

# **Forests Act 1967**

## **CONSOLIDATED ACTS OF SAMOA 2010**

### **FORESTS ACT 1967**

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## **THE FORESTS ACT 1967 1967 No.12**

**AN ACT** to consolidate, amend, and extend the law relating to the conservation, protection

and development of the natural resources of Samoa, especially soil, water and forest, and to enable effect to be given to the following principles and objectives:

- (a) To maintain, and establish where necessary, areas of forest adequate to protect the climate, soil and water resources of the country;
- (b) As far as possible to provide, on a sustained yield basis, the forest produce requirements of the people and the industry of the country and to encourage an export trade; and
- (c) To ensure the best use of all forest lands for the general benefit of the country.

*(12 December 1967)*  
*(Commencement date: 12 December 1967)*

## PART I PRELIMINARY

**1. Short title** - This Act may be cited as the Forests Act 1967.

**2. Interpretation** - In this Act, unless the context otherwise requires:

"**Act**" includes Ordinance.

"**Cabinet**" means the Cabinet of Samoa.

"**Cattle**" includes oxen, bulls, steers, cows, horses, stallions, geldings, mares, asses, mules, goats, sheep, rams, weathers, ewes, pigs, boars, sows, all browsing animals, and all the young of all the foregoing animals; and such other animals as the Minister may by notice in the Samoa Gazette and the Savali declare to be cattle.

"**Chief Executive Officer**" means the Chief Executive Officer of the Ministry.

"**Chief Forest Officer**" means the officer-in-charge of the Forestry Division, appointed pursuant to section 4.

"**Constitution**" means the Constitution of Samoa.

"**Dues**" means money owing or payable.

"**Employee**", in relation to the Public Service, means a person employed in the Public Service (whether on the permanent staff or as a probationer or temporarily, whether full time or part time) and who is remunerated by salary or wages.

"**Fees**" include money payable to the Government of any person as remuneration for service rendered or to be rendered or as consideration for the grant of any permit, right, authority or other privilege.

"**Firewood**" means wood intended for, and used for, consumption only as fuel.

"**Forest land**" means:

- (a) State forest land; or
- (b) Public or customary land which is subject to a licence or lease to the Minister or any other person for any purpose of forestry; or
- (c) Freehold land which is subject to a licence or lease to the Minister or any other person for any purpose of forestry, or in respect of which the Minister is a trustee under Part IX.

**"Forest Officer"** means any member of (the Public Service) appointed by the Chief Executive Officer to exercise any of the powers vested in a forest officer by this Act and includes the Chief Executive Officer and the Chief Forest Officer.

**"Forest produce"** includes all trees and other plants and the produce of trees and other plants, and also includes earth, sand and minerals when found in or removed from any forest land.

**"Forestry"** means the application of business methods and technical forestry principles to operations on lands for the establishment, culture, protection and maintenance of forests or for the production, extraction or conversion of forest produce, including the provision of access to such lands.

**"Forestry Division"** or **"Division"** means the Division of the Ministry constituted by section 3.

**"Government"** means the Government of Samoa.

**"Land"** includes estates and interests in land and licences, easements and profits a prendre over or in respect of land.

**"Land Board"** means the Land Board established by the Lands, Surveys and Environment Act.

**"Lawful authority"** means the prior written authority of a forest officer, or a prior written licence or lease granted by the Minister responsible for Lands for forestry under this or any other Act, or a prior written permit, right or other authority granted by the Minister under this Act.

**"Licence"** or **"lease"** includes a sublicense or a sublease, as the case may be.

**"Minister"** means the Minister responsible for forestry.

**"Ministry"** means the Ministry of having responsibility, from time to time, for forestry matters.

**"Prescribed"** means prescribed by this Act or regulations.

**"Purpose of forestry"** includes the protection of climate, soil conservation, water conservation and storage (whether for water supply, irrigation or generation of electricity), scenic, amenity, recreational, scientific and sanctuary purposes, and the production, extraction and conversion of timber and other forest produce.

**"Regulations"** mean regulations made under this Act.

**"Rent and royalties"** in relation to any licence or lease of any forest land or any permit, right or authority in respect of any State forest land, includes all purchase money, rent, royalties, stumpage, fees, dues and other charges payable under the licence or lease, whether in respect of forest produce or otherwise.

**"River"** includes any stream, canal, creek, other channel, and lake, whether natural or artificial.

**"Royalty"** means a prescribed or agreed fee for forest produce payable to the owner of the forest.

**"State"** or **"Samoa"** means the Independent State of Samoa.

**"State forest land"** means land set apart as State forest land by or under this Act.

**"Timber"** means any tree or part of any tree which has been felled or has fallen and all wood whether sawn, split, hewn, hollowed out or otherwise fashioned.

**"Trees"** include not only timber trees but trees of all kinds shrubs, bushes, ferns, plants, seedlings, saplings, cuttings, suckers, and shoots of every description, and any part of a tree.

**"Working plan"** means a written plan which regulates the work to be performed for forestry purposes on a specified area of land.

## **PART II ADMINISTRATION**

**3. Forestry Division** - There is hereby established a Division of the Ministry to be known as the Forestry Division.

**4. Chief Forest Officer and other officers and employees - (1)** There shall be appointed from time to time a Chief Forest Officer.

**(2)** The Chief Forest Officer shall be in charge of the Forestry Division, subject to the control of the Minister and (subject to the control exercised by the Minister) of the Chief Executive Officer.

**(3)** There may from time to time be appointed such other officers and employees as may be necessary for the administration of the Forestry Division.

**5. Status of Chief Forest Officer and other officers - (1)** The Chief Forest Officer and any other officer of the Division may, from time to time, be either:

(a) An officer of the Public Service; or

(b) A person made available for the office by the United Nations or any specialised agency of the United Nations under its Operations Executives or OPEX Scheme; or

(c) A person whose service is honorary so far as the Government is concerned.

**(2)** A person appointed under subsection (1)(b) shall be appointed by the Public Service Commission as a contract officer of the Public Service, without any right to participate in any superannuation scheme provided or subsidised by the Government, and otherwise subject to all legislation for the time being applicable to contract officers of the Public Service, for such term and on such conditions as shall be agreed upon between the Public Service Commission and the person appointed, or between the Government and the United Nations or the specialised agency of the United Nations by which such person is made available for the office, and his or her appointment shall not be subject to appeal.

**(3)** A person appointed under subsection (1)(c) shall be appointed by the Head of State acting on the advice of the Prime Minister, given after the Prime Minister has consulted the Public Service Commission and the appointment of such a person shall be without any right to participate in any superannuation scheme provided or subsidised by the Government, and otherwise for such term and on such conditions as shall be agreed upon between the Prime Minister and the person appointed for between the Government and the United Nations or the specialised agency of the United Nations or the other international body or the Government of another country or the other body or agency by which such person is made available for the office; and his or her appointment shall not be subject to appeal; and the person appointed

shall not be deemed to be in the Public Service so long as his or her service continues to be honorary so far as the Government is concerned.

**6. Officers not eligible to hold licence, etc., over forest land** - No forest officer in a personal capacity shall hold or be interested in any licence or lease of or in respect of any forest land, or any permit, right or other authority of or in respect of any State forest land; and no such officer in a personal capacity shall, whether as principal or agent, trade in, or be interested in any contract or agreement for the working or removal of any forest produce from any forest land; and no such officer in a personal capacity shall hold or have any interest in any shares in any company which does anything which under this section it is unlawful for that officer to do.

**7. Protection of forest officers** - No matter or thing done by any forest officer or other employee of the Forestry Division in good faith in the exercise of a power or in the performance of a duty under this Act shall subject that officer or other employee to any personal liability in respect of the matter or thing, but nothing in this section shall affect any liability of the Government.

**8. Functions of the Forestry Division** - The Forestry Division, subject to the provisions of this Act, shall:

- (a) Have the primary responsibility for the administration of this Act and for carrying out the Government's forest policy in respect of forest land; and
- (b) Have the primary control and management of:
  - (i) All State forest land, for whatever purpose of forestry it is held or used; and
  - (ii) The establishment, culture, protection and maintenance of forests on forest land, and the production, extraction, conversion, transport, sale, or other disposal of forest produce from forest land; and
  - (iii) Making requests to the Minister responsible for Lands as to the covenants, conditions and stipulations as to forestry desired to be included in licences and leases to be granted by that Minister under this or any other Act; and
  - (iv) The granting of permits, rights, and authorities over State forest land under this Act; and
  - (v) The collection and recovery of all rent and royalties payable under permits, rights and authorities granted in respect of State forest land, and of all other revenues of the Ministry or the Forestry Division, except those payable under licences or leases; and
  - (vi) The enforcement of all other covenants, conditions and stipulations of licences, leases, permits, rights, and authorities or in respect of forest land to any person other than the Minister; and
  - (vii) Such farming of State forest land as is not prejudicial to forestry; and
- (c) Observe weather and other conditions for the purpose of giving warning of the imminence of fire hazard conditions or giving any information in relation to such conditions.

