

SAMOA

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2010, No. 13

AN ACT to provide for the collection and disposal of solid wastes and the management of all wastes in Samoa, and for related purposes.
[16th August 2010]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART I
PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the Waste Management Act 2010.

(2) This Act commences on the date of assent by the Head of State.

2. Interpretation-(1) In this Act, unless the context otherwise requires:

“approved waste management operator” means any approved waste management operator authorised under section 8;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry;

“designated waste management service area” means any area of Samoa designated under section 7 from time to time to be a designated waste management service area;

“hazardous waste” includes the wastes and substances specified in Schedule 2 if they are prohibited in Samoa in accordance with the applicable international conventions, or have been imported or used in Samoa in a manner which breaches the relevant conventions, and:

- (a) any wastes which are, or which have the potential to be, toxic or poisonous, or which may cause injury or damage to human health or the environment;
- (b) any specific substance, object or thing determined under section 6 to be a hazardous waste; and
- (c) any other matter or thing deemed under international conventions to be hazardous wastes or to have the characteristics of hazardous wastes from time to time.

“Minister” means the Minister responsible for the environment;

“Ministry” means the Ministry responsible for the environment;

“waste” includes:

- (a) garbage, household refuse, rubbish, scraps and trade and industrial wastes, in solid, liquid or gaseous form; and
- (b) any other matter or thing determined from time to time under section 6 to be waste for the purposes of this Act,

but does not include human wastes except in the form of sludge or any other form intended for final disposal as a waste product.

(2) Where reference is made in this Act, or Regulations made under it, to any international convention or agreement relating to wastes the definitions contained in the relevant convention or agreement shall apply to words and terms used, unless the context otherwise requires.

3. Act to bind the Government - This Act shall bind the Government.

PART II REGULATION AND MANAGEMENT OF WASTES

4. Functions of the Ministry - For the purposes of implementing this Act and regulating and managing wastes in Samoa, the functions of the Ministry shall include responsibilities relating to:

- (a) the formulation and implementation of a National Waste Management Strategy and other related strategies, and the periodic review and amendment of such strategies;
- (b) making arrangements for the provision of commercial, industrial and residential waste collection services;
- (c) ensuring that adequate provision is made for waste management facilities in Samoa, including the identification, development and management of landfill areas in accordance with this law and other laws relating to development controls;
- (d) requiring the sound management of landfill areas and approved dumping and waste storage sites that incorporate comprehensive environmental management systems, including leachate containment and management measures;
- (e) impose requirements and make arrangements for the proper management of areas after they have ceased to be used as landfill areas and dumping sites;

- (f) regulating the operation of waste treatment, storage and disposal facilities;
- (g) ensuring that adequate waste management services are provided to aircraft and ships, and the imposition of requirements to be observed by pilots and ships masters in this regard;
- (h) promoting recycling, and implementing measures to minimise wastes having particular adverse implications for human health and the environment;
- (i) monitoring the effects of wastes on human health and the environment, and enhancing cooperation with all officers in the discharge of their lawful responsibilities relating to regulating and monitoring wastes and monitoring waste management processes and facilities;
- (j) regulating persons involved in the transportation, storage and disposal of wastes in accordance with this Act and any law relating to the management of wastes;
- (k) the preparation, adoption and enforcement of rules, operating manuals, codes of practice and standards regulating activities associated with the management of wastes in Samoa;
- (l) implementing litter and waste control measures;
- (m) the preparation of reports and the compilation of statistics relevant to the management of wastes in Samoa, and the regular reporting of such matters in accordance with this Act;
- (n) raising public awareness of matters concerning the minimisation of the generation of wastes and the effective management of wastes;
- (o) the formulation, implementation and enforcement of policies, programs, initiatives, standards and requirements aimed to reduce the generation of wastes;

- (p) the formulation of appropriate arrangements and procedures for the management of landfills and waste management facilities in the event of natural disasters, fires, and other emergencies, consistent with laws dealing with disaster and emergency management; and
- (q) performing any other functions provided for by law or vested in the Ministry by Cabinet.

5. Powers of the Minister and the Chief Executive Officer-(1) For the purposes of implementing this Act, the Minister and the Chief Executive Officer may:

- (a) exercise any of the powers conferred on them by this Act or any other law applying to the regulation of wastes and the administration and operations of approved waste management operators;
- (b) require that a waste management operator undertakes its activities in accordance with any government policy relevant to the protection of the environment; and
- (c) give directions to approved waste management operators, not inconsistent with the provisions of this Act, to ensure that waste management requirements and practices in the area of responsibility of that waste management operator are implemented in accordance with principles and standards of sound environmental management.

(2) The Minister may, by notice in writing, delegate to the Chief Executive Officer any of the powers referred to in subsection (1).

(3) The Chief Executive Officer may, by notice in writing, delegate to any officer of the Ministry or any other appropriate person, any of the powers referred to in subsection (1).

(4) Neither the Minister nor the Chief Executive Officer may delegate this power of delegation.

(5) Any power delegated under this section must be exercised in accordance with any requirement stated in the notice of delegation.

(6) Any notice of delegation made under this section shall apply until the date specified for its expiry, or upon the giving of a written notice of the termination of the delegation.

6. Designation of wastes-(1) Any object, substance or thing may be determined to be a waste or hazardous waste for the purpose of this Act:

- (a) by Regulations made under this Act; or
- (b) by the Chief Executive Officer, by written determination to that effect made from time to time.

(2) A determination made under this section may apply to a particular object or thing, or to a class or type of object, substance or thing.

