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**SAMOA**

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**1. Short title and commencement** – (1) This Act may be cited as the Export Control Act

(2) This act shall come into force on .....(or date assented to by the Head of State).

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(b) Any substance or thing of a kind used or capable of being used as an ingredient in a substance or thing referred to in paragraph (a); whether or not it is in a condition fit for human consumption.

“Goods” means:

(a) An animal or a plant, or part of an animal or a plant;

(b) An article or a substance (including reproductive material) derived from an animal or a plant, whether or not in combination with any other article or substance; or

(c) Food.

“Infested” means the presence in goods of a living plant or animal pest including an

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"Phytosanitary certificate", in relation to any plant or plant material, means an official certificate issued by an officer of a plant protection authority of the country of origin of the plant or plant material, substantially in the format of the Model Certificate of the International Plant Protection Convention, certifying that the plant or plant material to which it refers has been inspected and found free from agricultural pests, and substantially free from other injurious pests;

"Place" includes any land, water, harbour, wharf, ship and aircraft within the outer limits of the territorial waters of Samoa;

"Plants" means all species, varieties and types or parts thereof including stems, branches, tubers, bulbs, corms, stocks, budwood, cuttings, layers, slips, suckers, roots, leaves, flowers, fruits, seeds, botanical specimens, germplasm and any other plant growth other than items manufactured wholly or in part from a plant or its parts; it includes marine plants and a dead plant or any part of a plant.

"Plant material" includes timber and other items manufactured wholly or in part from plants;

"Procedures" means:

- (a) The doing of anything under this Act, or the regulations, and any conditions of permits or approvals given under any of the above; and
- (b) The doing of anything in connection with activities carried out in the performance of functions related to this Act.

"Public Notice" in relation to any act, matter, or thing means a notice published in one or more newspaper circulating in the place or area to which the act, matter or thing relates or refers or in which it arises and "publicly notified" has a corresponding meaning.

"Premises" includes the following:

- (a) A building, aircraft, vehicle or ship;
- (b) A place (whether enclosed, or built on, or not);
- (c) A part of a thing or place referred to in paragraph (a) or (b).

"Preparation" in relation to prescribed goods, includes the following:

- (a) The slaughter or killing of animals and the dressing of carcasses from which prescribed goods are obtained;
- (b) The processing, packing or storage of prescribed goods;
- (c) The treatment of prescribed goods;
- (d) The handling or loading of prescribed goods.

"Prescribed goods" means goods, or goods included in a class of goods, that are declared by the regulations to be prescribed goods for the purposes of this Act.

"Public Notice" in relation to any act, matter, or thing means a notice published in one or more newspaper circulating in the place or area to which the act, matter or thing relates or refers or in which it arises and "publicly notified" has a corresponding meaning:

"Registered premises" means premises that are registered, or are part of an establishment that is registered, under this Act.

"Registered owner" in relation to a registered establishment, means the person to whom the certificate of registration in respect of the registered establishment was issued.

"Re-ship" in relation to any imported plant, plant material, animal or animal product or regulated material, means to send it out of Samoa, either by the ship or aircraft in which it was imported, or by any other ship or aircraft;

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“Samoa” includes any land, water, harbour, wharf, port, ship, or aircraft within the outer limits of the territorial sea of Samoa;

“Sanitary certificate” in relation to any animals or animal product, means an official certificate issued by an officer of a animal health authority of the country of origin of the animals or animal product substantially in the format of the Model Veterinary Certificate of the Organisation International des Epizooties, certifying that the animals or animal product to which it refers is believed to be free off injurious pests and diseases.

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**4. Prohibition on export of prescribed goods-**(1) The Minister may by public notice prohibit the export of prescribed goods from Samoa. The Minister may:

- (a) Prohibit the export of prescribed goods absolutely;
  - (b) Prohibit the export of prescribed goods to a specified place;
  - (c) Prohibit the export of prescribed goods unless specified conditions or restrictions are complied with; or
  - (d) Prohibit the export of prescribed goods to a specified place unless specified conditions or restrictions are complied with.
- (2) Without limiting the generality of subsection (1), the Minister may:
- (a) Provide that the export of prescribed goods, or the export of prescribed goods to a specified place, is prohibited unless a licence, permission, consent or approval to export the goods or a class of goods in which the goods are included has been granted as prescribed by this Act or the Regulations; and
  - (b) Make provision for and in relation to:
    - (i) The public notification of criteria necessary to obtain a licence, permission, consent or approval.
    - (ii) The granting of a licence or permission to export prescribed goods subject to compliance with conditions or restrictions, either before or after the export of the goods, by the person to whom the licence or permission is granted or any person to whom the licence or permission is assigned; and
    - (iii) The imposition of fees in connection with the granting and monitoring and compliance with conditions of licences.
    - (iv) The surrender fees in connection with the granting and

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- (iv) Persons (including persons approved by the Chief Executive Officer under the regulations and Authorised Officers) who may exercise powers and perform functions under, or for the purposes of, an approved arrangement.

