

SAMOA

Arrangement of Provisions

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2006, No. 4**AN ACT to amend the Arms Ordinance 1960.***[1st March 2006]*

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 Arms Amendment Act 2006.

(2) This Act shall come into force on the date of assent of the Head of State.

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

2. Principal Act - In this Act, "Principal Act" means the Arms Ordinance 1960.

3. Sale to and possession by young persons of firearms and ammunition - Section 8 of the Principal Act is amended:

- (a) by omitting from subsection (1) "16" and substituting "21"; and
- (b) by omitting from subsection (2) "16" and substituting "21".

4. Registration of firearms - Section 9 of the Principal Act is amended by inserting after subsection (7):

"(7A) For the avoidance of doubt, every certificate of registration expires on the 31st day of March each year and, subject to subsection (1), it is an offence under subsection (11) for a person other than a licensed dealer to fail to renew a certificate of registration or to be in possession of a firearm without a certificate of registration after that date."

5. Certificate of registration may be refused or existing certificate revoked - Section 10 of the Principal Act is amended by inserting after subsection (1):

"(1A) For the purposes of the Ordinance, a person is not a fit and proper person if the person:

- (a) has within the last 5 years been convicted of an offence for which a term of imprisonment of more than 2 years but less than 5 years may be imposed; or
- (b) has at any time been convicted of an offence for which a term of imprisonment of 5 years or more may be imposed; or
- (c) is a person who, in the opinion of the Arms officer, is otherwise not a fit and proper person."

6. Possession of unlawful weapons - Section 12 of the Principal Act is amended:

(a) by inserting after subsection (2A):

“(2AA) The Minister may not authorise a person under subsection (2) if that person:

- (a) has within the last 5 years been convicted of an offence for which a term of imprisonment of more than 2 years but less than 5 years may be imposed; or
- (b) has at any time been convicted of an offence for which a term of imprisonment of 5 years or more may be imposed.”; and

(b) by omitting from subsection (3) “100 penalty units” and substituting “250 penalty units”.

7. Search of suspected persons and seizure of arms, ammunition or explosives - Section 20 of the Principal Act is amended by omitting from subsection (1) “being in a public place”.

8. Search of land or buildings for arms, ammunition or explosives - Section 21 of the Principal Act is amended by omitting “any offence against this Ordinance” and substituting “an offence under any Act”.

9. Insertion of new sections - After section 21 of the Principal Act the following sections are inserted:

“21A. Confiscation and forfeiture of tainted property-(1) Police may seize and detain tainted property and, upon conviction for the offence, such property is forfeited to the Government of Samoa and may be disposed in such way as the Minister acting on the advice of Cabinet directs.

(2) In this section:

‘property’ includes currency, investments, holdings, possessions, assets and all other property real or personal, heritable or moveable including things in action and other intangible or in corporeal property

wherever situate, whether in Samoa or elsewhere, and includes any interest in such property; ‘tainted property’, in relation to an offence involving the use of a firearm, means -

- (a) property that was used, or was intended by an offender to be used, in relation to the commission of the offence; or
- (b) property that was derived either wholly or in part by anyone from the commission of the offence; or
- (c) property that was derived by anyone from property mentioned in paragraph (a) or (b);

and includes an amount of money held in an account with a financial institution that represents the value of property mentioned in paragraph (a), (b) or (c) that has been directly or indirectly credited to the account.

(3) For paragraph (2)(a), any property found in the possession of an offender at the time of, or immediately after, the commission of the offence is taken to be property that was used, or was intended by the offender to be used, in relation to the commission of the offence, unless the contrary is established by the offender.

(4) Examples of tainted property for paragraph (2)(c) are:

- (a) a car used as a getaway car for an armed robbery;
- (b) money and jewellery stolen during the commission of the armed robbery offence;
- (c) a house in relation to which a mortgage is partly or completely discharged using money stolen during the commission of the armed robbery offence, or a mixture of that money and money unconnected with the offence;
- (d) money or other property received from the sale of the car, jewellery or house mentioned in paragraphs (a) to (c);

- (e) other property purchased using the money mentioned in paragraph (d);
- (f) shares or negotiable instruments bought using money stolen during the commission of the armed robbery offence, or a mixture of that money and money unconnected with the offence;
- (g) loans, gifts or other transfers or dispositions to any person using money stolen during the commission of the armed robbery offence, or a mixture of that money and money unconnected with the offence.

21B Mandatory reporting of wound caused by firearm-(1) If a doctor or nurse reasonably suspects that a person they are treating has recently suffered a wound caused by a firearm, the doctor or nurse must as soon as practicable report to a police officer the name of the person they are treating and the grounds of their suspicion.

(2) A doctor or nurse who fails to report to a police officer as required under subsection (1), commits an offence and is liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both.”.

10. Forfeiture - Section 24 of the principal Act is amended by omitting “the convicting Court may” and substituting “the convicting Court shall”.

**The Arms Amendment Act 2006 is administered in the Ministry
of Police, Prison and Fire Services**