



SAMOA

REVIEW OF NATURAL RESOURCE AND ENVIRONMENT RELATED LEGISLATION



Prepared by
Secretariat of the Pacific Regional Environment Programme (SPREP)
and
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INTRODUCTORY NOTE

The following review, prepared jointly by the Secretariat of the Pacific Regional Environmental Programme (SPREP) and the Environmental Defenders Office Ltd (EDO NSW), updates and builds on the reviews conducted in the early 2000s under the International Waters Project.

The review offers a brief overview of environmental legislation in force in each Pacific Island country identified and is current as of January 2018.

A number of sources were referenced for this update, including:

- Prior reviews prepared by SPREP;
- Pacific Islands Legal Information Institute – Paclii;
- ECOLEX - an information service on environmental law, operated jointly by FAO, IUCN and UNEP; and
- Government websites.

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This review is for information purposes only. It is not intended to be a complete source of information on the matters it deals with. Individuals and organisations should consult a local lawyer for legal advice on specific environmental matters.

If you have any feedback in relation to this review, please forward your comments to: registry@sprep.org.

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TABLE OF KEY ENVIRONMENTAL LEGISLATION

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CONSTITUTIONAL AND ADMINISTRATIVE STRUCTURE

The United Kingdom, the United States of America and Germany had consular representation in Samoa between 1847 and 1861. Samoa gained independence in 1889 following the signing of the Final Act of the Berlin Conference on Samoan Affairs. A number of conventions were adopted in 1900 because of a dispute about the succession to the throne upon the king's death. The United States of America took control of Eastern Samoa and Germany took control of Western Samoa. The United Kingdom surrendered its claims in Samoa, recognising its claims in other Pacific Islands nations. New Zealand's military occupied Western Samoa in 1914. Following this, New Zealand governed Western Samoa under the *Samoa Act of 1921* by a League of Nations mandate from 1919.¹ New Zealand then governed the country as a United Nations trusteeship from 1946. The United Nations did not grant self-government to the people of Western Samoa at this time despite their requests. Samoa gained independence in 1962 following a plebiscite for independence, a United Nations General Assembly vote to end the Trusteeship Agreement and New Zealand passing the *Independent State of Samoa Act*.

1.1. The Constitution

The Constitution of the Independent State of Samoa

The *Constitution of the Independent State of Samoa* (the Constitution) was adopted on 28 October 1960 and created Samoa as a free sovereign State comprised of the islands of Upolu, Savai'i, Manono and Apolima in the South Pacific Islands and other islands between the 13th and 15th degrees of south latitude and the 171st and 173rd degrees longitude west of Greenwich. The Constitution is the supreme law of Samoa.

The Constitution establishes the Head of State to be known as O le Ao o le Malo (Part III), the Executive comprised of the Head of State, Cabinet of Ministers and Executive Council (Part IV), the Parliament (Part V) and the Judiciary (Part VI). The Constitution provides individuals with some property rights including a requirement that the government provide just compensation for compulsory acquisition of land (Art. 14). The Constitution has been amended several occasions, in 1963, 1965, 1969 and 1975.

Samoa's laws following independence, are made up of:

- Acts of Samoa's Parliament (Art. 60 Constitution);
- Ordinances made between 1919 and 1947 by the New Zealand Administrator, and by the Samoan Legislative Assembly between 1947 and 1962 (Art. 114 Constitution);
- Acts of Britain's Parliament in force in England on 14 January 1840 and in force in New Zealand on 7 December 1921 unless abolished by Acts of Samoa's Parliament (Art. 114 Constitution);
- Acts of New Zealand's Parliament enacted for Samoa (Art. 114 Constitution);
- Subsidiary legislation;
- English common law and equity (section 349 Samoa Act 1921 (NZ), Arts 111 and 114 Constitution); and
- Custom (Arts 100, 111 and 114 Constitution).

1.2. Local Government and Customary Law

Customary law

The basis of the traditional social system of Western Samoans is *aiga*, or the extended family group, and a *matai*, or chief. Many Western Samoans continue to follow this system. The preamble of the Constitution

¹ The *Samoa Act of 1921* has now been repealed.

states, in part, “Whereas the Leaders of Samoa have declared that Samoa should be an Independent State based on Christian principles and Samoan custom and tradition...”.

Part IX of the Constitution relates to land and titles. *Matai* title shall be held in accordance with Samoan custom and usage and with the law relating to Samoan custom and usage (Art. 100). All land in Samoa is customary land, freehold land or public land (Art. 101). The Constitution provides that:

“It shall not be lawful or competent for any person to make any alienation or disposition of customary land or of any interest in customary land, whether by way of sale, mortgage or otherwise howsoever, nor shall customary land or any interest therein be capable of being taken in execution or be assets for the payment of the debts of any person on his decease or insolvency.”