**5. Contravention of licence conditions etc.** Where a licence or permission granted under the regulations is subject to a condition or restriction to be complied with by a person, the person shall comply with the condition or restriction and, if the person fails to do so: (1) The Minister may withdraw the licence or permission.

(2) Any person who contravenes the provisions of this section commits an offence.

### **Penalty to be included in schedule of penalties**

**6. Registration of premises for the inspection and treatment of prescribed goods-**(1) The Chief Executive Officer may on application, by the owner or occupier of a place and on payment of the prescribed fee, by writing:

- (a) Register a place where the inspection and treatment of prescribed goods may take place

(2) In deciding whether to grant registration, the Chief Executive Officer must take into account:

- (a) Whether everything in the proposed application to be done in relation to the goods at the place:
  - (i) Can be done in accordance with any conditions or restrictions imposed.
- (b) Whether the place and the facilities are adequate to enable the proposed procedures to be carried out in respect of the goods.
- (c) Whether the location of the place is appropriate having regard to the nature of the goods, the proposed procedures; and
- (d) Whether the place is sufficiently close to the nearest place where duties are regularly performed by Authorised Officers or Authorised persons who could appropriately be called upon to check whether this Act and the regulations are being complied with in relation to the goods; and
- (e) Any other matters a the Chief Executive Officer thinks relevant
- (f) A registration has effect for a period not exceeding one year.

(3) An approval may be expressed to be subject to conditions stated in the registration certificate

**7. Export and Entry for Export of Prescribed Goods.** Where a person enters for export or exports prescribed good(s) in contravention of this Act an offence is committed.

### **Penalty to be included in the schedule of penalties**

**8. Notice of intention to export prescribed goods (1)** A person who intends to export prescribed goods shall, if required to do so by this Act or regulations, give notice to the Chief Executive Officer or an Authorised Officer, in accordance with the requirements of the Chief Executive Officer or of the



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Regulations, of the person's intention to export the goods and of the place where the goods may be inspected.

(2) Without limiting the generality of subsection (1), regulations (or the Chief Executive Officer??) made for the purposes of that subsection may:

- (a) Make provision with respect to the time of giving of the notice referred to in that subsection; and
- (b) Make different provision with respect to goods of different kinds. DRAFT

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(b) Export, enter for export or put on any ship or aircraft for export any prescribed good to which a false trade description is applied.

### **Penalty to be included in the schedule of penalties**

**12. False declarations** (1) A person shall not make a false or misleading statement in a declaration furnished for the purposes of this Act and the Regulations.

(2) Every person who makes any false declaration or gives any false certificate under this Act knowing the declaration or certificate to be false commits an offence under this Act.

### **Penalty to be included in the schedule of penalties**

**13. Forfeiture of prescribed goods** (1) Where a court convicts a person of an offence against this Act or Regulations in respect of any prescribed goods, the court may order the forfeiture to the Government of Samoa of those prescribed goods.

(2) The forfeiture of any prescribed goods under subsection (1) extends to the forfeiture of any coverings in which the prescribed goods are contained.

(3) Any prescribed goods forfeited under this section may be sold or otherwise disposed of as the Chief Executive Officer thinks fit.

**14. Certificate with respect to good(s)** (1) Where the Chief Executive Officer, or an Authorised Officer is satisfied that any required conditions or restrictions have been met, he may issue a certificate in relation to good(s) to be exported from Samoa where:

(a) The certificate relates to matters in respect of which a country requires certification before the good(s) may be imported into that country from Samoa; or

(b) The certificate relates to requirements of this Act that must be satisfied before the good(s) may be exported from Samoa; or

(c) The certificate relates to matters concerning good(s) of the kind that are to be exported.

(2) The Chief Executive Officer may cancel such a certificate if the Chief Executive Officer is satisfied that the information contained in that certificate is incorrect in a significant respect.