7. Designation of Waste Management Service Areas-(1) Waste management service areas may be designated by the Minister from time to time.

(2) The Minister may revoke, alter or add to any designated waste management service area.

8. Designation of approved waste management operators-(1) At the commencement of this Act and subject to subsection (2), the Ministry shall be the approved waste management operator for all areas of Samoa.

(2) The Minister, acting on the advice of Cabinet, may determine any appropriate entity to be a waste management operator for any designated waste management service area, and may replace a waste management operator with another appropriate entity from time to time.

9. Registration and Licensing of waste operators-(1) All landfill sites and waste dumps in Samoa must be licensed by the Ministry, which may impose any conditions in relation to the operation of the site or dump under the licence.

(2) The registration and licensing of other waste management facilities and operators may be required in accordance with Regulations made under this Act.

(3) The Minister may authorise an approved waste management operator to discharge the responsibilities of registering and licensing any facility or operation under this Act or the Regulations made under this Act, except a facility or activity of that approved operator.

(4) It shall be a condition of every licence issued under this section that the licensee shall comply with all legal requirements, applying to development controls, environment protection and the health and safety of workers in the workplace.

(5) Any person who operates a landfill site, a waste dump or any waste facility of operation which is required to be licensed under subsection (2):

(a) without a licence issued by the Chief Executive Officer; or

(b) in breach of any condition of a licence granted under this section,

commits an offence and shall be liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding one (1) year, or both.

10. Special waste related levies-(1) The Head of State, acting on the advice of Cabinet, may make regulations which:

(a) impose special levies on particular goods which have adverse affects on the environment;

(b) impose additional charges on premises in commercial areas where services are provided by an approved waste management operator to maintain cleanliness of street, footpaths and public areas;

(c) impose any other type of special levy relating to waste management services, or for the purpose of raising revenues for the effective management of wastes; and

(d) provide for the payment, collection and use of special levies and additional charges.

(2) Any levy imposed by regulations made under subsection (1) may be imposed, collected and recovered under the authority of this Act.

11. Environmental and Public Health Standards-(1)

Environmental standards relating to waste management practices and facilities may be prescribed by the Minister, and the Ministry shall be responsible for the monitoring and enforcement of the approved standards.

(2) Public health standards relating to waste management practices and facilities may be prescribed by the Minister of Health, and the Ministry of Health shall be responsible for the monitoring and enforcement of the approved standards.

(3) Standards imposed under this section may be applied to approved waste management operators and their contractors, and to any other persons identified in the applicable standard.

(4) Any person to whom an approved standard applies who fails or refuses to comply with the standard commits an offence and shall be liable to a fine not exceeding 20 penalty units.

(5) In addition to any fine imposed under subsection (4), the failure to observe or comply with an approved standard shall be grounds for:

- (a) suspending or revoking any registration or licence applying to the person in breach;
- (b) refusing any subsequent registration or licence sought by the person in breach; and
- (c) terminating any contract between a waste management operator and the person in breach.

12. Obligations to deal with certain wastes-(1)

Regulations made under this Act may impose requirements in relation to certain wastes having adverse impacts on the environment or human health by:

- (a) imposing prohibitions in relation to the importation, exportation, manufacture, use, storage or transportation of certain objects, substances or things which may become wastes;
- (b) regulating the importation, exportation, manufacture, use, storage or transportation of certain objects, substances or things which may become wastes, and imposing conditions in relation to them;

- (c) requiring the lodging of a deposit in relation to certain objects, substances or things which may become wastes to ensure their appropriate disposal by recycling or otherwise; or
- (d) imposing obligations on persons importing, exporting, using or manufacturing certain objects, substances or things which may become wastes in relation to their eventual disposal.

(2) Regulations made under subsection (1) may prescribe any matter necessary for the protection of the environment or human health from objects, substances or things which may become wastes, and any matter concerning the administration of any scheme requiring the lodging of deposits or obligations to dispose of such objects, substances or things.

(3) Regulations made under this section may prescribe offences and impose penalties being fines not exceeding 50 penalty units for individuals and 100 penalty units for corporations of persons who have previously committed an offence against this section, or imprisonment for terms not exceeding six (6) months, or both.

13. Requirement to provide information etc.-(1) All holders of licences issued under this Act, and all persons conducting any waste related operation, business or activity must:

- (a) provide all information, statistics and copies of records relating to any waste operation that is required to be provided by the Chief Executive Officer from time to time; and
- (b) file any returns required by the Chief Executive Officer giving accurate information concerning any waste management related matter required to be provided in the returns.

(2) When providing any information or filing any return under subsection (1) the provider of the information or return may indicate that certain information is of a confidential nature, if it is information that should not be available to commercial competitors of that person.

(3) If the Chief Executive Officer is satisfied that the nature of the information justifies it being kept confidential, the information may only be provided to government officials performing official duties in accordance with this Act or any law relating to the regulation or management of wastes.

(4) No person to whom the information has been provided under subsection (3) may disclose it to any person who is not authorised by the Chief Executive Officer to receive the information, and it may not be used for any commercial purpose within Samoa, except with the written consent of the person providing the information or return.

(5) If the Chief Executive Officer is not satisfied that the nature of the information justifies it being kept confidential:

- (a) the person providing the information or return shall be advised of the Chief Executive Officer's decision;
- (b) reasons for the decision shall be provided upon request from the person providing the information or return, or a person authorised by that person;
- (c) the Chief Executive Officer shall consult with the person if requested; and
- (d) the decision may be reviewed by the Minister.

