

SAMOA

Arrangement of Provisions

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2003, No. 6**AN ACT to amend the Permits and Passports Act 1978 to replace the provisions concerning permits to leave Samoa.***[28 January 2003]*

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 Permits and Passports Amendment Act 2003 and shall be read with and form part of the Permits and Passports Act 1978 (the "principal Act").

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

2. Orders prohibiting departure from Samoa - Section 3 of the principal Act is deleted and the following substituted:

"3. Orders prohibiting departure from Samoa-(1) Subject to this section, the following persons shall be prohibited from departing or attempting to depart from Samoa for any place outside of Samoa:

- (a) Persons subject to an order made by a Court under subsection (3); and
- (b) Persons subject to an order made by the Attorney General under subsection (10).

(2) For the purposes of this section Court means the Court of Appeal and the Supreme Court and the District Court and any Judge of the Supreme Court or District Court and the Registrar and any Assistant Registrars of the Supreme Court.

(3) Upon application by any interested party or upon its own motion, a Court may make an order for such period of time, up to a maximum of six months, prohibiting any person from departing or attempting to depart from Samoa for any place outside Samoa on one or more of the following grounds:

- (a) That the Court is satisfied on the balance of probabilities that the person subject to the application:
 - (i) has a debt or debts in Samoa in excess of the prescribed amount; and
 - (ii) is unlikely to pay such debt or debts if allowed to depart Samoa; or
- (b) That the Court is satisfied on the balance of probabilities that:
 - (i) the person subject to the application is currently involved as a party or as a witness in a civil or criminal case which is before the Court of Appeal or Supreme Court or the Lands and Titles Court or the District Court; and
 - (ii) it is not in the interest of justice for the person to depart Samoa; or
- (c) That the person subject to the application is currently on bail.

(4) A Court may make an order under subsection (3) without notice to or in the absence of the person subject to the application if it believes that it is just to do so in all of the circumstances.

(5) Upon application by any interested party or upon the Judge's own motion a Judge of the Supreme Court may extend, revoke or amend an order made under subsection (3).

(6) Where a decision is made by a Judge of the District Court or the Registrar or an Assistant Registrar of the Supreme Court concerning an application made under subsection (3), any interested party may appeal to a Judge of the Supreme Court against such decision and the Judge may make such orders concerning the appeal as the Judge determines.

(7) Where a decision is made by a Judge of the Supreme Court concerning an application made under subsection (3) any interested party may appeal to the Court of Appeal against such decision and the Court of Appeal may make such orders concerning the appeal as the Court of Appeal determines.

(8) Any appeal under subsections (6) or (7) shall be made within seven days of the date of the person appealing receiving notification of the decision being appealed or within such further period not exceeding one month of the date of the decision as the Judge or the Court of Appeal, as the case may be, allows in the interest of justice.

(9) Any appeal against an order made under subsection (3) shall not suspend the operation of such order.

(10) The Attorney General, upon his or her own motion or upon application by any interested person, in his or her absolute discretion, may make an order for such period of time, up to a maximum of two months, prohibiting any person from departing or attempting to depart from Samoa for any place outside Samoa on one or more of the following grounds:

(a) That the Attorney General has determined that it is not in Samoa's national interest for the person to depart Samoa; or

(b) That the Attorney General has determined that it is not in the interests of Samoa's national security for the person to depart Samoa.

(11) The Attorney General may revoke or amend an order made under subsection (10) at any time.

(12) A person subject to an order made by the Attorney General under subsection (10) may apply to a Judge of the Supreme Court within seven days of the person receiving notification of the order to have the order revoked or amended but any application made under this subsection shall not suspend the operation of such order.

(13) A Judge of the Supreme Court may only revoke or amend an order made by the Attorney General under subsection (10) if the person subject to the order establishes to the satisfaction of the Judge on the balances of probabilities that the order:

- (a) Where it was made on the grounds provided in subsection (10)(a), is not required in Samoa's national interest; or
- (b) Where it was made on the grounds provided in subsection (10)(b), is not required in Samoa's national security.