**9. Powers of the Minister - (1)** The Minister from time to time may exercise any power reasonably required for the performance of any function of the Division, or the administration of this Act, and, without prejudice to the generality of those words may:

- (a) Subject to any law regulating land surveys, prepare and carry out forest surveys, including surveys necessary for the demarcation of forests, for working plan, for determination of growth yield and other trends, for soil or water conservation, and for timber assessments.
- (b) Acquire such land, or control over such land, as he or she considers to be needed for forestry or any purpose of forestry, and by such means as the law permits, including:
  - (i) Accepting appointment as trustee of any freehold land pursuant to section 64;
  - (ii) Arranging for the Minister responsible for Lands to purchase, or to take under the Taking of Land Act 1964, any freehold land;
  - (iii) Arranging for the Minister responsible for Lands to take, under the Taking of Land Act 1964, any customary land;
  - (iv) Arranging for the Minister responsible for Lands to license or lease, under the Alienation of Customary Land Act 1965, any customary land, either to the Minister or to any other person.
- (c) Use and develop any State forest land for administrative, industrial, residential or storage uses in connection with any State forest or any forest produce; for quarantine grounds or quarantine depots; for providing access; for the carrying on of farming operations incidental to the management and operation of State forest land; or for any purpose of forestry;
- (d) Make provision for the establishment, culture, protection, maintenance, management and utilisation of forests on any forest land and for related purposes;
- (e) Co-ordinate the policies and activities of the Forestry Division and other Government Ministries and Divisions, public bodies and persons in relation to forestry and the purposes of forestry;
- (f) Train forest officers and employees, conduct forest research work, and collect and disseminate forestry information;
- (g) Prepare and issue plans and publications for the advancement of forestry;
- (h) Make provision for the setting up of such advisory committees as he or she thinks fit after consultation with those affected;
- (i) Purchase any forest produce;
- (j) Sell or otherwise dispose of any forest produce by public auction or tender or private contract, at such prices or at such rates, and subject to such conditions as he or she may determine;
- (k) Establish and carry on any operations or industry relative to the felling, cutting, extraction, removal, conversion, manufacture, transport, distribution, or sale of timber, other forest produce, or products derived from forest produce, and erect, purchase, rent, or lease, any buildings, machinery, or plant required in connection with the operations;
- (l) Enter into any contract or agreement for the carrying out of any of the purposes of this Act;
- (m) Carry on any farming operations incidental to the management of any forest.

**(2)** All documents which require to be executed for the purposes of this Act by or on behalf of the State may be executed by the Minister responsible for Lands or the Minister as elsewhere provided by this Act, and, if so executed, shall be valid and effectual as to execution.

**10. Delegation of powers** - (1) Sections 9 and 10 of the Agriculture, Forests and Fisheries

Ordinance 1959 shall apply to this Act and to all powers exercisable under this Act or the regulations.

(2) The Chief Forest Officer shall have power to delegate in the same way and subject to the same conditions as those prescribed in that section 10 for delegation by the Chief Executive Officer.

**11. Receipts and payments - (1)** All money received by the State from the operation of this Act or payable by the State under this Act shall be paid into or from the Public Account and shall be credited or debited, as the case may be, to such fund or account as may be prescribed and subject thereto as may be determined from time to time by the Minister of Finance.

(2) All money payable by the State under this Act shall be paid out of money from time to time appropriated by Parliament for the purpose.

**12. Working plans - (1)** The Chief Executive Officer shall from time to time cause to be prepared working plans for all forest land.

(2) Every working plan to which this section applies shall subject to any rights existing when the working plan comes into operation, regulate as hereinafter provided the management of the forest and land described in the working plan for such period as may be stated in the working plan and in conformity with the stated objects of management.

(3) Every such working plan shall specify with respect to the working plan period:

- (a) The silvicultural operations to be carried out;
- (b) The maximum area from which forest produce may be exploited or the maximum quantity of forest produce that may be exploited or both, as the Chief Executive Officer thinks fit;
- (c) The protection, development and reforestation operations to be carried out; and
- (d) Such other matters as the Chief Executive Officer thinks fit.

(4) Every working plan shall be subject to the approval of the Minister and acceptance by any licensee or prospective licensee over the forest and land to which the plan relates, and, when so approved and accepted, shall have effect according to its tenor from the specified date, and shall not be altered save by the Minister, after considering a recommendation of the Chief Executive Officer and with the acceptance of any such licensee or prospective licensee.

### **PART III STATE FOREST LAND**

**13. Land purchased or taken under section 9 to be State forest land -** All freehold or customary land purchased or taken by the Minister responsible for Lands for forestry or any purpose of forestry pursuant to section 9 or the corresponding provisions of any previous Act or the Taking of Land Act 1964 shall be deemed to be set apart as State forest land.

**14. Land may be set apart as State forest land -** The Head of State, acting on the advice of Cabinet, given after considering a recommendation of the Land Board, may, by proclamation,

set apart as State forest land any land for the time being considered to be suitable for any purpose of forestry, being:

- (a) Any public land not held in trust for any purpose inconsistent with this Act; or
- (b) Any estates or interests in, or easements or profits a prendre over, any other land, for the time being vested in the State or the Minister and not held in trust for any purpose inconsistent with this Act.

**15. Status of land set apart as State forest land - (1)** The setting apart by or under this Act of any public land as State forest land shall operate as the setting aside of the land for a public purpose within the meaning of the definition of the term "Government land" in section 2 of the Lands, Surveys and Environment Act 1989.

(2) The Head of State, acting on the advice of Cabinet, given after considering a recommendation of the Land Board, may, in the proclamation setting apart any land as State forest land or in any other proclamation, declare that the State forest land described in the proclamation is to be held and administered for any one or more of the purposes of forestry.

**16. Revocation or alteration of status of State forest land - (1)** Subject to sections 17 and 18, the setting apart by or under this Act of any land as State forest land or any declaration of the purposes of forestry for which any State forest land is to be held and administered, shall not be revoked or altered, except by a proclamation by the Head of State, acting on the advice of Cabinet, given after considering a recommendation of the Land Board, or, where the State forest land is only an estate or interest in land, or licence, easement or profit a prendre over land, by the expiration or determination thereof or the exclusion of land therefrom.

(2) Without restricting the discretion of the Head of State, acting under subsection (1), such a proclamation revoking the setting apart of any land as State forest land may be made when the Head of State, acting as aforesaid, is satisfied that the land has become less suitable for any purpose of forestry than for settlement or development purposes or for setting apart as a reserve for any desirable purpose other than a purpose of forestry.

(3) The effect of any proclamation merely revoking the setting apart of any public land as State forest land shall be that that land shall cease to be State forest land and shall become Government land available for lease, reservation or other disposition under the provisions of the Lands, Surveys and Environment Act 1989.

(4) The revocation or alteration by proclamation of the status of any land as State forest land, or of the purposes of forestry for which it is held and administered, shall be without prejudice to any licence, lease, permit, right or authority to which the land is for the time being subject.

**17. Errors of description in proclamations may be amended - (1)** Notwithstanding anything to the contrary in section 15 or 16, where in any proclamation under this Act there has been made any error of description (whether with respect to the boundaries or area of the land to which the proclamation relates, or otherwise howsoever) the Head of State, acting as aforesaid, may revoke the proclamation and issue in its place fresh proclamation with amended particulars and descriptions, or may by a further proclamation partially revoke the original proclamation and substitute other provisions.

(2) Every fresh proclamation or amending proclamation issued under this section shall take effect as from the date on which the original proclamation was intended to take effect, and as from that date the original proclamation, to the extent to which it has been so revoked shall be absolutely void and of no effect as if it had not been issued or made.

**18. Exchange of land - (1)** Notwithstanding anything to the contrary in section 15 or 16, it shall be lawful for the Head of State, acting on the advice of Cabinet, whenever Cabinet deems it expedient in the public interest to do so, and is satisfied that it is not prejudicial to forestry, to grant any area of public land which is State forest land as freehold or customary land in exchange for any other freehold land and on any such exchange to pay or receive any sum by way or equality of exchange.

(2) All land acquired by the State by any such exchange shall be deemed, as from the date of its acquisition, to be set apart as State forest land under this Act.

(3) Any land granted by the Head of State by any such exchange shall cease to be State forest land, and shall become either freehold land or customary land in accordance with the terms of the grant.

**19. Fencing or demarcation of State forest land -** The Minister may from time to time take such steps as he or she may think fit for the fencing, or, subject to any law regulating land surveys, the demarcation, of any State forest land, or of any subdivision of the land.

**20. State forest land not to be dealt with except pursuant to this Act -** Except as provided in any other Act, State forest land and the timber and other forest produce on the land or in the land shall not be dealt with otherwise than in conformity with this Act.