(6) Where any Convention to which section 15 applies requires that any report be made, or that any information or data be collected and provided, the Minister may make a written request to any person to provide relevant information or data.

(7) Any person to whom a written request has been made under this section who, without reasonable justification, refuses or fails to comply with the request, commits an offence and shall be liable upon conviction to a fine not exceeding 50 penalty units.

14. Audit of waste generation and disposal-(1) The Chief Executive Officer may appoint any officer of the Ministry, or any appropriate person or agency, to undertake an audit of the wastes generated and disposed of in Samoa from time to time.

(2) For the purposes of undertaking any audit under subsection (1), the appointed person or agency may exercise any of the powers under section 22(2)(a)-(d) (inclusive).

(3) The Chief Executive Officer may require any person to whom section 13 applies to undertake or participate in any audit of wastes generated or disposed of during any period.

15. Implementation of relevant international conventions-(1) Subject to any other law making specific provision in relation to the implementation of any international convention applying in Samoa, the Ministry shall be responsible for the effective implementation in Samoa of any international convention, agreement or arrangement applying in Samoa and relating to the management of wastes, and for ensuring that Samoa observes its obligations and fully enjoys its rights.

(2) In this section “Convention to which this section applies” includes:

- (a) the Conventions stated in the Schedule; and
- (b) any waste related convention, agreement, arrangement, forum, association, meeting, agency or programme of an international or regional agency in which Samoa is entitled to membership or participation.

(3) The role of the Ministry in relation to a Convention to which this section applies includes:

- (a) liaising with and providing assistance to the Ministry of Foreign Affairs and Trade in relation to identifying international Conventions relating to wastes that are in Samoa’s interests to become a party to, and consulting with other ministries and agencies, and the broader community, in relation to the obligations that Samoa will assume under any such Convention;
- (b) liaising with relevant government ministries and agencies, and securing necessary approvals, to ensure Samoa’s effective representation at meetings of the Parties of a Convention to which this section applies and other relevant meetings;

- (c) liaising with relevant regional and international bodies to ensure that Samoa meets its obligations under a Convention to which this section applies;
- (d) managing or participating in any project, or part of a project, aimed at implementing any aspect of a Convention to which this section applies;
- (e) disseminating information in relation to the subject matter of any Convention to which this section applies, and creating public awareness about the provisions of any such Convention;
- (f) preparing any necessary Report, and reporting on a regular basis to the Minister and Cabinet in relation to the implementation of any Convention to which this section applies;
- (g) sharing information and otherwise providing such cooperation as is required by a Convention to which this section applies;
- (h) recommending that any law be amended or enacted in order to effectively implement any requirement of a Convention to which this section applies; and
- (i) working in conjunction with relevant government ministries and agencies to implement any obligation or enjoy any right under a Convention to which this section applies.

(4) Where any law gives to another government ministry or agency a responsibility for any matter related to a Convention to which this section applies, the Ministry shall perform its functions and exercise any related power in conjunction with the other ministry or agency.

16. Appointment of competent authorities-(1) The Minister may designate the Ministry or any appropriate entity, agency or committee to be the competent authority for the purposes of any international waste related convention applying to Samoa.

(2) A National Competent Authority designated under subsection (1) shall have the power and responsibility to:

- (a) oversee the implementation within Samoa of all aspects of the relevant Convention;

- (b) authorise the giving of any notification required by the relevant Convention to be given on behalf of the Government of Samoa;
- (c) determine and endorse appropriate and cost effective means by which necessary risk assessments are to be undertaken in a scientifically sound manner as required by the relevant Convention;
- (d) make or endorse decisions consistent with the relevant Convention;
- (e) determine and endorse policies and procedures in relation to -
 - (i) monitoring the storage, containment, disposal or transboundary movement of relevant wastes;
 - (ii) risk assessments and risk management applying to any aspect of the storage, containment, disposal or transboundary movement of relevant wastes;
 - (iii) the identification and evaluation of risks and hazards associated with wastes to which the relevant Convention applies;
 - (iv) responding to unintentional and unlawful transboundary movements of wastes; and
 - (v) the dissemination of information to relevant Ministries and agencies to facilitate and support their performance of any related responsibility;
- (f) arrange for the preparation of reports, and authorise the provision of information in accordance with the relevant Convention;
- (g) develop forms and guides to be used for notification to the National Competent Authority concerning wastes to which the relevant Convention applies; and
- (h) develop standards relating to the management of wastes to which the relevant Convention applies.

PART III
OFFENCES RELATING TO WASTES

17. Controls over certain wastes-(1) The Chief Executive Officer, and an approved waste management operator, may serve written notice on any person requiring that any wastes owned, possessed or under the control of that person:

- (a) be stored, transported or disposed of in any required manner;
- (b) not be stored, transported or disposed of in any particular manner;
- (c) be removed from a particular place and properly disposed of; or
- (d) be made available for recycling in any manner stated in the notice.

(2) A person who fails to comply with any notice given under subsection (1) commits an offence and shall be liable upon conviction to a fine:

- (a) not exceeding 20 penalty units, in the case of an individual; or
- (b) not exceeding 50 penalty units, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

(3) No wastes comprising:

- (a) electrical or computer goods or electrical fittings of any nature; or
- (b) any white goods in the form of refrigerators of any type, ovens and stoves or washing machines and dryers; or
- (c) any other wastes determined in writing from time to time by the Chief Executive Officer for the purposes of this section,

may be used for the purposes of filling land, or for land reclamation.