The Parliament may pass legislation to allow for the granting of a lease or licence over customary land or the taking of customary land for public purposes (Art. 102). The Constitution also establishes a Land and Titles Court with jurisdiction over *Matai* titles and customary land as set out in the Act. In addition, the *Samoan Status Act 1963* gives the Samoan Land and Titles Court the power to declare that a person is a Samoan. The *Samoan Status Act 1963* provides that no person other than a Samoan is eligible to hold a *matai* title, the *pule* over any land or to use, participate or acquire estates or interests in land other than by lease, licence mortgage permitted by legislation.

Local government

There are eleven *itūmālō* (political districts) in Samoa with their own *faavae* (constitutional foundation). Each district is administered and coordinated by the capital village. The capital village also confers the paramount title for the district. Within the *itūmālō*, there are 41 *faipule* districts that function simply as electoral constituencies. Locally, there are 265 villages and a further 45 villages within the capital Apia.

Internal Affairs Act 1995

The *Internal Affairs Act 1995* is “[a]n Act to establish the Ministry of Internal Affairs and to provide for the promotion of the well-being of villages, village authority, to provide for the appointment of *Sui-o-le-nuu* and *Sui-ole-Malo* and to provide for other matters relating to the culture and traditions of Samoa.” In summary, the Ministry’s principal functions are to assist the Minister to establish and implement a system of local government and local laws. The *Internal Affairs Act* establishes two Executive Committees to consult with *Sui-o-le-nuu*, *Sui-ole-Malo* and the *Alii ma Faipule* about the needs of villages and to co-operate with them in relation to wellbeing and prosperity initiatives. The *Sui-o-le-nuu* and the *Sui-ole-Malo* have a number of duties under this Act. These duties include, but are not limited, “to promote harmony in his or her village”, “to encourage the maintenance of law and order in his or her village”, “to ensure the free flow of communication between the *Alii ma Faipule* of his or her village and the Government, and the Ministry” and “to promote diligently, development projects that are economically viable as well as culturally and environmentally sensitive”.

ENVIRONMENTAL PLANNING AND ASSESSMENT

2.1. National Environmental Law

Land Surveys and Environment Act 1989

The *Land Surveys and Environment Act 1989* is “[a]n Act to consolidate the *Land Ordinance 1959* and its amendments and also to make provision for the conservation and protection of the environment and the establishment of National Parks and other forms of protected areas and to enlarge the functions of a Department of State.” The Act covers the following topics:

- Administration;
- Surveys;

- Purchase and development of land;
- Classification and alienation of government land;
- Leases;
- Renewal of renewable leases and reassessments;
- Remissions;
- Revaluations;
- Forfeitures; and
- Conservation and environment.

The *Land Surveys and Environment Act 1989* repealed the *Land Ordinance 1959*, the *Land Amendment Act 1964* and section 2 of the *Land Amendment Act 1976*. It was amended in 1997, 2014 and 2015.

Subsidiary legislation made under the *Land Surveys and Environment Act* include the following:

- *Ozone Layer Protection Regulations 2006*; and
- *Plastic Bag Prohibition Importation Regulations 2006* (and notice of commencement).

2.2. Environmental Impact Assessment

Planning and Urban Management Act 2004

Part 5 of the *Planning and Urban Management Act* relates to development assessment. All developments require consent under this Act unless provided for otherwise by a sustainable management plan or regulations. For the purposes of this Act, development includes the use of land (whether for a long term or temporary purpose), the erection of a building or other structure, the carrying out of a work, subdivision, and any other activity regulated under the Act. Where development consent is required, a person must apply for this to the Authority. The Agency may require the applicant to submit a development plan and/or an environmental impact assessment in relation to the proposed development. The development assessment process contains public participation mechanisms such as public notification and the ability to make submissions. The Authority may refer the proposal to relevant authorities for advice. The Act prescribes the matters that the Agency shall consider in determining a development application including, but not limited to:

- the potential environmental effects of a development proposal, including an environmental impact assessment which has been prepared;
- the sustainability of the proposed development; and
- the public interest.

The Agency may grant or refuse an application and may impose conditions. Applicants and persons who make submissions have a right of appeal to the Planning Tribunal in relation to an unsatisfactory decision of the Authority.

2.3. Land Management, Zoning and Planning

Alienation of Customary Land Act 1965

The *Alienation of Customary Land Act 1965* allows for the leasing and licencing of customary land for certain purposes. Section 3 prohibits the leasing and licencing of customary land for agricultural or pastoral purposes to Samoans who do not hold *Matai* title. Section 4 states:

“subject to section 3, the Minister, if in his or her opinion the grant of a lease or licence of any customary land or any interest therein is in accordance with Samoan custom and usage, the desires and interests of the beneficial owners of the land or interest therein and the public interest, may grant a lease or licence of that customary land or interest therein as trustees for such owners: (a) for an authorised purpose approved by the Minister...”

Section 11 provides for the payment of rent or other consideration to the beneficial owners of the land or interest therein.

