(4) A period of time described as ending at, by, on or with, or as continuing to or until, a stated day, act or event includes the stated day or the day of the stated act or event.

(5) A period of time described as ending before a stated day, act or event excludes the stated day or the day of the stated act or event.

(6) A reference to a number of days between two (2) events excludes the days when the events happen.

(7) If something must or may be done on a particular day or within a particular period of time and the day, or the last day of the period, is not a working day, the thing must or may be done on the next day that is a working day.

47. Time not specified-(1) If something must or may be done and no time is provided for doing the thing, the thing must or may be done as soon as possible or practicable and as often as needed.

(2) If something is required to be done, the obligation to do the thing continues until the thing is done even if:

(a) the thing is required to be done within a particular period or before a particular time, and the period has ended or the time has passed; or

(b) a person has been convicted of an offence for failing to do the thing.

(3) If a court or a person is empowered by an Act to extend the period of time within which an act or thing is required or permitted to be done or taken, the power may be exercised by

the court or person even if the period of time has expired when the power is so exercised.

48. Distance - A distance in an Act is to be measured in a straight line on a horizontal or vertical plane.

PART 7

SUBSIDIARY LEGISLATION

49. Judicial notice - Subsidiary legislation is to be judicially noticed.

50. Citation and references-(1) Reference to subsidiary legislation cited by its citation or name includes references to any subsequent subsidiary legislation made in amendment to or substitution of the subsidiary legislation.

(2) Subsidiary legislation is to be cited by its citation or name.

(3) If subsidiary legislation does not have a citation or name, it is to be cited or named in reference to the year in which it was made and the number of its publication.

(4) If a person is empowered under an Act to make subsidiary legislation:

(a) it is sufficient to cite in the subsidiary legislation the particular Act authorising the making or issuing of the subsidiary legislation; and

(b) it is not necessary to state any fact or circumstance or the performance of a condition precedent upon which the power depends or may be exercised.

(5) In a subsidiary legislation:

(a) a reference to a provision that does not specify the subsidiary legislation or a provision of it to which that provision belongs is a reference to the provision of the subsidiary legislation or a provision of it in which the reference occurs; and

(b) a reference to a Schedule that does not specify the subsidiary legislation that the Schedule belongs

is a reference to the Schedule of the subsidiary legislation in which the reference occurs.

51. General provisions-(1) The following provisions apply to the power to make subsidiary legislation:

- (a) when subsidiary legislation provides a particular power, the particular power is taken also to be made in exercise of any other power that enables the making of subsidiary legislation;
- (b) subsidiary legislation must not be inconsistent with the Act;
- (c) subsidiary legislation may be amended;
- (d) if the power to make subsidiary legislation includes a power for general purpose, and also for a special purpose or particular matter, the listing of the special purposes or particular matters does not limit the power for general purpose;
- (e) the subsidiary legislation may create offences and prescribe penalties for fines not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months;
- (f) if the Act authorises any matter to be regulated or controlled by subsidiary legislation, the subsidiary legislation may prohibit the matter or any aspect of the matter;
- (g) subsidiary legislation may provide for the review of, or appeal against, a decision made under the subsidiary legislation;
- (h) subsidiary legislation may provide discretionary authority;
- (i) the subsidiary legislation may provide for -
 - (i) infringement notices for the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence under the Act or subsidiary legislation; and

(ii) the service of an infringement notice relating to payment of a fixed amount by a person alleged to have committed the offence; and

(iii) the fixing of the penalties in the subsidiary legislation which must not exceed one-fifth of the fine prescribed in the Act or subsidiary legislation; and

(iv) the details that must be included in the notice, including the right to have the matter determined by the court.

(2) If an Act provides for making subsidiary legislation but no person or authority is empowered in the Act to make the subsidiary legislation, the subsidiary legislation is to be made by the Head of State acting on the advice of Cabinet.