(4) A person who breaches subsection (3) commits an offence and shall be liable upon conviction to a fine:

- (a) not exceeding 50 penalty units, in the case of an individual; or

- (b) not exceeding 100 penalty units, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

18. Regulation of incineration of wastes-(1) Any person who intentionally burns wastes:

- (a) which contain plastics or any hazardous waste or substance; or
- (b) in a manner or place which causes any nuisance to any person; or
- (c) which causes the spread of fire in any manner so as to burn any area of land, any structure or any living vegetation;
- (d) creates an unintentional Persistent Organic Pollutant as provided for in the Stockholm Convention; or
- (e) in a manner which is inconsistent with any requirement applying under this Act,

commits an offence and shall be liable upon conviction to a fine -

(i) not exceeding 5 penalty units, in the case of an individual; or

(ii) not exceeding 10 penalty units, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

(2) Any person who lights a fire, or causes a fire to be lit, in an approved landfill or waste management facility other than in an approved incinerator or in accordance with lawful directions given by an approved waste management operator, commits an offence, and shall be liable upon conviction to a fine:

- (a) not exceeding 100 penalty units or to imprisonment for a term not exceeding three (3) months, or both, in the case of an individual; or
- (b) not exceeding 500 penalty units, or to imprisonment for a term not exceeding six (6) months, or both, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

19. Prescribed substances-(1) For the purposes of this section “prescribed wastes” includes:

- (a) all ozone depleting substances;
- (b) any waste referred to in Schedule 2, or which contains any chemical or substance referred to in Schedule 2; and
- (c) any other type of waste determined by any Act or by regulations under this Act to be prescribed wastes.

(2) Any person who:

- (a) dumps any prescribed substance at a landfill without disclosing its nature to the relevant approved waste management operator; or
- (b) fails to store, transport or safely dispose of any prescribed substance in a manner required by law or which is consistent with any international waste related convention applying in Samoa,

commits an offence and shall be liable upon conviction to a fine -

(i) not exceeding 50 penalty units, in the case of an individual; or

(ii) not exceeding 100 penalty units, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

20. General offences related to wastes-(1) Any person who deposits or dumps wastes at a place other than an approved landfill or waste dump so as to cause pollution to a public area or to land belonging to the government or to another person commits an offence and is liable upon conviction to a fine:

(a) not exceeding 50 penalty units or to imprisonment for a term not exceeding three (3) months, or both, in the case of an individual; or

(b) not exceeding 100 penalty units, or to imprisonment for a term not exceeding six (6) months, or both, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

(2) Any person who:

- (a) throws or deposits any waste;
- (b) discharges or permits the discharge of any waste; or
- (c) causes the depositing or discharge of any waste,

on or in the vicinity of a roadway, vacant land or foreshore, or into any river, stream, creek, pool, well, lake, mangrove or the sea commits an offence and shall be liable upon conviction to a fine -

(i) not exceeding 50 penalty units, in the case of an individual; or

(ii) not exceeding 100 penalty units, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

(3) Any person who disposes of wastes from residential or commercial premises in a public waste receptacle that is designated as not being for the disposal of such wastes, commits an offence and shall be liable upon conviction to a fine:

- (a) not exceeding 5 penalty units, in the case of an individual; or
- (b) not exceeding 20 penalty units, in the case of a corporation, or an individual who has committed an offence against this section on a previous occasion.

(4) Any person who:

- (a) damages, interferes with or removes any property or sign at an approved landfill or waste management facility; or
- (b) enters any approved landfill or waste management facility without authority,

commits an offence and shall be liable upon conviction to a fine not exceeding 10 penalty units.

(5) Any person who impedes, hinders or obstructs:

- (a) an officer of an approved authority in the exercise of a function or power under this Act; or
- (b) any contractor engaged by an approved waste management operator to undertake a waste management service,

commits an offence and shall be liable upon conviction to a fine not exceeding 10 penalty units.

21. Offences related to hazardous wastes-(1) Any person who imports into Samoa any toxic or hazardous wastes, except in compliance with international obligations applying to Samoa, commits an offence and shall be liable upon conviction to a fine not exceeding 1,000 penalty units or to imprisonment for a term not exceeding five (5) years, or both.

(2) Any person who arranges for the movement of toxic or hazardous wastes into, out of or within Samoa, or for their storage or disposal so as to cause a breach of an international obligation applying to Samoa commits an offence and shall be liable upon conviction to a fine not exceeding 1,000 penalty units or to imprisonment for a term not exceeding five (5) years, or both.

22. Enforcement provisions-(1) The powers provided for under subsection (2) may be exercised by:

- (a) police officers;
- (b) environment officers;
- (c) authorised officers under any law relating to public health;
- (d) officers of approved waste management operators and their contractors who are authorised by the Chief Executive Officer of an approved authority; and
- (e) any other person approved by the Chief Executive Officer from time to time.

(2) For the purposes of implementing and enforcing the provisions of this Act, and monitoring and containing the effects of wastes on human health and the environment, the persons referred to in subsection (1) may:

- (a) enter upon any land;
- (b) enter private premises after notifying the owner of their intention to do so;
- (c) take samples of wastes, soil and water for testing and analysis;
- (d) require the production of records and information relevant to the management, storage, movement and disposal of wastes; and

(e) order that certain wastes or materials apparently containing or affected by wastes be contained, removed or otherwise dealt with so as to minimise their adverse effects on human health or the environment.

(3) Any person who refuses or fails to comply with an order given under subsection (2)(e) commits an offence and shall be liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding two (2) years, or both.