Alienation of Freehold Land Act 1972

The *Alienation of Freehold Land Act 1972* is “[a]n Act to control the alienation of freehold land to persons who are not resident citizens and to overseas corporations”. To lawfully enter into a transaction covered by the Act, the non-resident citizen, overseas corporation, or trust for a non-resident citizen or overseas corporation beneficiary must apply for and obtain written consent from the Head of State. This Act is administered by the Department of Lands and Survey.

Customary Land Advisory Commission Act 2013

The *Customary Land Advisory Commission Act 2013* establishes the Customary Land Advisory Commission to encourage, facilitate and promote greater economic use of customary land for the purpose of enhancing the social, cultural, economic and commercial development of Samoa. The functions of the Commission are:

- To recommend to Cabinet suggested measures for the facilitation, encouragement and promotion of economic use of customary land in Samoa;
- In accordance with references made to it by Cabinet, to conduct public consultations on areas of law affecting customary land considered to be in need of reform and report its recommendations for reform to Cabinet;
- To consult with and advise the public and any specific sectors of the community about its work;
- To review all laws affecting customary land in Samoa and make recommendations to Cabinet for changes to such laws where such are necessary for the facilitation, encouragement and promotion of the economic use of customary land; and
- To carry out any other function given to it under this Act or any other Act.

The Commission has multiple powers to enable it to carry out its functions under this Act.

Land and Titles Act 1981

The *Land and Titles Act 1981* is “[a]n Act to consolidate and amend the law relating to customary land and titles, and to the Land Titles Court. The Act deems the following land to be customary land:

- Any Samoan freehold land within the meaning of section 13 of the *Samoan Land and Titles Protection Ordinance 1934* (as that section and Ordinance had existed prior to this Act coming into force) in respect of which the Court has made a declaration, pursuant to section 16 of the Ordinance, that such land or interest in such land be held in accordance with the customs and usages of the Samoan people;
- Any Samoan freehold land within the meaning of section 13 of the *Samoan Land and Titles Protection Ordinance 1934* (as that section and Ordinance had existed prior this Act coming into force) in respect of which, in terms of section 17 of the Ordinance, there has been a recital or declaration made pursuant to a Government or other grant, will, conveyance, lease, assurance or other deed or document that such land or interest in such land be held in accordance with the customs and usages of the Samoan people;
- Any land ordered by the Court to be customary land under section 9; and
- Any land conveyed by Government or any public body by way of deed which provides that the land is held in accordance with the customs and usages of the Samoan people.

Part 3 allows the Court to declare certain land to be customary land. Part 5 establishes a register of *Matais* and related procedures for declaring an intention to appoint someone as the holder of a *Matai* title. Under part 6, the Land and Titles Court is continued. The Act also repeals the *Samoan Land and Titles Protection Ordinance 1934*, and was amended in 2004 and 2008.

Land for Foreign Purposes Act 1993

The *Land for Foreign Purposes Act 1993* empowers the Minister of Natural Resources and Environment to grant a lease or licence to any foreign State or organisation to occupy freehold or public land as the Minister deems appropriate.

Land Surveys and Environment Act 1989

Key relevant parts of the *Land Surveys and Environment Act 1989* address the following:

- | | |
|--------|---|
| Part 3 | Purchase and development of land. The Environment Board may purchase any freehold land or the interest of a lessee in any Government land on behalf of the Government and for the purposes of settlement as farming, urban, commercial or industrial land under this Act or for other Government purposes. The Environment Board can also create a range of interests in such land. |
| Part 4 | Classification and alienation of Government land. The Board may classify Government land available for disposal under this Act into farm land, urban land or commercial or industrial land. |
| Part 5 | Leases over or in respect of Government land. |
| Part 6 | Renewal of renewable leases and reassessments. |
| Part 7 | Remissions, revaluations and forfeitures of leases over Government land. |

Land Titles Investigation Act 1966

The *Land Titles Investigation Act 1966* establishes a Commission to investigate and determine titles and claims to certain lands. Its functions are outlined in section 10, and include the following:

- to advertise for claims (to individual ownership of or property in any land in Samoa other than land undoubtedly held by them as individual property for an estate in fee simple created or confirmed by a Court Grant or a Crown Grant);
- to inquire into each claim made to the Commission by any person to individual ownership of or property in any land in Samoa other than land undoubtedly held by any person as individual property for an estate in fee simple created or confirmed by a Crown Grant or a Court Grant;
- to conduct each such inquiry as prescribed by this Act;
- to dispose of each such claim in 1 or other of the ways permitted by this Act; and
- to recommend to Cabinet any amendments of the law which may be necessary to give effect to the determination of the Commission on any such claim.

Land Titles Registration Act 2008

The *Land Titles Registration Act 2008* continues the position of a Registrar of Land as the Chief Executive Office with responsibility for administering the Act. The Registrar's functions are to establish and maintain the Register, administer the registration system efficiently, effectively and economically and ensure the Act is administered in a cost effective manner. The Registrar has significant powers. Instruments are not effectual to pass any estate or interest in land under this Act or to allow it to be used as security until it is recorded in the Register. The estate of the registered proprietor is paramount. The Act also deals with different instruments relating to transfers, leases, mortgages, caveats and transmissions as well as easements and other restrictions. Subsidiary legislation made under this Act include the *Land Titles Registration Regulations 2010*.