52. Fees and charges-(1) If an Act provides power to prescribe or determine fees and charges, the power includes the following matters:

- (a) specific, maximum or minimum fees or charges;
- (b) the payment of fees or charges either generally or under specified conditions or in specified circumstances;
- (c) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) If a reduction, waiver or refund in whole or in part, of any fees or charges is provided for, the reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically:

- (a) to certain matters or transactions or classes of matters or transactions; or
- (b) to certain documents or classes of documents; or
- (c) when an event happens or ceases to happen; or
- (d) to certain persons or classes of persons; or

(e) to a combination of matters, transactions, documents, events or persons or authorities, and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation, determination or in the discretion of any person specified in it.

53. Rules of court-(1) In an Act, “rules of court”, when used in relation to a court, means rules made by the person who has the power to make rules or orders regulating the practice and procedure of that court.

(2) The power to make rules of court includes a power to make rules of court for the purpose of an Act which directs or authorises anything to be done by rules of court.

PART 8
**OFFENCES, PENALTIES,
PROCEEDINGS AND EVIDENCE**

Division 1 - Offences and penalties

54. Maximum and cumulative penalties-(1) If a penalty is prescribed for an offence, the offence is to be punishable by a penalty not exceeding the penalty prescribed in the Act.

(2) If more than 1 penalty is prescribed for an offence, the use of the word “and” means that the penalties may be imposed alternatively or cumulatively.

55. Statement of penalties - A penalty (pecuniary or otherwise) set out:

- (a) at the foot of a section of an Act; or
- (b) at the foot of a subsection or other provision of a section,

indicates that a contravention of the section, subsection or provision is an offence against the Act, punishable upon conviction by a penalty not exceeding the penalty so set out.

56. Offences against body corporate-(1) If a body corporate commits an offence with the consent or connivance of, or because of neglect by, an individual, the individual commits the same offence if at the time of commission of the offence:

- (a) the individual is a director, manager, secretary of similar officer of the body corporate; or
- (b) the individual is purporting to act as an officer of the body corporate; or
- (c) the body corporate is managed by its members of whom the individual is one.

(2) If a body corporate commits an offence for which the only penalty prescribed is a term of imprisonment, the body corporate is liable to a fine which:

- (a) if the penalty so prescribed is a term of six (6) months or under, not exceeding 20 penalty units; and
- (b) if the penalty so prescribed is over a term of six (6) months but not over a term of two (2) years, not exceeding 50 penalty units; and
- (c) if the penalty so prescribed is over a term of two (2) years, not exceeding 100 penalty units.

(3) If a body corporate commits an offence for which no provision is expressed to apply to penalty for a body corporate, the body corporate is liable to five (5) times the penalty prescribed.

57. Disposal of fines and penalties - A fine or penalty imposed under an Act is to be paid into the Treasury Fund.

Division 2 - Proceedings and evidence

58. Proceedings not to abate on death - A criminal or civil proceeding taken by or against the holder of an office in relation to the exercise of the functions and powers of the office is not discontinued or abated when the holder resigns or dies or is

absent or removed from office, but may be carried on by or against the current holder of the office.

59. Imposition of penalty no bar to civil action - A penalty or fine imposed under an Act does not relieve a person from liability to answer for damages to the affected person.

60. Forfeitures-(1) An animal or thing, declared under an Act or adjudged by a court or other person under an Act to be forfeited, is to be forfeited to the State.

(2) If the animal or thing is sold, the proceeds are to be paid into the Treasury Fund.

(3) This section does not affect a provision in an Act that provides for a portion of a fine or forfeiture or of the proceeds of forfeiture to be recovered by or granted to a person.

61. Evidence-(1) If an Act provides that a document is evidence of a fact without anything in the context to indicate that the document is conclusive evidence of the fact then, in any legal proceedings, the document is admissible in evidence and the fact is taken to be established in the absence of evidence to the contrary.

(2) If the consent of a person is necessary and proceedings, whether civil or criminal, are commenced, a document giving the consent and purporting to be signed by the person is evidence that the consent has been given, without proof that the signature to the document is that of the person.