**21. Maps of forest land to be prepared and recorded - (1)** Subject to any law regulating land surveys and the Alienation of Customary Land Act 1965, maps of all forest land, certified under the hand of the Chief Executive Officer of the Ministry responsible for Lands, shall be deposited in the Head Office of the Forestry Division as soon as possible after the land becomes forest land, and fresh maps of any such land shall be so certified and deposited from time to time as may be necessary.

(2) Every map so deposited shall relate to such piece or pieces of forest land as the Chief Executive Officer thinks fit.

(3) Where any land shown on any such map ceases to be forest land the map shall be altered accordingly; and where the Chief Executive Officer desires that any map shall cease to relate to any land, or shall relate to any other land, the map shall be altered accordingly.

(4) Every alteration under this subsection shall be certified by the Chief Executive Officer of the Ministry responsible for Lands.

(5) Every such map shall be open to public inspection at the prescribed times free of charge during the first 3 months after being so deposited and thereafter on payment of the prescribed fee.

#### **PART IV LICENCES, LEASES, PERMITS, ETC.**

**22. Power to grant licences, leases, permits, etc. - (1)** The Minister responsible for Lands may grant licences or leases over or in respect of any class of land under and subject to this or any other Act, and the Minister may grant permits, rights or authorities, in respect of any State forest land, under and subject to this Act, to any person, for any purpose of forestry.

**PROVIDED THAT** no licence, lease, permit, right or authority shall be so granted if it is inconsistent with any existing licence, lease, permit, right, or authority in respect of the same land.

**AND PROVIDED FURTHER THAT** no licence, lease, permit, right or authority shall confer on the grantee any right to any minerals which may be found on or in any State forest land.

**AND PROVIDED FURTHER THAT,** where the forest land is held by the Minister under trusteeship appointment, licence or lease, no licence, lease, permit, right or authority shall be granted by the Minister responsible for Lands or the Minister for a longer term than the term of the trusteeship appointment, licence or lease under which the Minister holds the land.

**(2)** Every licence, lease, permit, right, or authority granted under this Act shall be granted subject to the payment by the grantee of such rent and royalties, and to such covenants, conditions and stipulations as may be prescribed, and subject thereto as may be agreed.

**(3)** Unless otherwise agreed, every licence, lease, permit, right or authority granted under this or any other Act for any purpose of forestry shall be subject to an implied covenant by the grantee that he or she will not, during the term of his or her licence, lease, permit, right or authority, assign, transfer, demise, sublicense, sublet, set over or mortgage, or otherwise by any act or deed procure the land therein mentioned or any part thereof to be assigned, transferred, demised, sub-licensed, sublet, set over or mortgaged to any person whomsoever without the prior consent in writing of the Minister responsible for Lands in the case of a licence or lease or the Minister in the case of a permit, right or authority.

**(4)** Such consent to an assignment or transfer shall not be unreasonably withheld where the proposed assignee or transferee is responsible and financial, but as conditions of granting his or her consent the Minister responsible for Lands or the Minister, as the case may be, may require the proposed assignee or transferee to enter into a deed of covenant with the Minister responsible for Lands or the Minister, as the case may be (to be prepared by the Minister responsible for Lands or the Minister, as the case may be) to perform and observe the covenants, conditions and stipulations of the licence, lease, permit, right or authority and on the part of the grantee to be performed or observed, and may require the payment of a reasonable sum in respect of any legal or other expenses incurred by the Minister responsible for Lands or the Minister, as the case may be, in the matter.

**23. Improvements -** Unless otherwise agreed, no compensation shall be payable to a licensee or lessee on the expiry or determination of a licence or lease granted for any purpose of forestry under this or any other Act for any improvements effected on the land comprised therein; but the licensee or lessee shall be entitled, at any time before or within 4 months after the expiry or determination of his or her licence or lease, to remove any buildings, fences, or other improvements effected or acquired by him or her conditional on restoring the land to its original condition as near as may be, or to dispose of them to an incoming licensee or lessee.

**PROVIDED THAT**, where the licence or lease is over or of State forest land the Minister responsible for Lands, after consulting the Minister and obtaining a valuation from a valuer appointed by the Government, shall have the right within the last 2 years of the licence or lease but not later than 6 months before the expiry of the licence or lease to notify the licensee or lessee that the Minister responsible for Lands intends at the expiry or determination of the licence or lease to purchase any such improvements at a price to be fixed, in default of agreement, by arbitration, and in any such case the improvements specified in the notice shall be the property of the State at the expiry or determination of the licence or lease, and shall not after the notice be removed from the land by the licensee or lessee.

**24. Licences - (1)** A licence under the Alienation of Customary Land Act 1965 or this Act or both may confer on the licensee, subject to this Act and the regulations, and to conditions to be specified in the licence, rights to enter upon the forest land defined in the licence and to carry out all operation necessary or convenient for the obtaining, extraction, conversion and removal of such timber and other forest produce and any other purpose of forestry as may be specified in the licence.

**(2)** Each licence of freehold or customary land for any purpose of forestry shall provide for payment of a royalty or stumpage, which shall be paid to the Chief Executive Officer of the Ministry responsible for Lands in trust subject to this Act for the owners in the case of freehold land, and subject to the Alienation of Customary Land Act 1965, for the beneficial owners in the case of customary land, and a fee for forestry services, which shall be paid to the Chief Executive Officer of Lands as revenue of the Government, and which shall be at the rate of one half of the rate of royalty or stumpage:

**PROVIDED THAT** the Head of State, acting on the advice of Cabinet, may by Order at any time for any licence or for any period of the term of any licence reduce the rate of the fee for forestry below that of one half of the rate of royalty or stumpage.

**(3)** Except with the prior written authority of the Minister in any case of freehold land or of the Minister responsible for Lands in any case of customary land, no tree which is, or was before felling, growing on or in any freehold or customary land may be sold or otherwise exploited for the commercial production of timber or other forest produce except under and in pursuance of a licence granted by the Minister responsible for Lands as agent for the owners in the case of freehold land or trustee for the beneficial owners in the case of customary land.

**25. Leases - (1)** Leases under this or any other Act may be granted in respect of any forest land for any purpose of forestry or for any purpose which in the opinion of the Minister is not prejudicial to forestry.

**(2)** Without restricting the generality of subsection (1), such leases may be granted for the following purposes, namely:

- (a) For grazing and other purposes of a like nature;
- (b) For establishing and managing forests;
- (c) As sites for mills or factories and appurtenances thereto for the conversion, drying, processing and storing of forest produce;
- (d) As sites for yards, roads, tramway, railways and incidental purposes;

(e) As sites for tents or buildings for the use of persons holding licences, permits, rights or authorities over forest land or their employees;

(f) For any purpose of recreation, in the case of any State forest land which is held and administered wholly or in part for recreation purposes.

**26. Permits and rights** - A permit or right granted under this Act may confer on the holder, according to its tenor, the power or right to enter upon any State forest land and to construct and maintain a road, tramway, railway or other utility or do as such things thereon subject to such conditions as may be specified in the permit or right, not being prejudicial to forestry or to the powers or rights conferred on any other person by any existing licence, lease, permit, right or authority granted under this or any other Act.

**PROVIDED THAT** no such permit or right shall confer on the grantee any right to pass over or otherwise use any other land except with the consent of the owner of such land.

**27. Enforcement of obligations under licences and leases over forest land** - Where any licence or lease has been granted by the Minister responsible for Lands over or in respect of any forest land:

(a) The Minister responsible for Lands shall have the duty of taking, and is hereby empowered to take, all necessary proceedings to enforce the payment of all rent and royalties payable under the licence or lease and in respect of breaches of each obligation so to do, and, unless otherwise agreed, the Minister responsible for Lands may forfeit the licence or lease for any such breach, or suspend the licence or lease until the breach is remedied; and

(b) The Minister shall have the duty of taking, and is hereby empowered to take all necessary proceedings to enforce the performance or observance of all other covenants, conditions and stipulations expressed or implied therein, and on the part of the licensee or lessee to be performed or observed, and in respect of breaches thereof, and, unless otherwise agreed, the Minister responsible for Lands may forfeit the licence or lease for any such breach, or suspend the licence or lease until the breach is remedied, and shall either forfeit or suspend the same when requested so to do by the Minister.

**28. Enforcement of obligations under permits, rights and authorities over State forest land** - Where any permit, right or authority has been granted over or in respect of any State forest land, whether the land was set apart as State forest land before or after the grant, the Minister shall have the duty of taking, and is hereby empowered to take, all necessary proceedings to enforce the payment of all rent and royalties payable, and the performance or observance of all other covenants, conditions and stipulations (expressed or implied), and on the part of the holder of the interest to be performed or observed, and in respect of any breaches, and, unless otherwise agreed, the Minister may forfeit the permit, right or authority for any such breach, or suspend the permit, right or authority until the breach is remedied.