National Parks and Reserves Act 1974

The *National Parks and Reserves Act 1974* provides for the establishment, preservation, and administration of national parks and reserves for the benefit of the people of Samoa. The Head of State, with Cabinet's advice, may declare any public land to be a national park that is not set aside for another public purpose and is at least 1,500 hectares in area. The Head of State, with Cabinet's advice may also declare any public land not set aside for another public purpose to be a nature reserve, recreation reserve, historic reserve or other purpose reserve.

Planning and Urban Management Act 2004

The *Planning and Urban Management Act 2004* establishes a Planning and Urban Management Agency and implements a framework for planning the use, development, management and protection of land in Samoa in the present and long-term interests of all Samoans. The objectives of the Act are:

- to provide for the fair, orderly, economic and sustainable use, development and management of land including the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- to enable land use and development planning and policy to be integrated with environmental, social, economic, conservation and resource management policies at national, regional, district, village and site specific levels;
- to create an appropriate urban structure and form for the development of Apia and other centres so as to provide equitable and orderly access to transportation, recreational, employment and other opportunities;
- to secure a pleasant, efficient and safe working, living and recreational environment for all Samoans and visitors to Samoa;
- to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and
- to balance the present and future interests of all Samoans.

Key parts of the Act cover the following:

Part 4	The Board may make sustainable management plans setting out how land is to be developed or conserved to achieve the objectives of the Act.
Part 6	Deals with development assessment and compensation to owners and occupiers of land.
Part 7	Establishes a Planning Tribunal.
Part 9	The Board may enter into agreements with an owner of land.

Property Law Act 1952

The *Property Law Act* deals comprehensively with interests in both real and personal property. It operates alongside the *Land Titles Registration Act 2008*. The Act covers matters including conveyances, leases, easements and other restrictions on land.

Taking of Land Act 1964

The *Taking of Lands Act 1964* is "an Act to provide for the public purposes and for the payment of compensation therefor and for stopping roads". The Head of State, on the Minister's advice, may take customary land and freehold land required for any public purpose, including particular estates, interests and associated licences in that land.

The Act establishes a procedure for the taking of land. There are special provisions where the land proposed to be taken is customary land. The Minister must inquire with the Samoan Land and Titles Court about any determinations about the *matai* who has the *pule* over that land. The Minister must also cause a survey and a plan to be prepared showing the land taken, publish a public notification and receive and deal with public submissions. Lands are to be taken by proclamation. The *Taking of Lands Act 1964* operates alongside the *Land and Titles Act 1981*.

Detailed provisions provide to whom, when and how compensation is to be granted for the taking of land. Under Part 3, a “person having any estate or interest in any land taken under this Act for any public purpose, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers given by this Act, is entitled to a full and just compensation” from the Minister.

It provides that roads are not to be stopped unless and until a way to access the land in the vicinity exists.

There exist a number of ordinances declaring certain areas of land in Samoa to be for particular purposes. These include:

- *Land for Education Purposes Ordinance 1921*;
- *Land for Hydro Electric and Water Supply Purposes Ordinance 1929*;
- *Land for Quarantine Purposes Ordinance 1921 and 1924*;
- *Land for Radio Station Purposes Ordinance 1929*;
- *Land for Vaimoso Village Purposes Ordinance 1926*; and
- *Land for Water Supply Purposes Ordinance 1921 & 1935*.

BIODIVERSITY CONSERVATION

3.1. Conservation of Natural Resources, Protected Areas and Endangered Species

Conservation

Agriculture and Fisheries Ordinance 1959

The *Agriculture and Fisheries Ordinance 1959* is “[a]n Ordinance to constitute and establish the Ministry of Agriculture and to make certain provisions in regard to agriculture and fisheries”. The Department has the following functions:

- to promote and encourage the development of all phases of the planting, agriculture, 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;
- 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;
- 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; and
- to regulate, control and supervise the manufacture, importation, storage and use of [pesticides].

The Minister has extensive powers under the Ordinance. This Ordinance provides that the Department is to administer the *Plants and Soil Importation (Disease Control) Ordinance 1950*, the *Rhinoceros Beetle Ordinance 1954* and the *Bunchy Top Ordinance 1965*.²

Animals Ordinance 1960

The *Animals Ordinance 1960* seeks to consolidate and amend certain enactments relating to animals and game, and to make provision for controlling the importation of animals and animal products. The Ordinance covers impounding and control of animals, registration of livestock brands, stock improvement, control of animal importation, and protection of game. However, some provisions have been repealed by the *Quarantine (Biosecurity) Act 2005*.

