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## **A DRAFT EXPORT CONTROL BILL**

**Note:**

**The advantage of an Export Control Act is that in one piece of legislation you can have all the controls such as authorising officers, false trade description provisions and the issue of whatever certification is needed in the one Act. Then if necessary meat or fish can have their own Regulations or whatever duly authorised by the covering Export Control Act.**

**Prescribed goods may be notified by public notice and imposed by the Minister by public notice on importers, exporters or other persons for permits, certificates, approvals of any sort, or for the services of an Authorised Officer, or for space, food or any materials used in quarantine stations or facilities or for application of treatment required under this Act.**

**For example, plants, fish (if Fisheries are proceeding with Fish Export Regulations I suggest they be moved under this of Act.), animals and animal products (with meat there is a quite new 1999 Meat Exports Act, this could either be retained and meat excluded from an Export Control Act or revamped as Regulations to this Act), timber.**

**There is likely to be the need for specific sets of regulations according to particular commodities and the requirements imposed on these commodities by the country to which the products are being exported. For example Meat Inspection regulations or a call up of the Meat Export Act will need to be considered. Similarly specific regulations may be necessary for the export of marine products specific construction or QA requirements may be necessary.**

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## SAMOA

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### **AN ACT to consolidate the law relating to the export of prescribed goods**

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

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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).

## **2. Interpretation**

“Animal” means any living thing that is not a plant. It includes a dead animal and any part of an animal.

“Animal product” means any part of the animal including the flesh, wool, hair, skin, hide, bones, horns, hooves, feathers and other portions of the carcass and any product that is wholly or partly derived from an animal or any part of an animal being a product or a part of an animal which has not been treated or sterilized to the stage where it is rendered free from any disease and from carrying any disease;

“Approved” means approved by the Chief Executive Officer.

“Authorised Officer” means an officer authorised by this Act or the regulations, or by the Chief Executive Officer to do the act in relation to which the expression is used and may include an officer employed by another Ministry of the Samoan government authorised by the Chief Executive Officer.”

“Carcass” means the carcass of any animal and includes the whole or any part of the flesh, wool, hair, skin, hide, bones, hooves, horns, feathers or other portion of the carcass.

“Contamination” means the presence in goods, a storage place, or conveyance, of pests or other regulated articles, not constituting an infestation

“Compliance agreement” has the meaning given by section 24.

“Conveyance” means any ship, aircraft, vehicle, or other means of transport, or any container that is used to move people and /or goods from one location to another.

“Chief Executive Officer” means the Head of the department of State responsible for agriculture.

“Disease” means any organism that is capable of harming or adversely affecting animals or plants and includes the causative agent and any form or stage of development of such disease. It includes a micro-organism, a disease agent, an infectious agent and a parasite.

“Enter for export”, in relation to any prescribed goods, means the presentation of the goods by a person to an Authorised Officer for the purpose of the Authorised Officer performing his or her functions under section 10, being a presentation occurring at a particular stage of the preparation of the goods that is prescribed in respect of any proposed export of such goods.

“Establishment” includes premises.

“Examine” includes count, measure, weigh, grade or gauge.

“False trade description” means a trade description that, by reason of anything contained in or omitted from the description, is false or likely to mislead in a material respect as regards the goods to which it relates, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, which makes the description false or likely to mislead.

“Food” includes:

(a) Any substance or thing of a kind used or capable of being used as food or drink by human beings; and

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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 infection.

“Inspection” means the examination thereof for the purpose of detecting contamination

“Installation” means:

- (a) A resources installation; or
- (b) A sea installation;

“In-transit” means regulated articles which are from another country, not to be imported into Samoa, but which are destined for another country. *Alternative: “In-transit” means regulated articles which are from another country, destined for another country but comes through Samoa”*

“Label” includes any tag, band, ticket, brand or pictorial or other descriptive matter.

“Magistrate” means a magistrate who is remunerated by salary or otherwise.

“Minister” means the Minister responsible for agriculture.

“Monitoring” means an official monitoring process used to identify sanitary and phytosanitary situations.

“Notice” means a notice in writing, or in print, or partly in writing and partly in print, delivered personally, or, (as the case may require) by leaving it at or posting it addressed to the office or address of an Authorised Officer, or the usual or last known place of abode or business in Samoa of the owner or other person to be affected by the notice, or by affixing the notice at the home or other conspicuous place on the land of the owner or other person:

“Occupier” in relation to any land, means the occupant of the land and if the land is not occupied or the occupant is unknown, or cannot be found, includes the owner of the land, or of any estate or interest in the land.

*Alternative “Occupier” of premises means the person apparently in charge of the premises.*

“Official mark” means any stamp, seal, label or mark that is declared by the regulations to be an official mark.

“Official marking device” means a device that is capable of being used to apply an official mark and is declared by the regulations to be an official marking device.

“Permit” means a written authorization issued by the Chief Executive Officer under section ?? of this Act for the movement out of or through Samoa of prescribed goods.