23. Prosecutions under this Act-(1) Prosecutions for offences against this Act may be undertaken by the Office of the Attorney General, police officers, environment officers, authorised officers under laws relating to public health, and officers of approved waste management operators who are authorised by the Chief Executive Officer of the approved operator.

(2) Where prosecutions are undertaken by an approved waste management operator the costs of any legal practitioner retained by an approved authority for that purpose may be ordered by a court to be paid to the approved waste management operator.

(3) In addition to imposing a fine for any offence against this Act, the court may order that the offender is to pay to the relevant approved waste management operator, the cost of removing and disposing of any waste to which the offence relates.

PART IV WASTE MANAGEMENT OPERATIONS

24. Functions relating to waste management operations -
The functions of approved waste management operators may include responsibilities to:

- (a) provide commercial, industrial and residential waste collection services;
- (b) the management and operation of waste disposal facilities;

- (c) the sound management of landfill areas and approved dumping and waste storage sites that incorporate comprehensive environmental management systems, including leachate containment and management measures;
- (d) the provision of appropriate waste treatment, storage and disposal facilities;
- (e) the provision of waste management services to aircraft and ships;
- (f) the promotion of recycling and the implementation of measures to minimise wastes having particular adverse implications for human health and the environment;
- (g) monitoring and reporting on the effects of wastes on human health and the environment, and cooperating with public health and environment officers in the discharge of their responsibilities relating to regulating and monitoring wastes and monitoring waste management processes and facilities;
- (h) the preparation, adoption and enforcement of rules, operating manuals, codes of practice and standards relating to the wastes management services and facilities provided by or under the control of the operator;
- (i) implementing litter and waste control measures;
- (j) the preparation of reports and the compilation of statistics relevant to the management of wastes in Samoa, and the regular reporting of such matters in accordance with this Act;
- (k) raising public awareness of matters concerning the minimisation of the generation of wastes and the effective management of wastes;
- (l) the formulation and implementation of policies, programs and initiatives aimed to reduce the generation of wastes; and
- (m) performing any other functions provided for by law or vested in the operator by the Ministry.

25. Powers of waste management operators - Approved waste management operators may exercise any power necessary or incidental to the discharge of their functions under this Act, including the power to:

- (a) perform any responsibility and exercise any power vested in them by this Act or any other law, or by the Government of Samoa;
- (b) determine that any object, substance or thing is deemed to be waste for the purposes of this Act;
- (c) do anything necessary to ensure that wastes in Samoa are managed in an environmentally sound manner with minimum adverse affects to human health;
- (d) do anything necessary to assist other government agencies to ensure that Samoa is in compliance with its international obligations in relation to the management and movement of wastes;
- (e) undertake prosecutions for breaches of this Act, and to recover fines imposed and the costs arising from taking such legal proceedings; and
- (f) take legal proceedings to prevent or restrain activities which are in breach of this Act.

26. Performance of community obligations-(1) An approved waste management operator shall undertake community obligations at the direction of the Minister, which may involve any activity aimed at keeping public areas clean and free of wastes, including:

- (a) street cleaning and other activities to maintain the cleanliness of public areas; and
- (b) providing waste receptacles in public areas and other appropriate facilities for minimising and dealing with wastes on public roads and reserves, and other areas accessible to the public.

(2) An approved waste management operator shall only be obliged to perform a community obligation under this section if the Government undertakes to pay to the approved waste management operator the agreed cost of providing the necessary services and performing the required activities.

27. Indemnities for staff of approved operators - All directors and staff of an approved waste management operator shall not be personally liable for any act or omission occurring in good faith in the exercise, or purported exercise of powers, functions, duties and responsibilities under this Act, or any other law applying to the approved waste management operator.

28. Protection of assets of approved operators - No asset of an approved waste management operator may be subject to distress or be taken in execution of any legal proceedings against the operator, its staff or its contractors, if the asset is:

- (a) any building, plant, equipment or installation used at or situated at a landfill or waste treatment, dumping or storage site operated by the approved waste management operator;
- (b) any vehicle or attachment to a vehicle used for the purposes of waste collection by or on behalf of an approved waste management operator; or
- (c) any item of office equipment used at the premises of an approved waste management operator.

29. Fees and charges for waste management services-(1) Subject to subsections (7) and (8), all fees imposed under this section shall be set by the Minister, acting with the approval of Cabinet.

(2) A compulsory garbage collection fee may be applied to all residential premises in a designated waste management service area, and to all other premises to which the commercial waste collection fee does not apply.

(3) A commercial waste collection fee may be applied to all commercial premises but the Minister may approve a zero rating to commercial premises which have made arrangements satisfactory to the relevant approved waste management operator for the proper management and disposal of the wastes generated at the premises.

(4) The residential and commercial collection fees imposed under this section:

- (a) may be set as annual charges or be imposed on any other basis;

- (b) may be set at different levels for particular areas, taking account of matters such as the ability of persons to pay the fees; and
- (c) shall be payable at intervals determined by the Minister.

(5) Additional or increased fees may be applied to premises or classes of premises which generate particular types of waste or greater quantities of waste, or which are located in areas which necessitate particular waste collection measures to be applied.

(6) Fees may be set and imposed for:

- (a) depositing wastes at landfill sites and approved dumping grounds;
- (b) the collection, storage or disposal of hazardous wastes; and
- (c) any other waste service provided by an approved waste management operator.

(7) The Chief Executive Officer of an approved waste management operator may set any fee for the collection, storage or disposal of a particular hazardous waste, or for the provision of any other service, if no sufficient or appropriate fee has been set under this section.