Fisheries Management Act 2016 (No. 8 of 2016)

This Act repeals the *Fisheries Act 1988*. It regulates and controls the conservation, management or development of fisheries and the licensing of Samoan fishing vessels and foreign fishing vessels.

The Act makes provisions with respect to:

- management and conservation of marine and freshwater fisheries and aquaculture in Samoa;
- processing and marketing of fish and fish products; and
- measures to combat illegal, unregulated or unreported (IUU) fishing by Samoan and foreign vessels.

Forestry Management Act 2011

The *Forestry Management Act* is a comprehensive Act “to make provision for the effective and sustainable management of Samoa’s forestry resources and for related purposes”.

Key provisions of the Act include:

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| Part 2 | Establishes the functions and powers of the Ministry responsible for forestry. The Ministry is responsible for the management of forestry resources, the promotion of plantation and farm agro-forestry, and the implementation of international forestry related agreements. The Ministry must also engage in forestry planning and sustainable development by preparing a National Forest Plan and applying the principles of sustainable development. |
| Part 3 | Requires the application of the precautionary principle and the development and application of policies and programmes relating to climate change and carbon trading. |
| Part 4 | Prescribes three classes of land that may be used for forestry operations: <ul style="list-style-type: none"> • public land designated by the government ministry or agency having lawful ownership of the land as being available for forestry operations; • freehold land which the owner has determined to be used for forestry operations; and • customary land which the lawful owners have determined to be used for forestry operations. |
| Part 5 | Assessment reports are required for all proposed forestry operations the subject of licence and permit applications. |

² The *Rhinoceros Beetle Ordinance 1954* has since been repealed by the *Quarantine (Biosecurity) Act*.

Part 8 The Act prohibits forestry operations in national parks and reserves and provides for the establishment of protected areas, protected land and protected reserves.

The Act also contains a number of enforcement mechanisms, including the following:

- Section 25 Authorised officers can issue notices where there is a suspected breach of an environmental control or an adverse impact on water resources of other aspects of the environment.
- Section 42 The Chief Executive Officer can suspend a licence or permit in a number of circumstances including where the permit holder has committed an offence which has a detrimental impact on forestry resources or the environment.
- Section 45 The Ministry and Minister may create Codes of Practice in relation to aspects of forestry operations aimed at protecting the environment.

This Act repeals the *Forests Act 1967* and the *Potlatch Act 1967* and amends the *Agriculture, Forests and Fisheries Ordinance 1959*.

Land Surveys and Environment Act 1989

Part 8 of the *Land Surveys and Environment Act* relates to conservation measures. This Part is administered by a Principal Environmental Officer and the Ministry. Section 96 provides the Ministry's functions, including:

- to advise the Minister on all aspects of environmental management and conservation;
- to ensure and promote the conservation and protection of the natural resources and environment of Samoa;
- to act as the advocate of environmental conservation at Government, its agencies, and other public authorities with advice on a range of matters;
- to make recommendations to the Minister;
- to prevent, control and correct pollution of air, water (including inland and coastal waters) and land resources and to promote litter control;
- to carry out investigations and research relevant to the protection and conservation of natural resources and the environment;
- to provide and promote training in the skills relevant to its functions;
- to promote public awareness to the importance of the environment and its conservation; and
- to do anything incidental or conducive to the performance of any of its functions.

The Act also creates an Environment Board with the functions outlined at section 97, including to:

- review, report on, or decide on matters referred to it by the Minister;
- act as conciliator in cases involving disputes between the Ministry and proponents of development projects insofar as they relate to the environment;
- review annual reports of the Ministry to the Minister and Cabinet insofar as they relate to the environment;
- review and endorse the annual corporate plans of the Ministry insofar as they relate to the environment;
- inform the Minister of development projects having an adverse effect on the environment.

Part 8 Division 4 requires the Chief Executive Officer and Board to prepare, and for Cabinet to approve, Management Plans for the protection, conservation, management and control of national parks, reserves, Samoa waters and water resources, coastal zones, indigenous forests, soil erosion, pollution and waste and litter disposal. The foreshore and coastal waters are also protected under Part 8 Div 5 by prohibitions on removing material from those areas. Under Part 8 Division 6, it is an offence to pollute seas and inland waters.

Samoa Water Authority Act 2003

The Samoa Water Authority (Authority) is regulated by the *Samoa Water Authority Act 2003*. The Authority has many functions including to harvest, treat and reticulate water for supply to the people of Samoa, to encourage and require the responsible use of Samoa's water resources and to assist in protecting, managing and conserving Samoa's water resources.

