

SAMOA

Arrangement of Provisions

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1998, No.5**AN ACT to amend the Trade, Commerce and Industry Act
1990.** (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 Trade, Commerce and Industry Amendment Act 1998 and shall form part of the Trade, Commerce and Industry Act 1990, hereinafter referred to as the principal Act.

(2) This Act shall come into force upon the publication by the Minister of a notice to that effect in the Gazette.

2. Principal Functions of Department - Section 5 of the principal Act is amended:

(a) By adding the following words to paragraph (g) -

" and to otherwise act in the promotion of investment in Samoa."

(b) By deleting the words in paragraph (j) and inserting the following in their place -

" (j) Administer laws relating to fair trading and consumer protection and, as requested by the Minister, prepare reports on the operation of those laws and the administration of the Department's functions under them."

(c) By adding the following -

" (ja) Administer the Measures Ordinance 1960, and any legislation replacing it. "

3. Delegation of Secretary's powers - Section 8 of the principal Act is amended by inserting subsection (7) as follows:

"(7) All officers acting pursuant to any delegation under this section, or pursuant to powers conferred by section 9A of this Act shall, if requested by any person affected by the exercise of the power, produce proper identification of their status as an officer of the Department and, if applicable, a copy of the instrument of delegation under which they are acting."

4. Inspection Powers of Officers - Section 9A is inserted into the principal Act as follows:

" **9A. Inspection Powers of Officer**-(1) The powers conferred by this section may be exercised for the purposes of this Act and in the discharge of functions and powers under it, and not otherwise.

(2) For the purposes of this section the word "officer" shall

mean an officer or employee of the Department referred to in section 8 or section 9.

(3) An officer may, at any reasonable time, enter any place that he believes on reasonable grounds to be a place where goods are being, or have been, manufactured, prepared or supplied or that is a place where services are supplied or arranged, and may -

- (a) Inspect any goods or partly manufactured goods and make such other inspections as he considers to be necessary;
- (b) Take any goods or partly manufactured goods for which he pays a fair price;
- (c) Take a sample of anything from which goods are manufactured or produced at that place;
- (d) Make inquiries of any person employed at that place or who has responsibility over that place; or
- (e) Inspect and take copies of records required to be kept under this Act or any other law regulating or applying to the business being conducted at that place.

(4) Without derogating from any power conferred by subsection (3), the Secretary may require the production of any accounting documents, returns, inventories or other information whether or not relating to the business of any manufacturer or trader if such information is deemed by the Secretary to be necessary for the discharge of any power or function vested in him.

5. Obstructing Officers - Section 9B is inserted into the principal Act as follows:

"9B. Obstructing Officers - A person who -

- (a) Hinders or obstructs an officer in a manner that interferes with the performance by the officer of his duties;
- (b) Assaults an officer;

(c) Being the occupier or person in charge of any place or land entered by an officer under a power conferred by this Act, fails to provide the officer with all reasonable facilities and assistance for the effective exercise of the officer's powers under this Act, shall be guilty of an offence and liable upon conviction to a fine of \$1,000 or to imprisonment of one year, or both."

6. Indemnity for officers - Section 9C is inserted into the principal Act as follows:

"9C. Indemnity for Officers-(1) No officer shall be in any way liable in respect of any act done by him in good faith and in the performance of his functions or powers under this Act or any Act relating to consumer protection.

(2) This indemnity from prosecution and legal action shall have equal application to the Minister and to the Secretary."

7. Confidential Information - Section 9D is inserted into the principal Act as follows:

"9D. Confidential Information-(1) It shall be an offence for an officer to divulge confidential information obtained during the course of an investigation conducted under this Act - Provided that this provision shall not apply to information that is -

- (a) Given as evidence in proceedings taken under this Act or any law relating to consumer protection;
- (b) Given by the officer as part of a report prepared for the purpose of an investigation;
- (c) A matter of public record or is otherwise in the public domain.

(2) Every person who commits an offence against this section is liable to a fine not exceeding \$500."

8. Repeal of Sections 10 and 11 - Sections 10 and 11 of the principal Act are repealed.

9. Divisions of the Department - The following section shall be inserted in the principal Act:

"10. Divisions of the Department - There shall be within the Department such Divisions as are created by any Act of the Parliament and such further Divisions as may be required for the effective performance of the Departments functions."