

**SAMOA**

## Arrangement of Provisions

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**2002, No. 19**

**AN ACT to amend the Fisheries Act 1988 to provide a system of regulation for the processing and trade of fish and fish products and for other purposes.**

*[22<sup>nd</sup> August 2002]*

**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 Amendment Act 2002 and shall be read with and form part of the Fisheries Act 1988 (the “principal Act”).

(2) This Act may commence, in part or whole, on a date or dates nominated by the Minister.

(3) Notice of commencement of the various provisions of the Act shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

**2. Interpretation** – Section 2 of the principal Act is amended by insertion of the following definitions:

“Council” means the Samoa Seafood Standards Council:

“fish product” includes any product which has fish as an ingredient or component.

**3. Processing, Trading and Marketing of Fish and Fish Products** – After Part V of the principal Act the following Part is inserted:

**“PART VA**  
**Processing, Trading and Marketing of**  
**Fish and Fish Products**

**12A. Fish and Fish Products to be processed, traded and marketed only in accordance with this Part**–(1) Despite the provisions of any other Part of this Act and any other law, fish and fish products shall not be processed, traded or marketed except in accordance with this Part.

(2) The processing, trading and marketing of fish and fish products shall comply with the Fish Processing, Trading and Marketing Regulations made under this Part.

**12B. Fish Processing, Trading and Marketing Regulations**–(1) The Head of State, acting on the advice of Cabinet, may make regulations for the purpose of this Part, and in particular but without restricting the generality of the foregoing, may make regulations for all or any of the following:

- (a) Prescribing requirements, standards and procedures concerning the processing, trading and marketing of fish and fish products;

- (b) Prescribing procedures, mechanisms and arrangements for the management, regulation and control of the processing, trading and marketing of fish and fish products;
  - (c) The registration and licencing of persons or premises processing, trading and marketing fish and fish products;
  - (d) The setting of fees, charges and levies;
  - (e) The provision of powers of entry and search of any place believed to be concerned with the processing, trading or marketing of fish and fish products; and
  - (f) The seizure and confiscation of fish and fish products.
- (2) Regulations under this section may provide for different matters concerning:
- (a) Classes of fish and fish products;
  - (b) Fish and fish products intended for use or consumption in Samoa or for export; and
  - (c) Particular domestic and export markets.
- (3) Regulations under this section shall have extra – territorial application and the Courts shall have jurisdiction to hear and determine any matter under this Part irrespective of whether an act or event takes place inside or outside Samoa.

**12C. Samoa Seafood Standards Council**—(1) There is established the Samoa Seafood Standards Council.

- (2) The Council shall consist of the following persons:
- (a) The Minister, who shall be the Chairperson;
  - (b) The Director, who shall be the Deputy Chairperson;
  - (c) The Assistant Director of the Department responsible for fisheries who shall be the Secretary of the Council;
  - (d) The Head of the Department responsible for health, or his representative;
  - (e) The Assistant Director of the Department responsible for quarantine, or his representative;

- (f) The Head of the Department responsible for trade, commerce and industry, or his representative;
  - (g) One person representing the fishing industry in Savaii and one person representing the fishing industry in Upolu, with both representatives to be appointed by the Minister after consultation with the fishing industry;
  - (h) A person representing fish exporters, appointed by the Minister after consultation with the fish exporting industry.
- (3) The Council may allow other persons to attend and participate in the deliberations of the Council but such persons may not vote on any matter.
- (4) The Minister, acting on the advice of the Director, may remove a Council Member at any time.
- (5) The Council shall meet at least quarterly and at such other times as required.
- (6) The Chairperson shall call emergency meetings whenever required to do so in writing by any three members.
- (7) At any meeting five (5) members shall be a quorum.
- (8) The Chairperson shall preside at every meeting at which he is present.
- (9) If the Chairperson is absent from a meeting for any reason:
- (a) The Deputy Chairperson shall preside at that meeting if he is present; and
  - (b) If the Deputy Chairperson is not present, the members present shall appoint one of their number to preside at that meeting.
- (10) At every meeting the Chairperson or other person presiding shall have a deliberative vote, and in the case of an equality of votes, he shall also have a casting vote.
- (11) Every question arising at a meeting shall be decided by a majority of the votes recorded on the question.
- (12) The members of the Council shall be paid such fees and allowances as approved by Cabinet.

(13) Where a member of the Council or the member's husband or wife or defacto partner or children of the member have a financial or other interest in any matter before the Council the member shall declare such interest to the Council and shall not take part in the Council's deliberations or vote on such matter.

**12D. Role of the Council** – The role of the Council shall be to assist the Samoan Seafood Industry and Government:

- (a) To ensure the delivery of efficient and practical direction, policy formulation and priority setting that meets the Industry's needs; and
- (b) To establish industry standards, including Industry Agreed Standards, specifications and codes of practice based upon full Industry consultation which takes account of commercial and other risks to the marketing of and innovation in fish and fish product production;
- (c) To achieve practical solutions to relevant technical issues and factors that impinge on processing costs and efficiency and domestic and export market regulatory frameworks;
- (d) To foster open communication within the Samoan Seafood Industry;
- (e) To seek practical and cost-effective solutions to fish and fish products seafood safety problems; and
- (f) To ensure that the Industry and Government are aware of and take all necessary measures to protect the public and persons working in the seafood industry from the harvesting, processing, sale and consumption of poisonous fish and fish products.

**12E. Function of the Council**–(1) The Council shall be the consultative forum between the Samoan Seafood Industry and the Government concerning the development, implementation and review of:

- (a) Food safety standards;
- (b) Industry Agreed Standards;

- (c) Verification procedures required by regulations and Industry Agreed Standards made under this Part;
  - (d) Protocols necessary to facilitate market access for Samoan fish and fish products; and
  - (e) The management of the Samoan Seafood Industry.
- (2) In addition to subsection (1) the Council shall -
- (a) Provide leadership, analysis and advice to the Samoan Seafood Industry and Government concerning the development of cost effective and sustainable standards in accordance with international best practice; and
  - (b) Provide advice and assistance to the Samoan Seafood Industry and Government concerning any other matter affecting the Samoan Seafood Industry.”

**4. Village By Laws**—(1) Section 3(3)(d) of the principal Act is amended by insertion of the following after the words “for the conservation and management of fisheries”:

“, including limiting or banning the use of particular methods of fishing”

(2) Section 3(5) of the principal Act is amended by deleting the figures “\$100” and “\$20” and inserting the following expressions respectively:

“100 penalty units”, and “10 penalty unit”.

(3) Section 3 of the principal Act is amended by insertion of the following after subsection (5):

“(6) Notwithstanding any provision of the Village Fono Act 1990, a Village Fono may impose a penalty on every person who commits a breach of any by-law made under this section not exceeding the equivalent in value of 100 penalty units or the undertaking of up to 21 days work on village land or waters.

(7) In the event that a Village Fono imposes a penalty under subsection (6) the Director and the Attorney General shall take into account such penalty in exercising any prerogative to prosecute under subsection (5) and a Court shall take into account such penalty in mitigation of sentence.

(8) Any penalty imposed by a Village Fono under subsection (6) shall be subject to sections 9 and 11 of the Village Fono Act 1990.”

**5. Penalties under Regulations** - Section 25(1)(u) of the principal Act is deleted and the following substituted:

“(c) Providing for offences and penalties for the breach of any regulation up to a maximum fine of 1000 penalty units or up to a maximum period of imprisonment for two (2) years, or both”.

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