Water Resources Management Act 2008

The *Water Resources Management Act 2008* is “[a]n Act to provide for the management, protection and conservation of the water resources of Samoa”. The Act's objectives are:

- the sustainable management of the water resource through coordinated and scientifically sound planning of water resource development and regulated water utilisation for all lawful purposes;
- the avoidance of overdrafts of available water supplies through the establishment of an inventory of water resources and the effective monitoring of water levels;
- the improvement of the chemical, physical and biological integrity of the water resource by:
 - i) regular monitoring of water quality;
 - ii) promoting coordination amongst all agencies of government having roles and functions associated with the testing and monitoring of water quality and supply;
 - iii) recording the results of monitoring and maintaining records of other matters associated with the management of the water resource; and
 - iv) the control of pollutant discharges; and
- assisting with the proper assessment of the impacts of proposed developments on the water resource, and facilitating the implementation of effective urban and rural planning regimes that take account of water supply and water quality issues.

Water resources are to be managed in line with the principle of sustainable development defined as “promoting development at a rate and in such a way as to ensure that the quality of the environment and the supply of resources is maintained and, wherever practicable, enhanced to meet the needs of the present generation without compromising the needs of future generations”. All persons and agencies with responsibilities and functions, or exercising powers under the Act must apply the precautionary approach. The Government maintains control of Samoa's water resources (Part 2), with the “sole right to permit the use of water in lakes, falls, rivers, streams, springs and aquifers in Samoa for the purpose of supplying water for domestic, agricultural, pastoral, industrial or commercial uses, or for the purpose of generating or storing electricity or other power...” (Part 3).

Regulatory mechanisms in the Act include licences, permits, environmental and health standards, Samoa water resource management plan, and watershed management plans. Part 6 creates the Samoa Water Resources Board. Part 9 specifically addresses community involvement in water management and includes village and community by-laws and other community based programmes and initiatives. Under part 11, it is an offence to discharge, or cause to be discharged, a pollutant into a water resource of Samoa or to act inconsistently with an approved management plan. The Act operates alongside the *Planning and Urban Management Act 2004* and the *Disaster and Emergency Management Act 2007*.

Protected Areas

The *Land Surveys and Environment Act* as discussed above, permits the creation of a range of reserves. In addition, the *Forestry Management Act* provides that lands can be designated as protected areas for the purposes stated at section 57, such as:

- protecting the biodiversity of Samoa;
- providing protection for endangered species;

- otherwise implementing international conventions applying in Samoa, and which require that steps be taken to provide protection and conservation measures relevant to the forestry resources;
- providing for the protection of an area determined to be of national, religious, historic, legendary or archaeological significance;
- protecting a water catchment or water resource; or
- preserving sites of significance for tourism or public recreation.

Under section 58 of the *Forestry Management Act*, the Head of State may declare land to be protected land.

Endangered Species

There are no Acts that deal exclusively with endangered species. However, land may be designated as a protected area for the protection of endangered species under the *Forestry Management Act*.

Use of Natural Resources

Petroleum Act 1984

The *Petroleum Act 1984* regulates supply, transport and storage of petroleum. Sections 5-6 empower the Chief Executive Officer of the Ministry of Finance to acquire or take the land or the lease of any land for the purposes of the *Petroleum Act* with the consent of the landowners and subject to the payment of compensation. However, this legislation does not deal with the extraction of petroleum and its environmental impacts.

3.2. Marine and Coastal Resources

Fisheries Management Act 2016

The *Fisheries Management Act* regulates and controls the conservation, management or development of fisheries and the licencing of Samoan fishing vessels and foreign fishing vessels. The Act invokes the precautionary approach and the ecosystem approach outlined in section 4, along with the following principles of conservation and management:

- any dealings with conservation and management of fishery resources must be conducted in a transparent, accountable and inclusive manner, taking into account applicable best international or regional practices;
- fishing to commensurate with the sustainable use of fishery resources taking into account the impacts on non-targeted and associated or dependent species and the general obligation to protect and preserve the marine environment;
- management decisions are based on the best information available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, or any other approved reference points, as qualified by relevant environmental, social and economic factors, and taking into account fishing patterns and the interdependence of stocks;
- over-fishing and excess fishing capacity are to be prevented or eliminated;
- full and accurate data on fisheries, including information relating to the ecosystems and social systems in which fisheries occur, are to be collected, verified, reported and shared in a timely and appropriate manner;
- effective enforcement of, and compliance with, conservation and management measures are to be pursued to protect biodiversity;
- pollution and waste originating from fisheries operations, discards, by-catch, lost or abandoned gear and impacts on other species and marine ecosystems are to be minimised; and
- decisions and actions taken are to improve the welfare and livelihood of fishers and the fishing community.

The Act administers and regulates the fishing industry through various measures including, empowering the Minister to enter into treaties, agreements and arrangements, fishery management plans, licences, fishery allocations and rights, prohibiting certain fishing related activities and offences. Part 8 enables a village Fono to make village fishery bylaws “for the purpose of conserving, managing, developing and sustaining harvest of fish in the village fisheries management area”.