**15. Certificates for export** An Authorised Officer may, at the request of an exporter, sample and inspect any shipment of prescribed good(s) with a view to the issuance of a certificate in relation to those good(s).

**16. Existence of pest or disease**-(1) For the purposes of this Act, the Chief Executive Officer may at any time issue an advice in writing

(a) Stating that any disease or pest is or is not known or believed to exist in any place, country, or region:

(b) Determining the classification, name, or identity of any animal or plant material, disease, or pest:

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(2) Every advice -given under this section shall, for the purposes of this Act, be conclusive until revoked or amended in writing by the Chief Executive Officer.

**17. Authorised Officers-**(1) The Chief Executive Officer may appoint such Authorised Officers as may be necessary for the proper carrying out of the provisions of this Act. Any person so appointed shall perform such duties, not inconsistent with

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**22. Opening of containers, etc-**An Authorised Officer may require the importer of any box, case, receptacle or container to open it or cause it to be opened or unloaded at the exporter's expense, for inspection.

**23. Obstructing Authorised Officers-** Any person who directly or indirectly obstructs, hinders, interrupts, interferes, threatens or assaults an Authorised Officer in

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**27. Fees and charges** -(1) Fees or other charges may be notified by public notice and imposed by the Minister by public notice on exporters or other persons for licenses, permissions, consent, approval, permits, certificates, approvals of any sort, or for the services of an Authorised Officer.

(2) If payment is not received within an appropriate period the Minister may impose a penalty on such moneys owing at the rate of that applicable by the Department of State responsible for taxation.

**28. Withholding services**-(1) If the Chief Executive Officer is satisfied that payment due for services provided under this Act including any penalty imposed has not been received in an appropriate time, then a direction may be issued by written notice, that services not be provided to that debtor in the future.

(2) Any debt due under these circumstances shall attach to the registration of the premises and as such the registration may not be renewed or transferred until the debt is discharged.

**29. Enforcement of conditions imposed** - Any person who contravenes any condition or requirement specified in, or imposed by, any permit, notice or other instrument issued under any provision of this Act, or of any regulations or orders made thereunder, shall be deemed to have contravened the provision under which such permit notice or instrument was issued.

**30. Evidence** - Where it is necessary for the purposes of any court proceedings, the evidence of an analyst who has been appointed as an Authorised Officer may

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**34. Giving notice under this Act** - Any notice or direction which may be given to any occupier of land or other person by an Authorised Officer in the performance of duties under this Act may be given by delivering the notice or direction to the occupier or other person or by leaving it or posting it addressed to their usual or last known place of abode or business in Samoa, or if unknown or cannot be found in Samoa and the notice or direction relates to land, by affixing a copy of the notice or direction in some conspicuous place on the land to which the notice relates.

**35. Forms, notices and responses relevant to this Act** - Forms notices and responses relevant to this Act may be transmitted in electronic form subject to the approval of the Chief Executive Officer.

**36. Liability for causing Authorised Officer to incur expense** - If any person by failing to comply with or acting contrary to this Act causes an Authorised Officer to incur an expense that would not otherwise have been incurred, that person shall reimburse the Government for the full amount of that expense reasonably properly incurred and that amount shall be recovered as a debt due to the Government.

**37. Persons to assist Authorised Officers** (1) Subject to subsection (2), the owner or occupier of premises entered by an Authorised Officer under this Part must, if requested by an Authorised Officer to do so, provide reasonable assistance to the Authorised Officer for the purpose of the exercise of the Authorised Officer's powers under this Part in relation to the premises.

(2) Where an Authorised Officer makes a request of a person under this section, the Authorised Officer shall produce the Authorised Officer's identity card for inspection by that person and, if the Authorised Officer fails to do so, that person

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*goods* includes any article, substance or commodity.

*registered establishment* means an establishment that is registered under the regulations.

*registered owner, in relation to a registered establishment*, means the person to whom the certificate of registration in respect of the registered establishment was issued.

## **Penalty to be included in schedule of penalties**

**40. Offences with which Authorised Officers may be charged** – Every Authorised Officer commits an offence if prescribed goods under his official custody or control are improperly used, disposed of, or reasonable care is not taken of in respect of such goods.

## **Penalty to be included in schedule of penalties**

**41. Money to be paid into Public Account** - All money, recovered or received under this Act shall be paid into an Authorised Samoa Government Account

**42. Regulations**- The Head of State may from time to time, on the advice of Cabinet, make regulations providing for such matters as are contemplated by or are necessary to give full effect to the provisions of this Act and for its due  
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