**29. Forfeiture of forest produce not removed during currency of licence - (1)** A licensee or holder of a permit, right or other authority over or in respect of any forest land, upon application by him or her in that behalf, may be granted by the Minister a period not exceeding 30 days from the expiration or determination of the licence or other authority, or of any extension or renewal of it, for the purpose of removing any forest produce felled, cut, or

otherwise taken during the currency of the licence or other authority, or of any extension or renewal of it .

(2) All forest produce obtained pursuant to a licence or other authority under this Act and not removed from the land in respect of which the licence or other authority was granted during the currency of the licence or other authority or of any extension or renewal of it, or of any period allowed under subsection (1), shall be forfeited to the owner.

(3) Nothing in this section shall be deemed to relieve the licensee or holder of any liability to pay any rent or royalties due in respect of such forest produce.

**30. Production of licence, etc., on demand - (1)** Every person who does on any forest land any act for which under the provisions of this Act a licence, lease, permit, right or other authority is required, or which will be an offence if done without lawful authority, shall produce the appropriate licence, lease permit, right or other authority authorising the doing of the act, within a reasonable time after being required to do so by a police officer or forest officer; and every person who refuses or fails to do so commits an offence against this section.

(2) Any police officer or forest officer who finds any person committing, or reasonably suspects any person of committing, any breach of the provisions of this Act, or of the regulations, may require that person to give his or her name and address, and if the police officer or forest officer has reasonable ground to suppose that the name or address given is false may require evidence to verify the information given; and every person who refuses or fails to give his or her name and address or evidence to verify it, or who gives a false name or address or false evidence with respect to his or her name or address, commits an offence against this section.

(3) Every person who commits an offence against this section shall be liable upon conviction to a fine not exceeding 1 penalty unit.

**31. Power of entry on land - (1)** Any forest officer, and any person authorised in writing in that behalf by the Chief Forest Officer, may enter upon any land in respect of which any licence, lease, permit, right or authority has been granted for any purpose of forestry under this or any other Act, or upon any protected land, for the purpose of making inspections, or carrying out silvicultural operations or other forest work; and may enter upon any such land or any public land for the purpose of preventing or detecting offences against this Act, or for preventing or suppressing or investigating the origin of fires endangering any forest land.

(2) Any person who obstructs or hinders any forest officer or other person authorised under this section in the exercise of a power under this section commits an offence against this Act.

## **PART V FOREST PRODUCE**

**32. Forest produce presumed to be the property of the State -** When in any proceedings under this Act a question arises as to whether any forest produce is the property of the State, that produce shall be presumed to be the property of the State until the contrary is proved.

**33. Property in forest produce not to pass until paid for -** Unless otherwise agreed, all

forest produce owned by the State upon which any rent or royalties are payable to the Government or the State or any Minister under this Act or the regulations or any instrument shall, until payment, remain the property of the State, and may be seized and detained by any forest officer until payment and, in default of payment within 1 month of the due date, may be disposed of as the Minister may direct.

**34. Power to seize forest produce - (1)** Where any police officer or forest officer has reason to believe that –

- (a) any forest produce has been cut, removed or otherwise dealt with contrary to any provision of this Act; or
- (b) any other offence under this Act in respect of any forest produce has been committed; or
- (c) any forest produce has been abandoned –

he or she may examine and seize that produce, and for that purpose if authorised so to do by a search warrant issued by a Judge or Faamasino Fesoasoani may enter any land or building, doing as little damage as possible.

**(2)** While any forest produce is in course of conveyance, any police officer or forest officer may -

- (a) stop and enter any vehicle or vessel carrying the produce and detain that vehicle or vessel for so long as is necessary for the purposes of this section;
- (b) examine the produce; and
- (c) require the person in possession of the produce to explain his or her right to be in possession of the produce and, if that person refuses or fails to give a satisfactory explanation, may seize the produce.

**(3)** Where any forest produce is seized under this section the police officer or forest officer who seizes it may require the person in charge of any vehicle or vessel on which it is loaded to take it to such reasonably convenient place as he or she may specify and there to unload it.

**(4)** Every person who fails to do any act which is required to be done under subsection (3) within a reasonable time commits an offence against this Act.

**(5)** Where any forest produce is seized under this section it shall become and remain the property of the State until the claim of a lawful owner is established.

**35. What constitutes a seizure** - Either the branding or marking of any timber or other forest produce with a distinctive mark, or the affixing to it of a written and signed notice of seizure, by a police officer or forest officer for the purpose of section 34, shall constitute a seizure for the purposes of that section, and any person who then, without the written permission of the person making the seizure or of a Judge, removes or interferes with the timber or other forest produce seized commits an offence against this Act and shall be liable upon conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding 1 penalty unit.

**36. Procedure subsequent to seizure - (1)** When any timber or other forest produce has been

seized under section 34, the person making the seizure shall promptly give written notice of the seizure to all persons in possession of, or owning, or reasonably believed to own, the timber or other forest produce, and shall also file a notice of seizure in the office of the District Court nearest to the place of seizure.

(2) Notice in writing of the seizure shall also be promptly posted in the police station, and in the Forestry Division or other public Government office, nearest to where the seizure was made.

(3) If within 14 days after the affixing, giving, filing and posting of notices under this section no one claims to be the owner of the timber or other forest produce, a Judge shall, upon application being made in that behalf, either order the seized timber or other forest produce to be forfeited to the State, or make such order as the judge thinks just, vesting the same in any person.

(4) Notwithstanding anything contained in this section the Minister may order at any time the release of any produce seized and the withdrawal of any notice of seizure in respect of the produce, which shall then cease to be the property of the State.

**37. Disposal of forfeited produce** - Any timber or other forest produce forfeited under the provisions of this Act may be sold or otherwise disposed of, on the recommendation of the Minister, as if they were public stores.

**38. Power to sell by auction without licence** - Any forest officer, in the performance of his or her duties and with the authority in writing of the Minister, may hold public auctions of forest produce, and may submit permits, rights or other authorities to public auction, without being the holder of any auctioneer's or other business licence.

#### **PART IV PROTECTION AGAINST FIRE**

**39. Prohibition or control of fires, etc., during extreme fire hazard - (1)** When weather or other conditions arise which, in the opinion of the Minister, present an extreme fire hazard in any area, whether forest land or not, so that an outbreak of fire would be likely to spread and endanger life and property, the Minister may publish, or cause to be published, by radio or newspaper or other effective means, an order in respect of such area, and for such period as the Minister may specify:

(a) Prohibiting the setting of fire, or causing or assisting to be set on fire, or aiding or abetting any other person to set on fire, in the open air, of any trees (whether standing or not), timber, grass, other plants whatsoever, debris from forest or land clearing operations or other combustible material whatsoever; or allowing those things to be done or continued only with the prior written authority of a forest officer, given or renewed after first publication of the order, and subject to such conditions as the forest officer may impose;

(b) Prohibiting in whole or in part any operation which the Minister thinks is likely to cause an outbreak of fire in the area; or directing that it be carried on or continued only with the prior written authority of a forest officer, given or renewed after first publication of the order, and subject to such conditions as the forest officer may impose;

(c) Prohibiting or restricting the entry of persons other than those who normally reside or work at that place.

(2) Any order under this section shall come into force immediately after it is first published and shall remain in force for such period (if any) as may be specified in the order or until revoked.

(3) Any order published under this section may be at any time amended or revoked by a subsequent order so published.

(4) A forest officer may in his or her discretion refuse to grant an authority in any case.

(5) Every authority to light a fire in the open air shall be subject to a condition that it shall not be lit while a heavy wind is blowing or if other circumstances are such that the fire would be likely to spread beyond the limits of the land on which it is authorised to be lit.

(6) Every person who fails to comply with any order published under this section, or with any condition subject to which any authority is given by a forest officer under this section, commits an offence against this Act.

(7) Nothing in this section or in any other section of this Part, or in any lawful authority shall be held to relieve any person from liability for any actionable damage sustained by any other person in consequence of any act, matter or thing done by the first-mentioned person.

**40. Causing fire to spread to forest land or leaving fire in open without precaution - (1)**  
Every person commits an offence against this Act who at any time:

(a) Causes or permits any fire anywhere to spread to any forest land, if any forest produce or other property on that forest land is burnt or injured or is in danger of being burnt or injured, or the fertility of the soil of any of that forest land is injuriously affected by the fire; or

(b) Lights or kindles anywhere in the open air any fire which could spread or cause injury to forest land, or assists, aids or abets the lighting or kindling of such a fire, and then leaves the fire without having taken due precaution against the fire spreading or causing injury to forest land.

(2) In any proceedings under this section:

(a) The averment that any land is forest land or State forest land shall be sufficient without proof of that fact, unless the defendant (the onus being on him or her ) proves to the contrary; and

(b) A map of the land certified under the hand of the Chief Executive Officer of the Ministry responsible for Lands shall be sufficient evidence of its contents without production of original records and without the personal attendance of the Chief Executive Officer of the Ministry responsible for Lands, or proof of his or her signature.