Marine Pollution Prevention Act 2008

The *Marine Pollution Prevention Act 2008* provides for the prevention of pollution to the marine environment and for responses to marine pollution incidents emanating from vessels, and other matters related to the implementation of international marine pollution conventions. Section 3 states that the Act applies to and gives the force of law to the following international marine pollution conventions:

- The *Convention for the Protection of the Natural Resources and Environment of the South Pacific Region 1990* and its *Protocol for the Prevention of Pollution of the South Pacific by Dumping and Protocol concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region*;
- The *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)* as amended by the Protocol of 1996;
- The *International Convention for the Prevention of Pollution from Ships (1973)* as amended by the Protocol of 1978 (MARPOL 73/78);
- The *International Convention on Civil Liability for Oil Pollution Damage 1992*;
- The *International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea 1996*;
- The *International Convention on Oil Pollution Preparedness, Response and Co-operation 1990*;
- The *International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992*;
- The *International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969)* and the *Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil 1973*;
- The *Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances 2000*;
- The *International Convention on Civil Liability for Bunker Oil Pollution Damage 2001*; and
- The *International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001*.

Part 2 of the Act addresses marine pollution prevention. In essence, it requires relevant vessels to comply with the design and pollution prevention equipment provisions in MARPOL 73/78 and prohibits acts that pollute water. Persons wishing to discharge a pollutant or harmful substance into Samoan waters must first obtain a discharge permit. The Act also creates a number of reporting and record-keeping obligations on persons in charge of vessels or occupiers of land from which pollutants are discharged.

Part 3 of the Act covers the topic of marine pollution response. It creates a sub-Committee of the Disaster Advisory Committee under the *Disaster and Emergency Management Act 2007*. The Chief Executive Officer must create a National Marine Spill Contingency Plan (NATPLAN). Regulations may establish a National Marine Pollution Fund (POLFUND) to finance the NATPLAN. Part 4 of the Act addresses marine casualties. Part 5 of the Act sets out the circumstances where persons will be liable for and required to pay compensation for pollution damage from ships. Part 6 of the Act makes it an offence to dump and incinerate wastes at sea, unless permitted by the Act.

Maritime Zones Act 1999

The *Maritime Zones Act 1999* explains what constitutes the internal waters, territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of Samoa (Parts 2, 5, 6 and 7). Part 3 grants

the right of innocent passage and Part 4 addresses jurisdictional matters. This Act repeals the *Territorial Sea Act 1971* and the *Exclusive Economic Zone Act 1977*.

3.3. Biosafety

Canine Control Act 2013

The *Canine Control Act* contains biosecurity provisions to the extent that it deals with diseased and dangerous canines under part 4. Canine Control Officers may destroy diseased or dangerous canines. The Act contains associated offences for non-compliance with directions of Canine Control Officers.

Cocoa Disease Ordinance 1961

The *Cocoa Disease Ordinance* relates to the control of cocoa diseases. This repeals and replaces the *Cocoa Disease Ordinance 1925*. The Director of Agriculture, Forests and Fisheries has the power to enter land or places where cocoa tree products are dealt with to identify trees infected with a declared disease or pest, issue notices and require treatment of disease. To further control diseases, the Ordinance restricts the importation of cocoa beans, cocoa plant material and plant material which may host cocoa diseases. The Ordinance also contains offence provisions.

Quarantine (Biosecurity) Act 2005

The *Quarantine (Biosecurity) Act 2005* consolidates the law relating to the importation of regulated articles and associated biosecurity risk, and the control of pests and diseases of animals, plants and the wider environment. The scope of this Act in terms of biosecurity includes, but is not limited, to measures:

- for, or in relation to, the examination, exclusion, detention, observation, segregation, isolation, protection, testing, treatment and regulation of conveyances, installations, people, regulated articles or other goods or things; and
- having as their object, the prevention or control of the introduction, establishment or spread of pests and diseases that could cause significant damage to human beings, animals, plants, other aspects of the environment or economic activities.

The operators and owners of ports and airports are required to report to the Ministry facilities for quarantine purposes. The *Quarantine (Biosecurity) Act* restricts the importation of regulated articles and cultures unless the individual obtains a permit. The Act contains a range of quarantine processes and measures for pest and disease control. The Chief Executive Officer may conduct pest and disease surveys, declare and control infected areas, take measures to control or eradicate a pest or disease and proclaim a pest or disease emergency. Additionally, the Minister is empowered to enter into international arrangements “for the effective international cooperation and control of biosecurity risks in Samoa and elsewhere”.

WASTE MANAGEMENT AND POLLUTION

4.1. Waste

Land, Surveys and Environment Act 1989

The *Land Surveys and Environment Act* contains provisions about controlling litter in Part 8 Division 8. There is an obligation on the relevant Department to provide and maintain receptacles in public places for the deposit of litter. It is also an offence under the Act to litter without reasonable excuse on public or private land.

Waste Management Act 2010

The *Waste Management Act* provides for the collection and disposal of solid wastes and the management of all wastes in Samoa.