(14) Despite the provisions of subsection (3), a Judge of the Supreme Court may make further orders under subsection (3) and such further orders shall be subject to the same rights of appeal as for any other order made under subsection (3).

(15) Despite the provisions of subsection (10), the Attorney General may make further orders under subsection (10) and such further orders shall be subject to the provisions of subsections (12) and (13).

(16) The hearing of any application made under subsection (12) or this subsection may be closed to the public upon application by the Attorney General if the presiding Judge is satisfied that disclosure of any information about or details of the hearing may put Samoa's national interest or national security at risk and upon application by the Attorney General the Judge may prohibit any person from disclosing or publishing in any form any information about or details of the hearing if the Judge is satisfied that such disclosure or publication may put Samoa's national interest or national security at risk.

(17) Any person who knowingly breaches an order of a Judge made under subsection (16) commits an offence and upon conviction is liable to a fine not exceeding 1000 penalty units or imprisonment not exceeding seven years, or both.

(18) At any hearing under subsections (12) and (16) the presiding Judge shall not require the Attorney General to disclose to the person subject to an order made under subsection (10) any information, documents or other material which the Attorney General has certified:

- (a) As vital to Samoa's national interest or national security; and
- (b) The disclosure of which would put Samoa's national interest or national security at risk.

(19) Despite the provisions of any other law, the Attorney General may make an order under subsection (10) without giving notice to or in the absence of the person and without providing the person with an opportunity to be heard if the Attorney General determines, in his or her absolute discretion, that it is necessary to do so to protect Samoa's national interest or national security.

(20) No Court, including the Court of Appeal, may make any order as to costs concerning any order made under subsection (10) or any application made under subsection (12)."

3. Authority to issue documents - Section 4 of the principal Act is deleted and the following substituted:

"4. Authority to issue documents - The Minister or any officer authorized by the Minister may issue any certificate of identity or other travel document to any person in such form as may be prescribed and on payment of the prescribed fee."

4. Duties of persons concerning orders made under section 3 - Section 5 of the principal Act is deleted and the following substituted:

"5. Duties of persons concerning orders made under section 3-(1) Any person subject to an order made under either subsection (3) or subsection (10) of section 3 shall not board or

remain on board any ship or aircraft which is about to depart Samoa within one hour immediately proceeding the departure time of such ship or aircraft and any person so doing commits an offence and upon conviction shall be liable to a fine not exceeding 20 penalty units or imprisonment not exceeding 1 year, or both.

(2) Any person found on board a ship or aircraft which is about to depart Samoa who is not entitled to be on board or, who is subject to an order made under either subsection (3) or subsection (10) of section 3 and is in breach of subsection (1) of this section, may be arrested without warrant by any member of the Police Service or may be taken and placed ashore by any Officer.

(3) An Officer may require any member of the Police Service to assist in the taking and placing ashore of any person who is subject to this section and any member of the Police Service so requested shall provide such assistance without delay."

5. Offences and penalties-(1) Section 13(1) of the principal Act is amended by deleting paragraph (a) and the following substituted:

"(a) Departs or attempts to depart Samoa for any place outside Samoa in breach of an order made under either subsection (3) or subsection (10) of section 3; or"

(2) Section 13(1) of the principal Act is amended by deleting the word "permit" where it appears in paragraphs (c) and the following substituted:

"order made under either subsection (3) or subsection (10) of section 3."

(3) Section 13(1) of the principal Act is amended by deleting the word "permit" where it appears in paragraphs (b) and (d).

(4) Section 13(1) of the principal Act is amended by deleting the expression "\$200" and substituting the words "20 penalty units".

6. Schedule - The Schedule to the principal Act is amended by deleting items 1 and 2 and the remaining items are renumbered accordingly.

7. Interpretation - Section 2 of the principal Act is amended by deleting the definition of "Permit".

8. Heading of Part 1 - The heading to Part 1 of the Act is deleted and the following substituted:

"Orders Prohibiting Departure from Samoa"

The Act is administered in the Prime Ministers Department