**41. Offence to leave burning or smoldering substance -** Every person commits an offence

against this Act who, without lawful authority, or without complying with any condition set out in any such authority, throws, leaves, or drops any lighted match, pipe ashes, lighted cigarette, lighted cigar, ashes from a gas producer, or other burning or smoldering substance on any land while an order is in force under section 39 covering that land, and omits before leaving the spot wholly to extinguish the fire of the burning or smoldering substance.

**42. Right holders to provide fire fighting equipment - (1)** Every holder of any licence, lease, permit, right or authority over any forest land who is lighting any fire in the open air, or otherwise conducting on forest land or on any other land within one mile thereof any operation which is likely to present a fire hazard, shall take all such measures as may be prescribed and failing prescription as may be necessary to prevent the occurrence or spread as the case may be of any fire; and shall –

(a) provide all such equipment as may be prescribed, and failing prescription as is suitable and adequate for the purpose of fighting fires and for securing the safety of lives and property from fire on that land; and

(b) place the equipment in localities and upon sites where it will be readily accessible and convenient for use; and

(c) provide such structures and do all such things as may be necessary for the protection of the equipment; and

(d) maintain the equipment in good working order and condition and ensure that it is readily available, accessible and convenient for effective use at all times.

**(2)** Where any such holder is conducting any operation which in the opinion of any forest officer is likely to present a fire hazard and where in the opinion of the forest officer the provisions of subsection (1) are not being wholly complied with, the forest officer may from time to time (by notice in writing) require the holder to take such measures within such time as may be specified in the notice for the purpose of complying with those provisions; and, if the holder fails to take such measures within such time, the forest officer may take any such measures as appear to need taking urgently, and the cost of so doing if not paid on demand shall, subject to subsection (4), be at the expense of the holder, and shall be recoverable in any Court of competent jurisdiction as a debt due to the State.

**(3)** Any person who is dissatisfied with any requirement of a forest officer under subsection (2) may, within 14 days after the notice has been given, appeal in writing setting out the grounds of the appeal to the District Court.

**(4)** On any appeal under this section, the Court may cancel or vary the notice or may confirm it either absolutely or subject to such conditions and modifications as the Court deems just and may make an order as to the incidence of the cost of any measures taken by the forest officer, and each decision of the Court shall be final and conclusive.

**(5)** Pending decision of the appeal the notice shall be deemed to be suspended, except as provided in subsection (2).

**43. Duty to endeavour to extinguish fires - (1)** Any person who becomes aware of a fire burning unattended in the open air on or within 1 mile of forest land, or on any other land while an order is in force under section 39 covering that land, shall immediately cease the

work or other activity on which he or she is engaged or employed and shall do everything reasonably within his or her power to extinguish the fire (whether or not there is an immediate danger of it causing damage), and if he or she is unable to extinguish the fire he or she shall immediately cause the nearest available forest officer to be notified of the outbreak, and shall then continue so far as possible to endeavour to control or extinguish the fire until it is brought under control or extinguished or until he or she obtains the approval of a forest officer to desist.

(2) Where a fire breaks out on or within 1 mile of any area of forest land in respect of which any person holds any licence, lease, permit, right or authority, or along or within 20 chains of such portion of any route regularly traversed in the course of forestry operations in connection with that area as is on or within one mile of any forest land, that person and his or her servants, agents, and employees, if they discover or become aware of the outbreak of fire while they are on that area or on that portion of that route or within 5 miles of the boundary of that area or of any part of that portion of that route, shall immediately cease the work or other activity on which they are engaged or employed and shall do everything reasonably within their power to extinguish the fire whether or not there is an immediate danger of it causing damage; and if they find they are unable to extinguish the fire they shall immediately cause the nearest available forest officer to be notified of the outbreak, and shall then continue so far as possible to endeavour to control or extinguish the fire until it is brought under control or extinguished or until they obtain the approval of a forest officer to desist.

(3) Where a fire is burning on land within 1 mile of any forest land and the fire is in danger of spreading to forest land, or where any fire which was not lit pursuant to a written authority of a forest officer is burning in the open air on any other land while an order is in force under section 39 covering that land, any occupier of the land on which the fire is burning and any person having any right or licence in respect of that land and all employees of any such occupier or person, if they discover or become aware of the fire while they are on the last-mentioned land or within 5 miles of the boundary of that land, shall immediately take all possible steps to extinguish it; and if they are unable without assistance to do so shall forthwith cause the nearest available forest officer to be informed of the existence and locality of the fire and shall then continue so far as possible to endeavour to control or extinguish the fire until it is brought under control or extinguished or until they obtain the approval of a forest officer to desist.

**44. Offence not to comply with section 42 or 43** - Every person commits an offence against this Act who fails to comply in any respect with any provision of section 42 or 43, or with any requirement imposed under either of those sections.

**45. Requisition of assistance to extinguish fires - (1)** In the event of a fire occurring on or within one mile of any forest land, a forest officer may require any fit male person over the age of 18 years residing or working on any forest land or within 5 miles of the boundary of any forest land on which the fire is burning or to which it is likely to spread to assist in extinguishing the fire.

(2) In exercising any power under the provisions of this section, the forest officer shall leave available a sufficient number of men to protect other property.

(3) All persons who, in response to an obligation imposed by this Act, endeavour to extinguish any fire or, in response to a requirement pursuant to this section or by arrangement

with the forest officer, render assistance, shall be deemed, for the purposes of any law dealing with rights of workers to compensation, while so acting, to be employed by the Forestry Division and to be being paid the same wage as a casual labourer employed by the Public Service Commission.

(4) Every person who without sufficient cause (the proof of which shall lie on that person), fails to comply immediately with the request of a forest officer under this section commits an offence against this Act.

**46. Costs of fire fighting - (1)** In any case where there has been an outbreak of fire which has menaced any forest land, or anything on the land, or any other land referred to in section 43, and which has been controlled or extinguished by a forest officer or other person duly required or authorised in that behalf, the whole or any portion of the costs incurred shall, if the Minister so determines, be payable by all or any of them the owner, licensee, lessee and occupier of the land on which the fire occurred or of any land containing property which was menaced by the fire and has been protected by the control or extinguishment of the fire.

(2) In making any such determination, the Minister shall have regard to any negligence of any such owner licensee lessee or occupier and to such other factors as the Minister shall think fit.

(3) Any costs so determined and recoverable by the Minister shall be recoverable in any Court of competent jurisdiction as a debt due to the State, and when recovered shall be paid into the Public Account to the credit of the Treasury Fund at such times and by such instalments as the Minister determines.

(4) If any owner, licensee, lessee or occupier is dissatisfied with any determination made by the Minister pursuant to subsection (1) for the payment of costs incurred in the control or extinguishment of any fire, that owner, licensee, lessee or occupier may at any time within 1 month after notice of the Minister's determination has been given, appeal against the determination in writing setting out the grounds of the appeal to a District Court.

(5) On the hearing of the appeal the Court may confirm, cancel or amend the determination in such manner and in respect of such owners, licensees, lessees or occupiers as it thinks fit, and the decision of the Court shall be final and conclusive.

(6) Pending the determination of an appeal, the determination of the Minister appealed against shall be treated as suspended.

## **PART VII FURTHER OFFENCES**

**47. False entries or returns -** Every person who knowingly or negligently makes or causes to be made, in any book, return, declaration or statement required by this Act or by the regulations to be kept or made, any entry or writing which is false in any material particular commits an offence and shall be liable upon conviction to a fine not exceeding 2 penalty units.

**PROVIDED THAT** if it is proved that the payment of rent or royalties payable to the State has been evaded, and that the false entry or writing has been made or used for any purpose in

connection with the evasion, the Court may add to the fine imposed on the conviction a further penalty not exceeding 3 times the amount of the rent or royalties the payment of which has been evaded.

**48. Unlawful cutting or removal of forest produce - (1)** Every person who, without lawful authority, fells, cuts, marks, lops, injures, damages, destroys, obtains or removes any forest produce in, on, or from any forest land commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding 1 month or a fine not exceeding 2 penalty units, or both.

**(2)** In addition to any penalty imposed under this section there may be imposed a penalty not exceeding 3 times the value of the forest produce the subject-matter of the proceedings, and every such penalty shall be recoverable as a fine.

**49. Unlawful interference with property of State** - Every person who, without lawful authority, takes or interferes with or causes to be taken or interfered with any buildings, materials, tools, goods or chattels of any nature being the property of the State and being for the time being in or upon State forest land or in the possession of the Minister commits an offence and shall be liable upon conviction to a fine not exceeding 1 penalty unit.