(8) The Chief Executive Officer of an approved waste management operator may determine for the purposes of this section:

- (a) the status of any premises as residential or commercial;
- (b) the charge to be applied to any premises which are both residential and commercial;
- (c) the imposition of increased fees under subsection (5) to particular premises;
- (d) whether a particular service is provided as part of the normal garbage or waste collection service, or is another service for which an additional charge is to be imposed.

(9) A person obliged to pay a fee or charge imposed as a result of the exercise of a power under this section by an approved waste management operator may, by written notice,

request a review of the decision by the Chief Executive Officer of the Ministry, and in determining such a request the Chief Executive Officer may:

- (a) affirm the decision of the approved operator; or
- (b) amend the decision of the approved operator in any appropriate manner and authorise payment of a refund.

(10) A request for a review under subsection (9) does not postpone the obligation to pay the fee or charge, and the Chief Executive Officer may decline to consider a request if the person making it has not paid the fee or charge.

30. Remission of fees and charges-(1) The Chief Executive Officer of an approved waste management operator may authorise the remission of the compulsory residential garbage collection charge if:

- (a) an application is made in writing for remission by either the owner or occupier of residential premises; and
- (b) the Chief Executive Officer of an approved waste management operator is satisfied that the residential premises -
 - (i) have not been or will not be occupied for a continuous period of not less than three (3) months; or
 - (ii) are not accessible to the garbage collection vehicles; or
 - (iii) meet any other conditions or requirements approved by the approved waste management operator as being grounds for the granting of remission.

(2) Exemptions from the payment of fees and charges imposed under this Part may be granted by the approved waste management operator, and conditions may be imposed in relation to approved exemptions.

31. Interest on unpaid dues - An approved waste management operator may charge interest at the rate of 10% per annum on any fees and charges not paid within 30 days of the date upon which payment is due.

32. Collection of fees and charges-(1) All fees and charges payable to an approved waste management operator in accordance with this Part may be recovered by the approved operator as a debt.

(2) The garbage collection fee imposed on premises may be recovered in accordance with subsection (1) from the owner or occupier of the premises.

(3) An approved waste management operator may enter into arrangements for the collection of fees and charges by persons or organisations approved by the operator to be collection agents.

33. Operation Plans-(1) Each approved waste management operator may be required by the Minister or the Chief Executive Officer to prepare a three (3) yearly operating plan with financial projections forming the basis of each year's annual operating plan and annual estimates.

(2) Operating plans prepared in accordance with subsection (1) shall be prepared so as to reflect the views and interests of the householders and commercial businesses in the waste management service area and the Chief Executive Officer of an approved waste management operator shall ensure that adequate opportunities are provided during its formulation to permit such views and interests to be expressed.

(3) The Chief Executive Officer of an approved Waste management operator shall during the month of April in each year prepare an Annual Operating Plan and Estimates of Revenue and Expenditure for the next financial year.

(4) Upon approval of the Annual Operating Plan and Estimates of Revenue and Expenditure by the Minister, the Chief Executive Officer of the Ministry shall immediately forward a copy to the Minister of Finance.

34. Operating procedures, Codes of Practice etc.-(1) For any purpose associated with its operations, an approved waste management operator may make and impose rules, operating procedures, guidelines and codes of practice relevant to any aspect of its waste management functions.

(2) Without limiting the generality of subsection (1), an approved waste management operator may impose rules prescribing:

- (a) the size and nature of waste receptacles;
- (b) the placing of wastes and waste receptacles so as to facilitate the collection of wastes;
- (c) the provision of stands and requirements to ensure the effective containment of wastes;
- (d) the separation of certain types of wastes; and
- (e) any other matter to facilitate the orderly keeping and collection of wastes.

(3) Approved waste management operators may display signs at their operational facilities and on their vehicles which give directions to be observed by all persons within the facilities, or in the vicinity of the vehicles, of an approved waste management operator.

(4) Officers and contractors of approved waste management operators may give directions to any person within the areas and facilities of the approved waste management operator for the purpose of ensuring compliance with any rule, operating procedure, guideline, code of practice or sign made or displayed in accordance with this section.

(5) Any person who fails or refuses to comply with any rule, operating procedure, guideline, code of practice or sign made or displayed in accordance with this section, or with any direction given under subsection (4), commits an offence and shall be liable upon conviction to a fine not exceeding 5 penalty units.

35. Reporting by waste management operators - An approved waste management operator shall:

- (a) prepare and submit reports relating to any aspect of waste management under its responsibility at the request of the Chief Executive Officer or the Ministry of Health;
- (b) ensure that the Minister of Health and the Chief Executive Officer of the Ministry of Health are immediately notified of any matter related to waste management that comes to its notice which may adversely affect human health;

- (c) ensure that the Chief Executive Officer is immediately notified of any matter related to waste management that comes to its notice which may adversely affect the environment; and
- (d) arrange for programs of public information concerning waste management issues with an aim to -
 - (i) minimise the generation of wastes;
 - (ii) ensure that wastes are stored and disposed of in a manner which minimises their harmful effects on human health and the environment; and
 - (iii) permit informed decisions to be made about waste related matters which may affect the health and well-being of the community.

36. Contracted waste services-(1) An approved waste management operator may enter into contractual arrangements for the provision of services necessary to discharge its functions and to perform its waste management activities, including activities related to:

- (a) the management and operation of landfills and approved waste dumps, and waste storage and treatment facilities;
- (b) the collection and transportation of wastes;
- (c) any aspect of the administration of an approved waste management operator; and
- (d) other waste related activities including the dissemination of information and the raising of public awareness.

