

SAMOA

AGRICULTURE AND FISHERIES ORDINANCE 1959

Arrangement of Provisions

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AGRICULTURE AND FISHERIES ORDINANCE 1959 1959 No.6

AN ORDINANCE to constitute and establish the Ministry of Agriculture and to make certain provisions in regard to agriculture and fisheries.

[Assent date: 24 August 1959]

[Commencement date: 1 October 1959]

1. Short title and commencement – (1) This Ordinance may be cited as the Agriculture and Fisheries Ordinance 1959.

(2) This Ordinance comes into force on 1 October 1959.

2. Interpretation – In this Ordinance, unless the context otherwise requires:

“Department” means the Ministry of Agriculture and Fisheries of Samoa constituted and established under this Ordinance;

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“Director” means the Director of Agriculture and Fisheries appointed under this Ordinance;

“Minister” means the Minister responsible for Agriculture and Fisheries;

“pesticide”:

- (a) means any substance or mixture of substances used for preventing, destroying or controlling any pest, including vectors of human or animal disease, unwanted species of plants or animals causing harm during, or otherwise interfering with, the production, processing, storage, transport or marketing of food, agricultural commodities, wood and wood products, or animal foodstuffs, or which may be administered to animals for the control of insects, arachnids or other pests on their bodies; and
- (b) includes substances or mixture of substances intended for use as plant growth regulators, defoliants, desiccants, or agents for thinning fruit or preventing the premature fall of fruit, and substances applied to crops, either before or after harvest to protect the commodity from deterioration during storage and transport, or any substance or mixture of substances declared to be a pesticide by the Minister acting under any regulation.

2A. Application of Ordinance to exclusive economic zone

– Nothing in this Ordinance authorises the making of any regulations in derogation of the Maritime Zones Act 1999, or of any regulations made under that Act relating to fishing.

3. Constitution of department – There is constituted and established a department of the Government to be known as the Department of Agriculture and Fisheries which, under the control of the Minister, is charged with the administration of the Ordinances, regulations, and other matters specified in the Schedule together with any other functions as may be lawfully conferred on it.

4. Principal functions of the department— The principal functions of the Department are:

- (a) to promote and encourage the development of all phases of the planting, agricultural, pastoral, and horticultural industries in Samoa including the banana, coconut, cocoa, coffee, and other fruit and vegetable production industries with a view to maintaining and improving the quality and quantity of the products derived from those industries;
- (b) to promote in conjunction with the department of Lands, Surveys and Environment the conservation, production and development of the natural resources of Samoa, especially soil and water, and the following principles and objectives—
 - (i) to maintain, and establish where necessary, areas to protect the climate, soil and water resources of the country;
 - ((ii) & (iii) repealed by section 87(2)(b) of the Forestry Management Act 2011)*
- (c) to regulate fishing in Samoa and the territorial waters belonging to Samoa or any part thereof, or in the exclusive economic zone of Samoa (as defined in the Maritime Zones Act 1999) and to promote the economical and orderly taking and conservation of fish and the control of any industry engaged in the processing of fish and fish products;
- (d) to regulate, control and supervise the manufacture, importation, storage and use of pesreguticides.

5. Director of Agriculture and Fisheries – There is an appointed officer of the Public Service to be called the Director of Agriculture and Fisheries who is the Administrative Head of the Department of Agriculture and Fisheries.

6. Appointment of other officers and employees – There may be appointed under the Public Service Act 2004 such other officers and employees of the Department as may be necessary.

7. Existing appointments deemed to be made under this Ordinance – (1) The person holding office at the commencement of this Ordinance as Director of Agriculture is deemed to have been appointed to the office of Director under this Ordinance.

(2) All other persons who at the commencement of this Ordinance are officers or employees of the Department and have been appointed under the Samoa Amendment Act 1949 (NZ) are taken to have been appointed under section 6.

8. Officers to act under the direction of the Director – All inspectors, officers, and other employees of the Department shall act under the direction of the Director in the exercise and performance of the powers, duties, and functions conferred or imposed upon them by any enactment of which the Department or the Director is charged with the administration by this Ordinance or any other enactment.

9. Delegation of powers of Minister – (1) The Minister may, by writing signed by the Minister, either generally or particularly, delegate (“delegation”) to the Director all or any of the powers which are conferred on him or her as Minister of Agriculture and Fisheries by any enactment, including powers delegated to him or her under any enactment, but not including power to delegate under this section or the power to consent to a delegation under section 10.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Director may exercise any powers delegated to the Director under subsection (1) in the same manner and with the same effect as if they had been conferred on him or her directly by this section and not by delegation.

(3) Where the Director purports to act pursuant to any delegation under this section, the Director is presumed to be acting under the terms of the delegation in the absence of proof to the contrary.