**50. Offences with respect to animals, etc., on or in forest land** - Every person commits an offence and shall be liable upon conviction to a fine not exceeding 1 penalty unit if he or she, except pursuant to a lawful authority, on or in any forest land:

- (a) Liberates any animal;
- (b) Allows any cattle owned by him or her or under his or her control to graze; or
- (c) Fails to remove any cattle owned by him or her or under his or her control when required by notice from a forest officer so to do within such reasonable period as may be specified in the notice.

**51. Offences with respect to forest officers** - Every person commits an offence against this Act who:

- (a) Offers violence to, or assaults, obstructs, threatens or attempts to intimidate, any forest officer or other person under the control of the Chief Executive Officer while that officer or person is acting in the exercise of his or her powers or the discharge of his or her duties under this Act; or
- (b) Gives or agrees to give or offers to any such officer or person, any gift or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown, by that officer or person in or in relation to the exercise of such powers or the discharge of such duties under this Act; or
- (c) Personates or falsely pretends to be a forest officer or other employee of the Forestry Division.

**52. Other offences** - Every person commits an offence against this Act if he or she:

- (a) Counterfeits upon or unlawfully fixes to any forest produce any mark appropriated for the use of forest officers;
- (b) Without lawful authority, makes or causes to be made, or uses or causes to be used, or has in his or her possession, a brand, stamp or badge which resembles or purports to be a brand, stamp or badge such as is usually used by forest officers;
- (c) Counterfeits or unlawfully issues any licence or other authority for the cutting, removal or sale of forest produce;
- (d) Unlawfully alters, obliterates, defaces, pulls up, removes, damages or destroys any boundary mark, stamp, mark, sign, notice, poster, licence, lease, permit, right or other authority used or issued by any Minister or the Forestry Division or any forest officer or police officer;
- (e) Without lawful authority, enters any land while entry is prohibited;
- (f) Without lawful authority, occupies, clears or breaks up any forest land for cultivation or any other purpose;
- (g) Without lawful authority, erects any livestock enclosure or building on any forest land;
- (h) Unlawfully destroys or damages any building, fence, gate, or other structure in, on or enclosing any forest land;
- (i) Without lawful authority, constructs or obstructs any road, path or waterway on or in any forest land;
- (j) Negligently causes any unnecessary damage in felling any tree or in cutting, extracting or removing any forest produce;
- (k) Without lawful authority, does or causes to be done any act, matter or thing for which lawful authority is required under this Act;
- (l) Without lawful authority, removes from any forest land any forest produce without previously paying any rent or royalties payable in respect of that produce;
- (m) Knowingly or negligently furnishes any forest officer with a false or incorrect statement of any forest produce felled, cut, split, sawn or removed by him or her or by any person as his or her agent or employee, on which any rent or royalties are payable to the State; or
- (n) Without lawful authority, receives any forest produce knowing the same to have been obtained without lawful authority.

### **GENERAL AS TO OFFENCES**

**53. Proof of lawful authority** - In any prosecution for an offence under this Act, the defendant shall be presumed to have acted without lawful authority unless the defendant (the onus being on the defendant) proves to the contrary.

**54. General penalty for offences** - Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable upon conviction:

- (a) In the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding 2 penalty units and, if the offence is a continuing one, to a further fine not exceeding 1 penalty unit for every day during which the offence continues, or to both such imprisonment and such fine;

(b) In the case of a body corporate, to a fine not exceeding 5 penalty units and, if the offence is a continuing one, to a further fine not exceeding 1 penalty unit for every day during which the offence continues.

**55. Liability for loss or damage - (1)** Every person convicted of an offence under this Act shall be liable for any loss or damage caused by the act constituting the offence in addition to the penalty for the offence.

(2) The amount payable in respect of that liability may be awarded by the Court in fixing the penalty and may be recovered as a fine.

(3) In assessing the amount so payable the Court may take into account salaries, wages, and incidental expenses incurred in the investigation of the act constituting the offence and in remedying the damage caused by that act and all other relevant factors.

**56. Confiscation of property used in commission of offence -** When any person is convicted of an offence under this Act in respect of any forest produce, that forest produce and all tools, vessels, vehicle, conveyances and livestock used in the commission of the offence shall be liable, by order of the convicting Court, to confiscation.

**57. Limitation of proceedings -** Any proceedings for an offence under this Act, or for the recovery of any penalty, fine or forfeiture imposed, may be commenced at any time within reasonable time from the time of the discovery of the offence.

**58. Compounding of offences - (1)** When the Minister is satisfied that any person has committed any specified offence under this Act (other than those created by section 51(c) and by section 52 of this Act), the Minister may accept from that person a sum of money by way of compensation for that offence, together with the forest produce (if any) in respect of which that offence has been committed:

**PROVIDED THAT** such compensation shall not exceed 5 times the loss or damage which the Chief Forest Officer estimates to have been caused by the act constituting the offence or the maximum penalty for the offence (ignoring in either case the value of property which may be confiscated), whichever is the smaller.

(2) In any proceedings brought against any person for an offence under this Act, it shall be a good defence if that person proves to the satisfaction of the Court that the offence has been compounded under this section.

## **PART VIII PROTECTED LAND**

**59. Land may be declared protected land - (1)** The Head of State, acting on the advice of Cabinet, may, by proclamation, declare to be protected, for any period not exceeding 5 years under any one proclamation for all or any purpose of forestry, any land of any class which Cabinet considers for the time being to be suitable for such purpose or purposes (hereinafter in this Part referred to as protected land).

(2) The Head of State, acting on such advice, may, by proclamation, revoke or vary any proclamation declaring land to be protected land.

(3) The expiration or revocation of any proclamation declaring any land to be protected land shall not be any impediment to the issue by the Head of State, acting on the advice of Cabinet, of a further proclamation or successive further proclamations declaring all or part of that land to be protected land for any further period not exceeding 5 years under any one such further proclamation.

**60. Status of protected land** - Land which is declared to be protected land shall not become State forest land or vest in the State by force merely of the declaration, but the declaration shall not be any impediment to the land being later set apart as State forest land.

**61. Restrictions on dealings with protected land - (1)** It shall not be lawful or competent for any person to make any alienation or disposition of any protected land other than public land or of any interest in the public land which would be permissible but for this section without the prior consent in writing of the Minister; and any alienation or disposition of it purported to be made without such consent shall be null and void.

(2) It shall not be lawful for any owner of protected land, without the prior consent in writing of the Minister:

(a) To clear or break up any of that land for cultivation or any other purpose; or

(b) To fell or lop any tree growing in that land or remove any forest produce from that land, except for the construction or repair or a dwelling or supplementary building on land lawfully occupied by that person for the permanent abode or use of that person and his or her family, or of fences on or around that land, or of any fishing stakes, or of canoes or landing places, or for firewood to be consumed by that person or his or her family for domestic purposes.

**62. Offences** - Every person commits an offence against this Act who fails to comply in any respect with any provision of section 61, or with any requirement imposed by the Minister as a condition of his or her consent under that section.

**63. Compensation - (1)** Any person having any estate or interest in any land other than public land which is declared to be protected land under this Part and which is injuriously affected by that declaration shall be entitled to a full and just compensation from the Minister, to be ascertained in the manner set out in Part III of the Taking of Land Act 1964.

**PROVIDED THAT** no compensation shall be awarded or payable under this section unless an application has been made for the consent of the Minister under section 61 and the Minister has refused consent, and in that event the amount of the compensation shall be limited to such injurious affection as shall have been caused by the refusal.

(2) Where any sum by way of compensation shall have been paid under this section, the amount of compensation shall be deducted from any sum which may be payable by way of compensation in respect of any subsequent taking of the said land under the Taking of Land Act 1964.

**PART IX**  
**FORESTRY DIVISION ADMINISTRATION OF PRIVATE FORESTS**

**64. Minister may act as trustee for owner of private forest on freehold land - (1)** The Minister may in his or her discretion accept appointment as the trustee of the Minister in charge of any other Ministry of State or any public body, corporation or person owning freehold land and having power to carry out any one or more of the purposes of establishing, managing or protecting any forest, managing or protecting any such freehold land used or intended to be used for or in connection with any forest or proposed forest, appraising, cutting and selling or utilising any timber or other forest produce, any other purpose of forestry, and making inspections and preparing a report for any such purpose.

**(2)** Any such Minister, public body, corporation or person owning freehold land and having power to carry out any such purpose may appoint the Minister to act as trustee for that purpose for such period, on such terms and conditions, and at such remuneration, as may be agreed.