(2) Subject to subsection (3), a contractor engaged by an approved waste management operator in accordance with this section may be authorised to:

- (a) collect fees on behalf of an approved waste management operator, and account for them to the approved operator;
- (b) give any necessary direction or impose any necessary operational requirement, consistent with this Act and any regulation, rule, operating procedure or code of practice made under this Act; and

(c) take any other necessary action or do any other necessary thing in accordance with the contract made with the approved waste management operator.

(3) It shall be a condition of every contract to which this section relates that the contractor shall comply with all legal requirements, applying to development controls, environment protection and the health and safety of workers in the workplace.

37. Recycling of wastes-(1) Approved waste management operators shall promote the recycling of wastes and for this purpose rules, operating procedures, guidelines, codes of practice, signs and directions may be made, displayed or given in accordance with section 34.

(2) Persons or companies engaged in commercial activities associated with the recycling of wastes shall:

- (a) comply with all requirements imposed under this section;
- (b) ensure that no aspect of their activities gives rise to a breach of Samoa's international obligations associated with the movement and management of wastes; and
- (c) observe internationally accepted practices in relation to their waste related activities.

(3) For the purposes of achieving compliance with subsection (2), Regulations made under this Act may require that persons or companies engaged in commercial activities associated with the recycling of wastes be registered or licensed, and such requirements may be administered by the Ministry, or by an approved waste management operator in accordance with the regulations.

PART V

DUMPING AND INCINERATION OF WASTES AT SEA

38. Permit required for any dumping or incineration of wastes at sea-(1) No wastes may be dumped or incinerated at sea within the jurisdictional limits of Samoa:

- (a) in breach of the requirements of any Convention referred to in section 15, or any Convention applying as part of the laws of Samoa by reason of any Act, and which relates to the dumping and incineration of wastes at sea, or any other aspect of the regulation of waste disposal; and
 - (b) unless a permit for the dumping or incineration of wastes has been first obtained from the Ministry.
- (2) An application for a permit under subsection (1) shall be submitted to the Chief Executive Officer before any dumping or incineration of wastes is undertaken, and all such applications shall be in the form approved for the purpose from time to time by the Chief Executive Officer.
- (3) All applications under this section shall be accompanied by:
- (a) the application fee approved from time to time by the Minister; and
 - (b) such particulars and information as may be required by the Chief Executive Officer.
- (4) The Chief Executive Officer may:
- (a) impose any conditions on a permit in relation to the dumping or incineration of wastes at sea; and
 - (b) require the payment of any additional charges in relation to the monitoring and inspection by the Ministry of the dumping or incineration at sea.

39. Offences against this Part - The owner or master of any vessel from or on which wastes are:

- (a) dumped or incinerated at sea without a permit having been issued under this Act; or
- (b) dumped or incinerated at sea in breach of any condition applying under a permit issued under this section;
- (c) dumped or incinerated at sea in breach of any requirement applying under the London Convention as amended by the Protocol of 1996 relating to that Convention, and the Waigani Convention,

commits an offence and shall be liable upon conviction to a fine not exceeding 1500 penalty units, or to a term of imprisonment not exceeding two (2) years, or both.

PART VI
COMMUNITY INVOLVEMENT
IN WASTE MANAGEMENT

40. Village and community by-laws-(1) The Ministry may consult with village and community representatives, and prepare and promulgate by-laws not inconsistent with this Act for the proper management of wastes and the enforcement of the requirements applying under this Act in particular areas, and which involve local communities in waste management measures.

(2) Every by-law made under this section shall:

- (a) be signed by the Chief Executive Officer;
- (b) be published in the Savali; and
- (c) shall come into force on the date of publication in the Savali, or on a day fixed in the by-law.

(3) Every by-law made under this section may be altered or revoked in the same manner in which they may be made under this section.

(4) Every draft by-law prepared in accordance with this section shall be provided to the Pulenuu of adjacent villages during the period of consultation leading to the preparation of the by-law.

(5) A final copy of every draft by-law shall be provided to the Pulenuu of adjacent villages at least seven (7) clear days before it is published in the Savali.

(6) No by-law made under this section shall bind the Government.

(7) All by-laws must impose only reasonable restrictions and requirements and must be consistent with this Act, and all approved strategies, policies and schemes applying to waste management.

41. Other community based programs and initiatives-(1)

The Ministry may devise, approve, implement or participate in programs relating to the regulation of wastes, and the promotion of proper waste management practices in Samoa.

(2) For the purposes of this section, the Ministry may act in combination or association with any other person or body, whether incorporated or not, and whether in Samoa or elsewhere, for any purpose associated with the proper management of wastes.

(3) The Minister may convene and conduct a National Waste Management Forum from time to time to involve village and community representatives in the effective regulation and management of wastes, and to report on the current state of the waste management practices in Samoa.

PART VII MISCELLANEOUS PROVISIONS

42. Protection of persons performing duties under this Act

- Any person who lawfully exercises any power or performs any function under the authority of this Act shall not be liable for any loss or damage, or be subject to any criminal prosecution, in relation to the reasonable exercise of that power or the performance of that function.