“Pest” means an organism of plant or animal origin which can constitute a biosecurity risk and directly or indirectly cause disease, injury or damage to plants or animals, including any living stage of insect, mite, nematode, snail, slug, or other invertebrate animal, bacteria, fungi, virus or similar organism. It includes a weed pest, an insect pest, a noxious plant, noxious insect and can include an alien invasive species of plant or animals.

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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.

“Territorial Seas” means the territorial sea as defined in the Maritime Zones Act 1999.

“Test” means official examination, to determine if pests or diseases are present or to identify tests.

"Timber" includes logs, branchwood, firewood and bark, and all wood which has been split, hewn, sawn or dressed but not otherwise manufactured, and prefabricated building units, poles and the like, crossarms, shakes and shingles;

"To treat" means to take measures to ensure removal of injurious materials or the elimination, sterilization or killing of any pests and diseases for the avoidance of contamination, including, among other measures, the cleaning, disinfection and disinfestation of prescribed goods, and the destruction of pests and diseases.

“Trade description” in relation to prescribed goods, means any description or statement (whether in English or any other language), or pictorial representation, indication or suggestion, direct or indirect:

(a) as to the nature, number, quantity, quality, purity, class, grade, breed, measure, gauge, size, mass, colour, strength, sex, species or age of the goods;

(b) As to the country or place in or at which the goods were made or produced;

(c) As to the exporter, manufacturer or producer of the goods or the person by whom they were selected, packed or in any way prepared for the market;

(d) As to the mode, time or place of manufacturing, producing, selecting, packing or otherwise preparing or treating the goods;

(e) As to the time before which, or period within which, the goods are to be used;

(f) As to the batch, lot or other grouping in which the goods are included;

(g) As to the material or ingredients of which the goods are composed or from which they are derived; or

(h) As to the goods being the subject of an existing patent or privilege; and includes any label or mark that, according to the custom of the trade or common repute, is commonly taken to be an indication of any of the above matters.

“Vessel” means any ship, boat, or other description of vessel or vehicle used in navigation by sea, and includes an off-shore industry mobile unit (being an overseas installation) that is bound for, or is at a port.

### **3. Act to bind the Government** –This Act binds the Government

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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 of a licence or permission to export prescribed goods.
  - (v) The revocation or suspension of a licence or permission that is granted subject to a condition or restriction to be complied with by a person for failure by the person to comply with the condition or restriction, whether or not the person is charged with an offence against sub section 1 in respect of the failure.

(3) Without limiting the generality of subsection (2), the Minister may for the purposes of subsection (1):

- (a) Provide that the export of prescribed goods, or the export of prescribed goods to a specified place, is prohibited unless the goods have been prepared in accordance with an arrangement that has been approved by the Chief Executive Officer; and
- (b) Make provision for and in relation to:
  - (i) The approval of an arrangement subject to specified conditions or restrictions; or
  - (ii) The variation, suspension or revocation of an approval of an arrangement; or
  - (iii) The variation, suspension or revocation of any or all of the conditions or restrictions to which an approval of an arrangement is subject, or the imposition of further conditions or restrictions; or

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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.

(3) It shall be an offence not to comply with this section.

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

**9. Conditions relating to goods entered for export.** The Chief Executive Officer may approve conditions with respect to goods entered for export that include:

- (a) Providing for the necessary degree of freedom from the presence of pests and diseases.
- (b) Providing for the necessary degree of freedom for any residue of a chemical.
- (c) Prescribing packaging for specific kinds of prescribed good(s) intended for export.
- (d) Providing for the branding or marking of packages or specific kinds of prescribed good(s), and for the registration of brands and marks:
- (e) Providing for the registration of nurseries subject to prescribed terms and conditions:
- (f) Providing that any person who sows, plants, grows or farms prescribed good(s) shall give such information as may be required to facilitate the issue of export certification:
- (g) Prescribing modes of treatment of prescribed good(s) before they are entered for export, and prescribing such other things as shall be required of prescribed good(s) for export:
- (h) Restricting the export of any prescribed good.

**10. Contravention relating to official marks** A person shall not, in contravention of this Act or Regulations:

- (a) Manufacture, have in their possession, apply, alter or interfere with an official mark;
- (b) Manufacture, have in their possession or apply a mark resembling, or apparently intended to resemble or pass for, an official mark; or
- (c) Manufacture or have in their possession an official marking device.

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

**11. False trade descriptions** (1) A person shall not:

- (a) Apply a false trade description to:
  - (i) Any prescribed good intended or entered for export; or
  - (ii) Any prescribed good put on any ship or aircraft for export or brought to any wharf, airport or other place for the purpose of export; or

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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 the provisions of this Act, as may be specified by the Chief Executive Officer in the instrument of appointment.