(3) Subject to subsection (4), a form of words appearing in the *Gazette*, *Savali* or other publication that appears to reproduce an Act or a subsidiary legislation is presumed, until the contrary is shown, to correspond exactly with the words of the Act or subsidiary legislation.

(4) If a correction is published in *Gazette*, *Savali* or other publication in relation to words appearing to reproduce an Act or subsidiary legislation, the corrected words are presumed,

until the contrary is shown, to correspond exactly with the words of the Act or subsidiary legislation.

62. Administration of oath - A court or person authorised by an Act or law or by the consent of the parties to hear and determine a matter or thing has authority to administer an oath to a person required to attend before the court or person.

PART 9 **MISCELLANEOUS**

63. Forms-(1) Substantial compliance with a form required under an Act is sufficient.

(2) A form required under an Act is not invalid because of a minor change that does not affect the substance of the form or which is not calculated to mislead.

64. Service of documents-(1) A document or notice required or permitted to be served on, or given to, a person under or for the purposes of an Act, may be served or given:

- (a) for an individual (except where paragraph (b) or (c) applies), by serving the document personally upon the individual or by sending it by post to the individual at his or her usual or last known place of residence or business or by facsimile (fax) number or electronic mail (email) address of the individual; or
- (b) for a public officer, by serving the document personally on the officer or by leaving it at or sending the document by post to the officer at the principal office where the officer exercises and performs his or her functions as a public officer; or
- (c) for a partnership -
 - (i) by serving the document personally upon a partner or the person having the

control or management of the partnership or by sending the document by post to him or her at his or her usual or last known place of residence or business or by fax or email of the partner or person; or

(ii) by leaving the document at or sending it by post, fax or email to the principal office of the partnership; or

(d) for a body corporate, by leaving the document at or sending it by post to the registered or principal office of the body corporate or by fax or email address of the body corporate; or

(e) for any other body constituted or established by an Act, by leaving the document at or sending it by post to or by fax or email of the principal office of the body or any other office specified by the body as one at which it will accept service of documents or notices of the same kind as that document or notice.

(2) For the purposes of subsection (1)(c) or (d), the principal office of a company registered outside Samoa or of a partnership carrying on business outside Samoa is its principal office in Samoa.

(3) If a document or notice is required or permitted under or for the purposes of an Act to be served on, or given to, a person as being the person having an interest in land and it is not practicable after reasonable inquiry to ascertain that person's name or address, the document or notice may be served or given:

(a) by addressing the document to that person by the description of the person having that interest in the land (and naming it); or

(b) by delivering the document or notice to a person, aged over 18 years, living on the land or by affixing the document or a copy of it, in a conspicuous position on the land.

(4) A document served by post is taken to be served when it would have been delivered in the ordinary course of post.

(5) A document served by fax or email is presumed to be served when it is sent unless:

(a) on the day the document was sent or the next working day, the equipment used to send it indicates that -

(i) the equipment did not send the document when the equipment was used to send the document; or

(ii) for a fax - the number to which the fax was sent was not a fax number of the intended recipient; or

(iii) for an email - the email address to which the email was sent was not an email address of the intended recipient; or

(b) evidence sufficient to raise doubt about the presumption is given.

(6) A document served by leaving it at an address or with a person is taken to be served when it is left.

65. Power to make corrections in Acts - The Head of State may, acting on the advice of Cabinet, by order published in the *Gazette* or *Savali*, rectify or correct any printing error, cross reference, punctuation or grammatical, typographical or similar error in an Act.

66. Examples - If a provision of an Act includes an example:

(a) the example is not exhaustive; and

(b) the example does not limit or extend the meaning of the provision; and

(c) if the example is inconsistent with the provision, the provision prevails to the extent of the inconsistency.

67. Acts not binding on the Government-(1) An Act does not adversely affect the right of or bind the Government unless the Act expressly or impliedly affects the right of the Government or expressly or impliedly binds the Government.

(2) In this section, “Government” includes State.

68. Repeal - The Acts Interpretation Act 1974 is repealed.
