

SAMOA

Arrangement of Provisions

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1999, No. 12

AN ACT to ban the practice of driftnet fishing in all waters over which Samoa claims jurisdiction and in the area of the Wellington Convention. *[30 June 1999]*

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 Fisheries (Ban of Driftnet Fishing) Act 1999.

(2) This Act shall come into force on the date that it is assented to by the Head of State.

2. Interpretation-(1) In this Act unless the contrary intention appears:

“Convention” means the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific:

“Driftnet” means, subject to any Regulation made under section 6, a gillnet or other net or a combination of nets which is more than 2.5 kilometers in length, the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface of or in the water:

“Driftnet fishing activities” means, subject to any Regulation made under section 6:

- (a) Catching, taking or harvesting fish with the use of a driftnet;
- (b) Attempting to catch, take or harvest fish with the use of a driftnet;
- (c) Engaging in any activity which can reasonably be expected to result in the catching, taking or harvesting of fish with the use of a driftnet, including searching for and locating fish to be taken by that method;
- (d) Any operations at sea in support of driftnet fishing, or in preparation for any activity described in this paragraph, including operations of placing, searching for or recovering fish aggregating devices or associated electronic such as radio beacons;
- (e) Aircraft use, relating to the activities for use of driftnet fishing described in this paragraph, except for flights in emergencies involving the health or safety of crew members or safety of a vessel; or
- (f) Transporting, transshipping, landing or processing any driftnet catch, and co-operation in the provision of food, fuel and other supplies to vessels equipped for or engaged in driftnet fishing.

“Samoan vessel” shall have the same meaning as in the Shipping Act 1998:

“Vessel” shall have the same meaning as in the Shipping Act 1998:

(2) All definitions given to words in the Fisheries Act 1988 shall apply to words used in this Act, unless the contrary intention appears.

3. Driftnet fishing activities-(1) No vessel shall be used for, or assist in any driftnet fishing activities or possess or have on board a driftnet, in the fishery waters of Samoa.

(2) No person shall engage or assist in any driftnet fishing activities in the fishery waters of Samoa.

(3) No Samoan vessel shall -

(a) Be used for, or assist in driftnet fishing activities in the area covered by the Convention; or

(b) Possess or have on board a driftnet while in the area covered by the Convention.

(4) No Samoan citizen shall engage or assist in any driftnet fishing activities in the area covered by the Convention.

(5) Where any fishing vessel is used in contravention of this section, the owner, master, and charterer each commit an offence and shall be liable on conviction to a fine not exceeding 10,000 penalty units or to a term of imprisonment not exceeding 7 years, or both.

(6) Every person who contravenes subsection (2) or subsection (4) commits an offence and shall be liable on conviction to a fine not exceeding 250 penalty units or to a term of imprisonment not exceeding 2 years, or both.

4. Driftnet vessels not to enter Samoan ports-(1) No vessel engaged in, or equipped to engage in, or which possesses or has on board a driftnet, shall enter a port in Samoa.

(2) Where any vessel contravenes this section the owner, master and charterer each commit an offence and shall be liable on conviction to a fine not exceeding 1,000 penalty units or to imprisonment for a term not exceeding 2 years, or both.

5. Application of Part VI of the Fisheries Act 1988 – Part VI of the Fisheries Act 1988 shall have application under this Act and to all prosecutions taken under section 3 and section 4.

6. Regulations-(1) The Head of State, acting on the advice of Cabinet, may make regulations for the purpose of carrying out or giving effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), Regulations may provide further clarification of the practices of fishing intended to be covered by this Act by providing for alternative or more detailed description or definition of practices and equipment used in such practices, that are to be regarded as “driftnet fishing” and “driftnet fishing activities”.