**(3)** Subject to the terms of the Minister's appointment as trustee:

**(a)** All freehold land while under the management of the Minister pursuant to this section and that appointment shall be administered as if it were State forest land, and while so administered all the provisions of this Act shall apply with necessary modifications as if the freehold land were State forest land; and

**(b)** Without prejudice to the generality of paragraph (a), the Minister:

**(i)** Shall have, for any purpose in connection with that freehold land, forest, timber or other forest produce, all the powers and authorities he or she would have if the land was State forest land, and the forest was on State forest land, and the timber and other forest produce were products of State forest land;

**(ii)** May ask the Minister responsible for Lands to be his or her agent, and the Minister responsible for Lands is hereby authorised, to execute and issue such licences and lease as may be necessary to enable the Minister to exercise powers and carry out duties; and to collect all rent and royalties payable; and

**(iii)** May execute and issue in his or her own name as trustee for and on behalf of the other Minister, public body, corporation or person for whom he or she is acting such permits, rights and authorities as may be necessary to enable him or her to exercise powers and carry out duties.

**(4)** All expenses incurred by the Minister on behalf of any appointor under this section may be paid in the first place out of the Treasury Fund from money appropriated by Parliament for the purpose, and may be deducted by the Minister responsible for Lands from any rent or royalties collected on behalf of the appointor, and all fees, commission and other money earned by the Minister or the Minister responsible for Lands in respect of services rendered to the appointor under this section may be deducted by the Minister responsible for Lands from any such rent or royalties and shall be paid into the Public Account to the credit of the Treasury Fund.

**65. Method of making customary land available for forestry - (1)** Any beneficial owner of

customary land may apply in writing to the Chief Executive Officer of Lands under the Alienation of Customary Land Act 1965, or vote in favor of a resolution at a meeting of beneficial owners convened under section 9A of that Act, desiring the Minister responsible for Lands as trustee to grant a licence or lease over or in respect of the land for forestry to the Minister, or direct to any other person.

(2) In any such case the Minister responsible for Lands shall cause the application to be notified to the Minister and, notwithstanding anything to the contrary in the Alienation of Customary Land Act 1965, shall not grant the licence or lease without the consent of the Minister, and shall include in the license or lease to any person other than the Minister such covenants, conditions and stipulations as to forestry as shall be requested by the Minister, and collect all rent and royalties payable by the licensee or lessee.

**66. Licence or lease of customary land to be granted by Minister responsible for Lands -** The Minister shall not grant any licence or lease over or in respect of any customary land or which the Minister becomes licensee or lessee, but he or she may apply to the Chief Executive Officer of the Ministry responsible for Lands under the Alienation of Customary Land Act 1965 for the Minister responsible for Lands to grant such a licence or lease for a term or terms not longer than the term or terms of the licence or lease held by the Minister, and if the Minister responsible for Lands agrees so to do he or she shall include in the licence or lease such covenants, conditions and stipulations as to forestry as shall be requested by the Minister, and collect all rent and royalties payable by the licensee or lessee.

**67. Substitution of Minister and Chief Executive Officer for Minister and Chief Executive Officer of the Lands Ministry -** After the registration of a licence or lease of any class of land or any interest therein for any purpose of forestry to any person other than the Minister, the licence or lease, and the provisions of this and every other Act in relation thereto, shall be read and construed, subject to section 27, as if the Minister was substituted for the Minister responsible for Lands and as if the Chief Executive Officer was substituted for the Chief Executive Officer of the Ministry responsible for Lands in respect of all covenants, conditions and stipulations other than those involving the payment of rent and royalties by the licensee or lessee to the licensor or lessor.

## **PART X MISCELLANEOUS**

**68. Historic places -** When at any time the Minister is of the opinion that any place in any forest land is of historic, traditional, archaeological or national interest to Samoa, the Minister may, by notices in writing, require the owner of that land and any holder of any licence, lease, permit, right or authority in respect thereof, to preserve that place undamaged as far as possible for any specified period not exceeding 3 years until the Government has had time to decide and give effect to any further action which the Government thinks should be taken.

**69. Annual report - (1)** The Chief Executive Officer shall include a report on the Forestry Division in each report furnished pursuant to section 14 of the Agriculture, Forests and Fisheries Ordinance 1959.

(2) The Chief Executive Officer shall as soon as practicable after the end of each financial year cause to be prepared in such form as the Minister of Finance may approve or direct, and

included in the report on the Forestry Division, such statements of account showing the income and expenditure of the activities or operations conducted by the Forestry Division, or by the Ministry responsible for Lands for any purpose of forestry, together with such balance sheets, as the Minister of Finance may approve or direct.

**70. Control of injurious importations and exportations - (1)** No person shall import into Samoa any tree, tree seed, timber or timber product except upon production of a certificate in writing from the Ministry dealing with forestry of the Government of the country of origin certifying that the same does not contain and is unlikely to introduce any insect, fungus, bacterium or virus in any of the life stages of those organisms that may be injurious to or may cause an unhealthy condition in any tree, tree seed, timber or timber product.

**(2)** No person shall export from Samoa any tree, tree seed, timber or timber product which contains any insect, fungus, bacterium or virus in any of the life stages of those organisms that may be injurious to or may cause an unhealthy condition in any tree, tree seed, timber or timber product, or which does not comply with any export requirements as to grading, treating, drying, manufacture, and merchandising.

**(3)** Any officer authorised in that behalf by the Minister may at any time enter into any vehicle or conveyance or upon any land or premises or on board any vessel or aircraft for the purpose of inspecting any tree, tree seed, timber or timber product, and shall have all such powers and authorities as he or she deems necessary to enable the enforcement of the provisions of subsections (1) and (2).

**(4)** If the authorised officer is of opinion that any of the said imports or exports are injurious or unhealthy or do not otherwise comply with any of the provisions of subsections (1) and (2), the officer may require the owner or the owner's agent to remove them to such ground or depot as the officer may appoint for detention for the purpose of observation or the officer may require such imports or exports to be treated, disinfected, destroyed or otherwise disposed of.

**(5)** In the event of failure to comply with any such requirement the authorised officer may at the expense of the owner arrange for the necessary removal, treatment, disinfection, destruction or other disposition as the case may require, and any such expense may be recovered as a debt due to the State.

**(6)** For the purposes of this section the Head of State, acting on the advice of Cabinet, may from time to time make regulations not inconsistent with this Act for all or any of the following purposes:

(a) Appointing any specified ports or other places in Samoa to be the only ports or places of import or export for trees, tree seeds, timber or timber products;

(b) Appointing quarantine grounds or depots where trees, tree seeds, timber or timber products, and packages containing them or with which they have or may have come into contact, may be detained for the purpose of observation or for the purpose of being inspected, treated, disinfected, destroyed or otherwise disposed of;

(c) Authorising forest officers and such other persons as may from time to time be given authority in that respect to act as quarantine officers for the purposes of the regulations; and conferring on quarantine officers so authorised such powers and authorities as are deemed necessary to enable them to carry out the requirements of this Act and the regulations;

(d) Prescribing the charges that may be made for the inspection of trees, tree seeds, timber or timber products, or for the handling, treatment, disinfection, destruction, or other disposal of trees, tree seeds, timber or timber products which are found upon inspection to require such handling, treatment, disinfection, destruction or other disposal;

(e) Conferring such other powers and authorities as may be necessary or expedient for giving full effect to the provisions of this section and for its due administration.

**71. Regulations as to control and eradication of diseases affecting trees, etc. - (1)** For the purposes of this section "disease" means any disease which may affect trees, tree seeds, timber, forests or forest products, and which the Head of State, acting on the advice of Cabinet, from time to time declares to be a disease within the meaning of this section, whether or not caused by or consisting of the presence of any insect, fungus, bacterium or virus.

**(2)** The Head of State, acting on the advice of Cabinet, may from time to time make regulations for the purposes of eradicating or preventing the spread of any disease which may affect trees, tree seeds, timber, forests or forest products.

**(3)** Without limiting the general power conferred by subsection (2), regulations may be made under this section for all or any of the following purposes:

(a) Prescribing the treatment and measures to be adopted in respect of any trees, tree seeds, timber, forests, forest products, buildings or other structures, which are affected by disease or likely, in the opinion of any forest officer, to become affected by disease;

(b) Providing for the destruction of any trees, tree seeds, timber, forest products, debris from tree felling operations or refuse from saw milling operations, in any case where the Chief Forest Officer is of the opinion that treatment may not completely destroy the disease, or that treatment has failed to destroy the disease, and that there is a reasonable prospect of eliminating the disease from Samoa by such destruction;

(c) Prohibiting or controlling the bringing into any specified portion of Samoa from any other portion or specified portion of Samoa of any trees, tree seeds, timber or forest products, which are diseased, or likely, in the opinion of any forest officer, to become diseased;

(d) Authorising forest officers at all reasonable times to enter on any land or premises where trees or forests are growing or tree seeds or timber or forest products are lying or stored or stacked for the purpose of inspecting the same or, in any case where default has been made in complying with any of the requirements of the regulations, for the purpose of carrying out those requirements at the expense of the person making default.

**72. Specified Ordinance not affected** - Nothing in sections 70 and 71 shall affect the operation of the provisions of any law dealing with plant quarantine.

