

SAMOA

Arrangement of Provisions

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1998, No. 15

AN ACT to make provision in relation to the application of penalty interest rates in contracts. *(19 June 1998)*

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:-

1. Short title and commencement-(1) This Act may be cited as the Penalty Interest Rates Act 1998.

(2) This Act shall come into force on the date it is assented to by the Head of State, and in accordance with section 3 shall have retrospective effect.

2. Act to bind the State - This Act shall bind the State and shall have application in relation to contracts in which the State, or any of its agencies, is a contracting party.

3. Application-(1) Subject to subsection (2), this Act shall apply to all contracts entered into in Samoa before or after this Act comes into force.

(2) This Act shall have no application in relation to a contract in respect of which a Court has made a final determination as to the rights of the contracting parties.

(3) For the purposes of subsection (2), no final determination shall be considered to have been made until all rights of appeal have been exhausted, or precluded by the effluxion of time in accordance with law.

(4) This Act does not apply to a contract the sole purpose of which is the lending of money.

4. Common Law to apply - The principles of the common law rendering unenforceable any penalty provision in any contract shall have application where a contract stipulates that penalty interest is payable on unpaid monies due under the contract.

5. Limitation on Penalty Interest Rates-(1) Where a contract stipulates that penalty interest is payable on unpaid monies due under the contract, such provision is unenforceable to the extent that the rate of penalty interest under the contract exceeds 14% per annum or such other figure as may be prescribed by Regulation.

(2) Regulations made under subsection (1) may prescribe different penalty interest rates for different types of contract or transaction under a contract.