Key parts of the Act include the following:

Part 2	Provides for the regulation and management of wastes.
Part 3	Creates offences relating to wastes.
Part 4	Addresses waste management operators and operations.
Part 5	Addresses dumping and incineration of wastes at sea.
Part 6	Provides for community involvement in waste management and allows for the promulgation of by-laws for the proper management of wastes in particular areas and which involve local communities in waste management measures.

The Act is administered by the Ministry responsible for the Environment who has many functions (and associated powers) in connection with regulating and managing wastes in Samoa. This Act gives the force of law to the following waste related conventions:

- *The Convention on the control of Transboundary Movements of Hazardous Wastes and their Disposal, Basel, 1989;*
- *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, 1995;*
- *The Stockholm Convention on Persistent Organic Pollutants, Stockholm, 2001; and*
- *The Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Rotterdam, 1998.*

Schedule 2 of the Act contains a list of hazardous wastes to be regulated in accordance with international conventions.

4.2. Pollution

Marine Water Pollution

Marine water pollution is regulated by the *Marine Pollution Prevention Act 2008*, as discussed above.

OTHER

5.1. Disaster Risk Management

Chemical Weapons Act 2010

Section 4 provides that the purpose of the *Chemical Weapons Act 2010* is to implement Samoa's obligations under the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction* (Convention). The Act states that the Ministry for Foreign Affairs is the National Authority for the purposes of the Convention. There are a number of offence provisions. For example, it is an offence under section 7 to "develop, produce, otherwise acquire, stockpile or retain chemical weapons", "directly or indirectly transfer a chemical weapon to another person" or to use a chemical weapon.

Disaster and Emergency Management Act 2007

The *Disaster and Emergency Management Act 2007* is “[a]n Act to provide for the management of disasters and emergencies in Samoa by effective planning and risk reduction, response and recovery procedures and the promotion of coordination amongst the response agencies, and for related purposes”. The objects of the Act at section 4 include “to otherwise enhance the capacity of the government, relevant agencies and the community to effectively manage the impacts of disasters and emergencies and to take all necessary action to prevent or minimise threats to life, health and the environment from natural disasters and other emergencies”.

The definition of disaster includes natural disasters and situations which involve a threat to the environment. Emergency is defined as “a situation: (a) which is more serious than a disaster; (b) which could result or has resulted in causing widespread human, property or environmental losses throughout Samoa or in any part of Samoa; and (c) which would require a substantial mobilisation and utilisation of Samoa’s resources or which would exceed the ability of Samoa to cope using its own resources”. Part 2 creates a National Disaster Council and a Disaster Advisory Committee as well as setting out the roles of each government agency and the Ministry. A National Disaster Plan and response agency plans must be created in accordance with Parts 3-4 of this Act.

Fire and Emergency Services Act 2007

The *Fire and Emergency Services Act 2007* establishes the Samoan Fire and Emergency Services Authority. Section 4 provides the Authority’s functions, including:

- to provide fire suppression and fire prevention services throughout Samoa;
- to provide emergency prevention and emergency response services throughout Samoa; and
- to carry out any other function conferred on the Authority by or under this Act or any other Act or as directed by the Minister.

Under this Act, emergency means an actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person, which destroys or damages, or threatens to destroy or damage any property or endangers or threatens to endanger the environment or any element of the environment. Without limiting the definition, an emergency includes:

- a cyclone, tsunami, flood, wind storm, earthquake or other natural event;
- a fire;
- an explosion; and
- hazardous material incident where there is a major threat of life safety, explosion or fire.

Part IV of the Act deals with fire and emergency prevention and abatement.

MULTILATERAL ENVIRONMENTAL AGREEMENTS

INTERNATIONAL ENVIRONMENTAL INSTRUMENT	STATUS
BIODIVERSITY	
Convention on Biological Diversity (CBD)	R
<ul style="list-style-type: none"> • Cartagena Protocol on Biosafety • Nagoya Protocol on Access and Benefit-Sharing 	R A
Convention on International Trade in Endangered Species (CITES)	A
Convention on Migratory Species (CMS)	A
Convention on Wetlands (Ramsar)	R
World Heritage Convention (WHC)	Ac
WASTE AND POLLUTION	
Hazardous waste and pollution	
Basel Convention	A
Rotterdam Convention	A
Stockholm Convention	R
Atmospheric Pollution	
Vienna Convention	A
<ul style="list-style-type: none"> • Montreal Protocol 	A
Ship-based pollution	
UNCLOS (Part XII : Protection and Preservation of the Marine Environment)	R
London Convention - Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter	-
<ul style="list-style-type: none"> • London Protocol 	-
CLIMATE CHANGE	
UNFCCC	R
<ul style="list-style-type: none"> • Kyoto Protocol • Paris Agreement 	R R
LAND DEGRADATION	
UNCCD	R
REGIONAL AGREEMENTS	
Waigani Convention	R
Noumea Convention	R
<ul style="list-style-type: none"> • Dumping Protocol • Emergencies Protocol 	R R

Ratification (R), Acceptance (Ac), Accession (A), Signed (S)