**18. Identity cards-**(1) The Chief Executive Officer may cause an identity card to be issued to an Authorised Officer.

(2) An identity card

(a) Is to incorporate a recent photograph of the Authorised Officer to whom it is issued; and

(b) Is to contain

(i) The Authorised Officer's signature; and

(ii) A unique number assigned to the officer; and

(c) Is to state that the Authorised Officer is appointed under this Act.

(3) A person who ceases to be an Authorised Officer must, as soon as practicable after so ceasing, return their identity card to the Chief Executive Officer who caused it to be issued.

(4) A person commits an offence if that person ceases to be an Authorised Officer and fails to return the identity card as required by subsection (3) of this section.”

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

**19. Powers of entry-**(1) In the exercise of powers, an Authorised Officer may, at any time, enter any conveyance, land, or building, other than a dwelling house, for the purpose of inspection of prescribed goods. Before acting under the provisions of this section, the Authorised Officer shall, if requested to do so by the person in charge of the conveyance or in occupation of the land or building, produce documentary evidence of identity.

(2) No Authorised Officer may enter a dwelling house without the owner or occupiers approval unless authorised in that behalf by a warrant under the hand of a Judge, who shall not grant the warrant unless satisfied that the Authorised Officer has reasonable grounds for requiring entry to the dwelling.

**20. Search-**An Authorised Officer may, in carrying out functions under this Act, or under any regulations made thereunder, examine cargo, conveyances, containers or areas for the purpose of inspecting prescribed goods.

**21. Seizure** If the Authorised Officer suspects, on reasonable grounds, that:

(a) Particular evidential material is in or on the premises related to an offence against this Act or Regulations; and

(b) It is necessary to seize the evidential material in order to prevent it from being concealed, lost or destroyed; and

the Authorised Officer may seize the evidential material found there.

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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 the performance of their functions under this Act or regulations commits an offence an offence.

### **Penalty provision in schedule of penalties**

**24. Compliance agreements-**(1) The Chief Executive Officer may enter into a written agreement (a compliance agreement) with a person in connection with:

- (a) The application of particular procedures in respect of goods; and
- (b) The supervision, monitoring and testing of the person's compliance with those procedures.

(2) A compliance agreement may provide that, in circumstances stated in the agreement, the Chief Executive Officer may, by written notice, cancel or vary the agreement or suspend its operation for a period. These circumstances may include but are not limited to the lack of adherence to required procedures.

(3) An Authorised Officer may issue certification for goods to which a compliance agreement applies on the basis of a certificate or assurance, given by a person authorised under the agreement to give such a certificate or assurance that all the procedures to which the agreement refers have been complied with in respect of the goods.

**25. Safe carriage and safe working environment of Authorised Officers-**(1) Where it is necessary for Authorised Officers to be transported to premises, such transport shall provide safe carriage having regard to the conditions of travel.

(2) Where it is necessary for Authorised Officers to undertake inspection duties on premises, not being a premise owned by the Government of Samoa, the owner of such premises shall be responsible for providing a safe working environment.

(3) It shall be an offence to not provide a safe working environment, or to transport an Authorised Officer undertaking their duties in an unsafe manner.

### **Penalty in the schedule of penalties**

**26. Protection against claims** - No proceedings shall lie against the Government, an Authorised Officer or any public officer in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this Act or any regulations or orders made thereunder in good faith and without negligence.

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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 present as evidence in lieu of the prescribed goods such results either in documentary or photographic form, as have been taken from properly identified samples of the prescribed goods.

**31. Destruction of prescribed goods** - Whenever a person is convicted of an offence punishable under this Act or any regulations or orders made thereunder, the court before which the person is convicted may order the destruction of the prescribed goods or other item, if any, in respect of which the offence has been committed.

**32. Delegation by Minister** - The Minister may, by signed writing, delegate to the Chief Executive Officer, or an officer all or any powers under this Act, the regulations, or any other instrument under this Act or regulations.

**33. Delegation by Chief Executive Officer** - The Chief Executive Officer may, by signed writing, delegate to an officer all or any powers, except the power of delegation, under this Act, the regulations, or any other instrument under this Act or regulations.

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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 is not obliged to comply with the request.

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

**38. Offences** - Every person who commits an offence against this Act is liable on conviction to a fine not exceeding x penalty units

**39. Supply of goods or services to Authorised Officers** (1) Except as approved in writing by the Chief Executive Officer, the registered owner of a registered establishment, or an employee or agent of such a person, shall not supply any goods or services to a person whom the owner, employee or agent, as the case may be, knows is an Authorised Officer.

(2) An Authorised Officer must not receive any goods or services supplied to him or her by the registered owner of a registered establishment, or an employee or agent of such a person, unless the supply of the goods or services has been approved in writing by the Chief Executive Officer under subsection (1).

Penalty: Imprisonment for 12 months.

(3) An offence against this section is punishable on summary conviction.

(4) In this section:

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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 administration.

**The Export Control Act 2002 is administered in the Department responsible for Agriculture**