(4) A delegation is revocable at will, and no such delegation prevents the exercise of any power by the Minister.

(5) A delegation, unless revoked, continues in force according to its tenor.

(6) If the Minister by whom any such delegation has been made ceases to hold office, the delegation continues to have effect as if made by the person holding office as Minister and, if the Director to whom such delegation has been made ceases to hold office, the delegation continues to have effect as if made to the person holding office as Director or, if there is no Director in office or if the Director is absent from duty, to the person lawfully directed to act in the place of the Director.

10. Delegation of powers by Director – (1) The Director may, by writing signed by the Director, either generally or particularly, delegate (“delegation”) to such officer or officers or employees of the Department as the Director thinks fit all or any of the powers exercisable by him or her under any enactment, including any powers delegated to the Director under any enactment, but not including this present power of delegation:

PROVIDED that the Director shall not delegate any power delegated by the Minister without the written consent of the Minister, or any power delegated by the Public Service Commission without the written consent of the Commission.

(2) Subject to any general or special directions given or conditions attached by the Director, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him or her directly by this section and not by delegation.

(3) A person purporting to act pursuant to any delegation under this section is presumed to be acting under the terms of the delegation in the absence of proof to the contrary.

(4) A delegation may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder of a specified office or class of offices.

(5) A delegation under this section is revocable at will and no such delegation prevents the exercise of any power by the Director.

(6) A delegation, until revoked, continues in force according to its tenor, even if the Director by whom it was made may have ceased to hold office and continues to have effect as if made by the successor in office of the Director.

11. Powers of Minister – For the purpose of enabling the Department to carry out its functions, the Minister, in addition to exercising all powers heretofore conferred on the Director of Agriculture, may:

- (a) devise, promote, and carry out experiments, researches, investigations, and measures in relation to the health, and the diagnosis, prevention, and treatment of diseases of stock, poultry, bees, plants, and trees, the management of soils, and the production and improvement of livestock, crops, and pastures and in relation to any other matters affecting the operations of any of the industries which it is the function of the Department to promote and encourage;
- (b) promote and carry out by publicity or other means the diffusion or dissemination of information relating to or affecting any of those industries for the instruction, guidance, and benefit of persons engaged in those industries; and foster country youth educational organisations;
- (c) establish and maintain experimental, research, instructional, and demonstration farms, stations, fish pools, and areas for the purpose of acquiring knowledge and imparting practical instructions and advice in modern practices and management in respect of any of the industries which it is the function of the Department to promote and encourage;
- (d) promote and carry out the testing of agricultural and horticultural seeds, bulbs, and tubers for purity and germination, and the approval by certification or other means of seeds, bulbs, and tubers in respect of their trueness to type and freedom from seed borne diseases;
- (e) promote and carry out the testing of machinery, appliances, and equipment used in any of the industries which it is the function of the Department to promote and encourage;
- (f) exercise any powers conferred on him or her by any Ordinance or regulation in relation to

importation and quarantine of plants, soil, animal, and fish, and fumigate or arrange for the fumigation and, if necessary, the destruction of plants, soil, or other material and of animals and fish suspected of being infected with disease or injurious insect or animal life;

- (g) enter into agreements with owners and occupiers of land or inland waters for the sowing, growing, or breeding for the Department of domestic, agricultural, or horticultural seeds, animals, or fish eggs or fish fry from stock seed or animals or fish or fish eggs or fish fry supplied by the Department for the purpose of multiplying and distributing selected and improved strains of the seed, animals, fish eggs, or fish fry or for the carrying out on the land or the waters of co-operative trials relating to crop, pasture, horticultural, livestock, or fish production and improvement;
- (h) devise, promote, and carry out investigations and experiments into the harvesting, storage, and transport of the products of the industries which it is the function of the Department to promote and encourage;
- (i) initiate and carry out economic surveys into any aspect of agricultural, pastoral, or piscicultural production;
- (j) market bananas;
- (k) exercise such other powers as are reasonably necessary for the effective performance of the functions of the Department, including all powers heretofore exercisable by the Head of State by virtue of any Ordinances, enactments, regulations or rules which, by this Ordinance, it is the function of the Department to administer:

PROVIDED that the power conferred does not include the power to make regulations.

12. Special investigations – (1) The Minister may, as he or she thinks fit, cause an investigation under this section to be made into any matter connected with or affecting any of the

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industries which it is the function of the Department to promote and encourage.