43. Regulations-(1) The Head of State, acting on the advice of Cabinet, may make Regulations for the proper management and regulation of wastes and for the management and operation of approved waste management operators, and for the effective implementation of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made which:

- (a) provide for the effective management of wastes in waste management service areas;
- (b) prescribe litter and waste control measures;
- (c) prescribe procedures for the collection of waste related information and for its dissemination so as to raise awareness of waste related matters and

permit informed decision making to be made by all sections of the community in relation to the minimisation of the generation of wastes and the adverse affects of wastes on human health and the environment;

- (d) provide for systems of registration and licensing in accordance with this Act, and the payment of licence fees;
- (e) promote or regulate the recycling of wastes;
- (f) specify toxic and hazardous wastes and regulate the manner in which such wastes may be stored, transported and disposed of;
- (g) provide for the determination of any particular object, substance or thing to be waste for the purposes of this Act, and which apply certain presumptions and other aids for the determination of such matters by courts;
- (h) secure the observance and effective implementation of international conventions and obligations relating to wastes applicable in Samoa or of general application within the South Pacific region; and
- (i) ensure the observance of approved standards, rules, operating procedures and codes of practices in force in accordance with this Act.

(3) Regulations made under this section may alter, add to or delete from the lists of hazardous chemicals in Schedule 2 to prescribe hazardous wastes and substances in accordance with the relevant international conventions.

(4) Regulations made under this section may prescribe offences and impose penalties being fines not exceeding 100 penalty units or imprisonment for a period not exceeding one (1) year, or both.

44. Relationship with other Acts - Notwithstanding the provisions of the Business Licences Act 1998, an approved authority and its contractors may engage in activities associated with the storage, disposal and transport of toxic wastes, if such activities comply with the requirements of this Act, and any law relating to hazardous wastes and substances.

45. Transitional arrangements - The Chief Executive Officer of the Ministry may, on behalf of the Ministry in its capacity as an approved waste management operator:

- (a) exercise the powers of an approved waste management operator as provided for under this Act;
- (b) make and impose rules, operating procedures, guidelines and codes of practice in accordance with section 34;
- (c) otherwise exercise any power of an approved waste management operator for the management of wastes in the waste service area under the control of the Ministry;
- (d) delegate the power to review a decision made under section 29(8) to an appropriate person to be exercised in accordance with section 29(9); and
- (e) delegate any other power of an approved waste management operator to an appropriate person.

SCHEDULE 1

Section 15(2)(a)

APPLICABLE INTERNATIONAL WASTE RELATED CONVENTIONS

1. The Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention), Basel, 1989.
2. The Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention), Waigani, 1995.
3. The Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention on POPs), Stockholm, 2001.

4. The Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention on PIC), Rotterdam, 1998.

SCHEDULE 2

Section 2

HAZARDOUS WASTES TO BE REGULATED IN ACCORDANCE WITH INTERNATIONAL CONVENTIONS

A. Persistent Organic Pollutants under the Stockholm Convention

Annex A - Parts I and II Elimination	Annex B - Parts I and II Restriction	Annex C - Unintentional Prod'n
Aldrin	DDT – Part I	PCDD/PCDF
Chlordane	DDT – Part II	HCB
Chlordecone		
Dieldrin		PCB
Dioxins		
Endrin		
Furans		
Heptachlor		
Hexachlorobenzine		
Hexabromobiphenyl		
Lindane		
Mirex		
Pentabromodiphenyl ether		
Toxaphene		
PCB – Parts I and II		

B. Hazardous chemicals under the Rotterdam Convention -
Chemicals subject to the Prior Informed Consent Procedure

Chemical	Relevant CAS number(s)	Category
2,4,5-T	93-76-5	Pesticide
Aldrin	309-00-2	Pesticide
Captafol	2425-06-1	Pesticide
Chlordane	57-74-9	Pesticide
Chlordimeform	6164-98-3	Pesticide
Chlorobenzilate	510-15-6	Pesticide
Chrysotile		
DDT	50-29-3	Pesticide
Dieldrin	60-57-1	Pesticide
Dinoseb and dinoseb salts	88-85-7	Pesticide
1,2-dibromoethane (EDB)	106-93-4	Pesticide
Endosulfan		
Fluoroacetamide	640-19-7	Pesticide
HCH (mixed isomers)	608-73-1	Pesticide
Heptachlor	76-44-8	Pesticide
Hexachlorobenzene	118-74-1	Pesticide
Lindane	58-89-9	Pesticide
Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds		Pesticide
Pentachlorophenol	87-86-5	Pesticide

Monocrotophos (Soluble liquid formulations of the substance that exceed 600 g active ingredient/l)	6923-22-4	Severely hazardous pesticide formulation
Methamidophos (Soluble liquid formulations of the substance that exceed 600 g active ingredient/l)	10265-92-6	Severely hazardous pesticide formulation
Phosphamidon (Soluble liquid formulations of the substance that exceed 1000 g active ingredient/l)	13171-21-6 (mixture, (E)&(Z) isomers) 23783-98-4 ((Z)-isomer) 297-99-4 ((E)-isomer)	Severely hazardous pesticide formulation
Methyl-parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient)	298-00-0	Severely hazardous pesticide formulation

Parathion (all formulations - aerosols, dustable powder (DP), emulsifiable concentrate (EC), granules (GR) and wettable powders (WP) - of this substance are included, except capsule suspensions (CS))	56-38-2	Severely hazardous pesticide formulation
Crocidolite	12001-28-4	Industrial
Polybrominated biphenyls (PBB)	36355-01-8(hexa-) 27858-07-7 (octa-) 13654-09-6 (deca-)	Industrial
Polychlorinated biphenyls (PCB)	1336-36-3	Industrial
Polychlorinated terphenyls (PCT)	61788-33-8	Industrial
Tris (2,3-dibromopropyl) phosphate	126-72-7	Industrial
Tributyltin		

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