**73. Regulations - (1)** The Head of State, acting on the advice of Cabinet, may from time to time make regulations not inconsistent with this Act for any purpose for which regulations are required or contemplated by this Act and for giving full effect to the provisions of this Act.

**(2)** Without restricting the general words in subsection (1), regulations may be made under this section for all or any of the following purposes:

- (a) Regulating the management of any forest land, and the cutting, hewing, sawing, or other methods or conversion of timber or other forest produce, and the burning or other disposal of logging and industrial waste and debris from any forest land;
- (b) Prescribing the forms of licences and leases over or in respect of forest land, and of permits, rights and authorities over State forest land; and prescribing also the method by which and the conditions subject to which the same may be renewed, extended, determined, cancelled, forfeited, surrendered, or withdrawn;
- (c) Prescribing the procedure for the sale of forest produce by auction, tender or other method, and enabling upset prices or minimum charges to be fixed;
- (d) Prescribing the fees or deposits to be paid with any application or tender;
- (e) Prescribing the amounts of rent and royalties payable in respect of licences and leases over or in respect of forest land, and of permits, rights and authorities over State forest land; and any covenants, conditions, and stipulations to be applied; and prescribing fees or charges to be paid to the Chief Executive Officer in respect of services rendered by forest officers;
- (f) Regulating the exercise of the rights conferred by licences and leases over or in respect of forest land, and by permits, rights, and authorities over State forest land; making provision for the protection and preservation of trees timber and other growth; and regulating the measurement, appraisal, cutting, marking, and removal of timber and other forest produce;
- (g) Prescribing the mode in which any forest produce is to be branded or marked for any purpose; and providing for the registration of brands or marks;
- (h) Prescribing the books and records to be kept and the returns to be made unless otherwise agreed by the holders of licences and leases over or in respect of forest land, and of permits, rights, and authorities over State forest land, by producers and distributors, and by persons directly or indirectly taking delivery of timber or other forest produce, cut, hewn, sawn, acquired, converted, held or disposed of by them;
- (i) Requiring the persons described in paragraph (h) to produce for inspection by the Chief Executive Officer, or any person acting with the authority of the Chief Executive Officer, all books or account, returns, and other documents connected with any of the operations described in that paragraph (h);
- (j) Prescribing means for preventing or extinguishing fires on forest land in lieu of or in addition to those set out in this Act;
- (k) Regulating or prohibiting, or authorising police officers, traffic officers, forest officers, licensees or lessees to regulate or prohibit, the use of any public road or of any track on or within one mile of forest land while a fire is in progress or fire fighting operations are proceeding in the vicinity, or at other times and for other purposes;
- (l) Prescribing the measures to be taken and the equipment and fire patrols to be provided and maintained, by saw millers and other persons engaged in industrial operations on forest land or any other land within 1 mile of any forest land for preventing or extinguishing fires or for diminishing the danger of life and property arising from fires;
- (m) Prescribing procedure for stopping, detaining or seizing any forest produce;
- (n) Providing that no sawmill or other related factory or industrial plant on any class of land may be erected or operated without the prior written authority of the Minister or unless it is registered and prescribing the mode of registration and the fees to be paid, and the conditions for the continuance of registration or re-registration;

- (o) Regulating the establishment and conduct of recreation and camping areas on State forest land, and prescribing the terms and conditions on which the same may be used and fees to be paid;
- (p) Constituting, or providing for the constitution, appointment, or election of advisory committees, and defining the functions of any such committee;
- (q) Regulating the type, design, layout and equipment of any sawmill or related factory or industrial plant which are erected or to be erected on any class of land and of any associated workers' dwellings, amenities, conveniences, and services;
- (r) Prescribing requirements unless otherwise agreed as to the measuring, appraising, grading, treating, drying, manufacture and merchandising of trees, tree seeds, timber or timber products;
- (s) Prescribing requirements or conditions, unless otherwise agreed, in respect of the use, naming, manufacture, drying, treating, grading, handling, storing, sale, supply, transport by land or sea, distribution and disposal of timber and manufactured timber products, either generally or in respect of any specified area, timber, grade or kind of timber or manufactured timber product;
- (t) Restricting, preventing or regulating the use, sale, export or disposal of timbers which are in short supply or which require to be conserved;
- (u) Prescribing penalties, not exceeding those which may be imposed under section 54, for the breach of any regulations under this Act, or of the conditions of any license or lease over or in respect of forest land, or of any permit, right or authority over State forest land;
- (v) Regulating the management of any land reserved for any purpose of forestry, and the conditions subject to which the public may use such land;
- (w) Regulating the management of any protected land;
- (x) Regulating the floating of timber or forest produce in harbours or otherwise on the territorial waters of Samoa or on rivers, and the storing of timber or produce in harbours or sea shores or river banks;
- (y) Generally prescribing fees payable under this Act or the regulations.

**(3)** Regulations made under this Act may be so made as to apply generally throughout Samoa or within any specified part or parts of Samoa, or within the whole of Samoa except such part or parts as may be specified in the regulations.

**74. Remuneration and allowances of committee members - (1)** There may be paid, from money appropriated by the Legislative Assembly for that purpose, to each member of any advisory committee appointed pursuant to section 73(2)(p) who is not a full time salaried employee of the Government.

- (a) Any travelling expenses reasonably incurred in respect of the performance of duties as a member of the advisory committee; and
- (b) Such sum as Cabinet from time to time approves in respect of each day or part of a day which such member spends upon the business of the advisory committee.

**(2)** Any such approval may be expressed to come into force from, before, on or after the date

of approval, and if not so expressed shall come into force on the date of the approval.

**75. Repeals, amendments and savings - (1)** This subsection substituted a new paragraph for section 4(b) of the Agriculture, Forests, and Fisheries Ordinance 1959.

(2) This subsection amended subsections 13(1) and 22(1) of the Water Act.

(3) The Forestry Regulations 1963 are hereby revoked.

(4) The revocation of those regulations shall not affect any document made or any thing whatsoever done under those regulations, and every such document or thing, so far as it is subsisting or in force at the time this Act comes into force, shall continue and have effect as if those regulations had not been revoked.

### REVISION NOTES 2008

This law has been generally edited as provided for by section 5 of the *Revision and Publication of Laws Act 2008*. The following general revisions have been made –

- (a) References to Western Samoa have been amended to Samoa in accordance with an amendment to the Constitution of Samoa in 1997.
- (b) The fines have been amended and are stated as penalty units as provided for by the *Fines (Review and Amendment) Act 1998*.
- (c) All references to the male gender have been made gender neutral.
- (d) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (e) Amendments have been made to up-date references to offices, officers and statutes.
- (f) Other minor editing has been done in accordance with the lawful powers of the Attorney General.

There were no amendments made to this law since the publication of the *Western Samoa Statutes Reprint 1978-1996*

This law has been consolidated and revised by the Attorney General under the authority of the *Revision and Publication of Laws Act 2008* and is an official version of this Act as at 31 December 2007. It is an offence to publish this Act without approval or to make any unauthorised change to an electronic version of this Act.

Revised and consolidated by Leilani Pereira-Moeono

Revised and consolidated under the supervision of Teleiai Lalotoa Sinaalamaimaleula Mulitalo (Parliamentary Counsel)

### REVISION NOTES 2008 No. 2

The commencement date is inserted after the assent date under the general powers of the Attorney General. Under the *Acts Interpretation Act 1974* section 8, in the absence of an express commencement date, the assent date is the commencement date. No amendment has been made to this law since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

This law has been consolidated and revised by the Attorney General under the authority of the *Revision and Publication of Laws Act 2008* and is an official version of this Act as at 31 December 2008. It is an offence to publish this Act without approval or to make any unauthorised change to an electronic version of this Act.

Revised and consolidated by the Legislative Drafting Division under the supervision of Teleiai Lalotoa Sinaalamaimaleula Mulitalo (Parliamentary Counsel)

### **REVISION NOTES 2009**

There were no amendments made to this law since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

This law has been consolidated and revised by the Attorney General under the authority of the Revision and Publication of Laws Act 2008 and is an official version of this Act as at 31 December 2009. It is an offence to publish this Act without approval or to make any unauthorised change to an electronic version of this Act.

Revised and consolidated by the Legislative Drafting Division under the supervision of Papalii Malietau Malietoa (Parliamentary Counsel).

### **REVISION NOTES 2010**

The word “Title” was removed from the Arrangement of Provisions for consistency with the text.

There were no amendments made to this law since the publication of the *Consolidated and Revised Statutes of Samoa 2007*. This law has been revised by the Attorney General under the authority of the *Revision and Publication of Laws Act 2008* and is an official version of this Act as at 31 December 2010. It is an offence to publish this Act without approval or to make any unauthorised change to an electronic version of this Act.

Revised by the Legislative Drafting Division under the supervision of Papalii Malietau Malietoa (Parliamentary Counsel).

**The Forests Act 1967 is administered by the Ministry of Natural Resources and Environment**