(2) For the purposes of any such investigation, the Minister may, by order in writing signed by him or her, require any person, partnership, company, or other corporate body carrying on any business relating to or affecting the subject matter of the investigation:

- (a) to produce for the inspection of any person nominated in that behalf by the Minister any papers, books or documents which are in the possession of the person, partnership, company, or corporate body;
- (b) to set down in writing any facts relating to the subject matter of the investigation which are within the knowledge of the person, partnership, company, or corporate body; or
- (c) to allow copies or extracts from any such papers, books, or documents to be made by the person inspecting them.

(3) A person who fails to comply with an order of the Minister under this section or who deceives or obstructs or attempts to deceive or obstruct a person nominated by the Minister as aforesaid in the conduct of any such investigation commits an offence, and is liable on summary conviction to a fine not exceeding 1 penalty unit.

(4) Any information obtained by the Minister or by any other person by means of any such investigation is treated as confidential except for the purposes of this Ordinance.

13. Advisory and technical committees – (1) The Minister may appoint advisory or technical committees, and define the functions of any such committee.

(2) If the Minister so directs there may be paid, out of money appropriated by the Legislative Assembly for the purpose, to the members of any such committee remuneration by way of fees, salary, or allowances and travelling allowances and expenses.

14. Annual report – (1) The Director shall, as soon as practicable after the end of each financial year, provide to the

Minister a report on the operations of the Department for that year.

(2) A copy of the report shall be laid before the Legislative Assembly within 28 days after it has been provided to the Minister if the Assembly is then in session, and, if not, is to be laid before the Assembly within 28 days after the commencement of the next ensuing session.

15. Regulations – (1) The Head of State, acting on the advice of Cabinet, may make regulations for any purpose for which regulations are contemplated by this Ordinance and all such other regulations as may in his or her opinion be expedient for giving effect to this Ordinance and for the due administration of this Ordinance.

(2) Without limiting subsection (1), regulations may be made under this section for all or any of the following purposes:

- (a) obtaining any information or particulars that may be required for the effective performance of the functions of the Department under this Ordinance;
- (b) prescribing fines not exceeding 1 penalty unit for offences against any regulation made under this Ordinance or any Ordinance or regulation specified or referred to in the Schedule;
- (ba) prescribing fees payable in respect of the filing of any application for the granting of any registration, or for the issue of any licence or permit or for the renewal of any such registration, licence or permit and for the issue of any registration certificate licence or permit or renewal thereof under this Ordinance or regulations made under this Ordinance;
- (c) further defining the functions of the Department, and adding to or deleting any Ordinance, regulation, or other matter specified in the Schedule;
- (d) providing for the control of the manufacture, importation, storage, and use of pesticides, for the appointment of a Registrar of Pesticides, for the establishment of a pesticides technical

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committee and for the exercise by the Minister of his or her powers under section 11.

(3) The Minister shall lay all regulations made under this section before the Legislative Assembly within 28 days after the date of the making thereof if the Assembly is then in session, and if not, to lay such regulations before the Assembly within 28 days after the commencement of the next ensuing session.

SCHEDULE
(Sections 3 and 15 (2))

**ENACTMENTS AND MATTERS TO BE ADMINISTERED
BY THE
DEPARTMENT OF AGRICULTURE AND FISHERIES**

The Plants and Soil Importation (Disease Control) Ordinance 1950
The Rhinoceros Beetle Ordinance 1954
The Bunchy Top Ordinance 1965

All existing enactments regulations, Orders, and rules made under or relating to the Ordinances specified in this Schedule or conferring powers, duties, or authorities in relation to any matter specified in section 4 or section 11 of this Ordinance.

This Agriculture and Fisheries Ordinance 1959 as contained in this reprint, includes amendments contained in 1989, No.34 and 1992/93 No.21.

REVISION NOTES 2008 –2018

This is the official version of this Act as at 31 December 2018.

This Act has been revised by the Legislative Drafting Division from 2008 to 2018 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa;
- (b) Amendments have been made to up-date references to offices, officers and statutes (reference to Exclusive Economic Zone Act 1977 replaced with reference to Maritime Zones Act 1999);

- (c) Insertion of the commencement date;
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General;
 - (i) “shall be deemed” changed to “is taken”;
 - (ii) “provisions of”, from time to time” and “for the time being” deleted;
 - (iii) “shall have” changed to “has”;
 - (iv) Numbers in words changed to figures.

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

By section 87(2) of the Forestry Management Act 2011 (No.3), commenced on 28 January 2011:

Title of the Act	for “Agriculture, Forests and Fisheries Ordinance Ordinance 1959”, substituted with “Agriculture and Fisheries Ordinance 1959”;
General Amendments	deleted references to “forests” and “forest” wherever they appear in the Act;
Section 4(b)	subparagraphs (ii) and (iii) deleted;

*This Ordinance is administered by
the Ministry of Agriculture and Fisheries.*
