

Agriculture Store Corporation Act 1975

SAMOA

AGRICULTURE STORE CORPORATION **ACT 1975**

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AGRICULTURE STORE CORPORATION ACT 1975

1975 No. 21

AN ACT to establish the Agriculture Store Corporation and to define its functions, powers and duties.

[Assent and commencement date 23 December 1975]

**PART 1
PRELIMINARY**

1. Short title – This Act may be cited as the [Agriculture Store Corporation Act 1975](#).

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

“Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for the Corporation;

“Corporation” means the Agriculture Store Corporation established by section 3;

“member” or “member of the Corporation” means a member of the board of the Corporation;

“Minister” means the Minister responsible for agriculture;

“Reserve Fund” means the Agriculture Store Reserve Fund to be established under section 19.

PART 2
CONSTITUTION OF THE AGRICULTURE
STORE CORPORATION

3. Establishment of Corporation – (1) There is established the Agriculture Store Corporation.

(2) The board of the Corporation comprises 7 members who are to be selected under the applicable law relating to the management of public bodies.

(2A) The members of the Corporation are to be appointed by the Head of State, acting on the advice of Cabinet, and may be removed from office by Cabinet.

(2B) Cabinet shall appoint 1 of the members to be Chairperson, and may appoint a Deputy Chairperson.

(2C) A person who is a full-time salaried employee of the Corporation may not be a member.

(2D) Unless the board decides otherwise, the Chief Executive Officer must attend all board meetings but has no voting rights.

(3) The Corporation is a body corporate with perpetual succession and a common seal and may acquire, hold, and dispose of real and personal property, and sue and be sued, and do and suffer all other acts and things that bodies corporate may do and suffer.

(4) The powers of the Corporation is not affected by any vacancy in its membership.

4. Terms of office of appointed members – An appointed member, whether appointed before or after the commencement of this Act, shall hold office at the pleasure of the Head of State, acting on the advice of Cabinet.

5. Extraordinary vacancies – (1) An appointed member may at any time resign his or her office by notice in writing to the Corporation.

(2) *Repealed by s4 of the Agricultural Stores Amendment Act 1991*

(3) If an appointed member dies, or resigns, or is removed from office, the vacancy occurring may be filled by an appointment made in the same manner as that of the member vacating office.

6. Remuneration of appointed members – An appointed member who is not a full-time salaried employee of the Government is to be paid, out of the funds of the Corporation and in respect of his or her services to the Corporation, such remuneration and allowances as may be fixed by Cabinet.

7. Meetings of members – (1) Meetings of the Corporation are to be held at such times and places as the chairperson of the Corporation appoints.

(2) The chairperson shall call a meeting whenever required to do so in writing by any 2 members.

(3) At any meeting, 4 members form a quorum.

(4) The chairperson shall preside at every meeting at which he or she is present.

(5) If the chairperson is for any reason absent from a meeting:

(a) the deputy chairperson shall preside at that meeting if he or she is present; and

(b) if the deputy chairperson is not present, the members present shall appoint 1 of their number to preside at that meeting.

(6) In the absence from a meeting of any member specified in section 3(2B), that member may appoint any other senior officer of his or her Department to be the member's deputy at that meeting and a deputy so appointed is, while he or she attends the meeting, deemed for all purposes to be a member of the Corporation, except that he or she shall not preside at the meeting.

(7) At every meeting, the chairperson or other person presiding shall have a deliberative vote, and in the case of an equality of votes, he or she shall also have a casting vote.

(8) A question arising at a meeting is to be decided by a majority of the votes recorded on the question.

(9) Subject to the other provisions of this Act, the Corporation may regulate its procedure in such manner as it thinks fit.

8. Disclosure of conflicting interest – (1) A member who, otherwise than as a member, is directly or indirectly interested in any business of the Corporation shall, as soon as possible after the relevant facts have come to the member's notice, disclose the nature of the interest at a meeting of the Corporation.

(2) A disclosure under this section is to be recorded in the minutes of the Corporation and, except as otherwise provided by a resolution of the Corporation, the member shall not take part after the disclosure in any deliberation or decisions relating to the business, but is to be counted as present for the purpose of forming a quorum of the Corporation for any such deliberation or decision.

PART 3
FUNCTIONS AND POWERS OF CORPORATION

9. Functions of Corporation – (1) The principal functions of the Corporation are to promote and encourage the economic development of the agriculture, forestry and fishing industries of Samoa by selling or hiring, whether at wholesale or retail and whether at a discount or otherwise, under section 10:

(a) tools, machinery, vehicles, vessels, plant and other equipment used in such industries; and

(b) feed, seeds, fertilisers, chemicals, insecticides, pesticides and other supplies used in such industries; and

(c) any other goods, articles and supplies of every description used in such industries.

(2) Subject to any other enactment, the Corporation may also in its discretion undertake any of the following functions:

(a) to purchase and resell, in Samoa and overseas, any produce and products of the agriculture, forestry and fishing industries;

(b) act as agent on behalf of a person in selling any products and produce of the agriculture, forestry and fishing industries of Samoa in Samoa and overseas.

10. Operating principle of Corporation – In carrying out its functions, the Corporation shall seek to recover the costs of its own operation, and to provide for adequate reserves to enable the continuance of its functions, and to duly provide for its expansion and development and the replacement of its assets, but shall not otherwise seek to make for itself a profit in respect of the carrying out of its functions.

11. Powers of Corporation – (1) The Corporation has all the powers that are reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting subsection (1), the Corporation has the following powers:

(a) to purchase, obtain by way of exchange, take or lease, hire, or otherwise acquire land, buildings and any items referred to in section 9;

(b) with the written consent of the Minister of Finance, to subscribe for and otherwise acquire shares and stock in an incorporated company;

(c) to establish and maintain stores, warehouses, cool stores and other marketing facilities;

(d) to prepare for market, advertise, sell, dispose of by hire-purchase, and hire out any items referred to in section 9;

(e) to sell, exchange, let, hire out and otherwise dispose of any of its other real and personal property;

(f) to carry on the businesses of importer, exporter, wholesaler, retailer and trader dealing in items of any kind referred to in section 9;

(g) to undertake or commission market research for itself or any other person;

(h) to negotiate freight agreements for the carriage of items referred to in section 9 to, from, or within Samoa;

(i) to act on behalf of or represent in a capacity a person;

(j) to make such charges for its services as it thinks fit;

(k) to exercise any other powers conferred on it by an enactment.

12. Corporation to comply with Cabinet policy – In carrying out its functions under this Act, the Corporation shall have due regard to the policy of Cabinet relating to the agriculture, forestry and fishing industries, and shall give effect to that policy as communicated to the Corporation in writing by the Minister.

13. Contracts of Corporation – (1) Subject to section 14, any contract which, if made between private persons must be by deed, shall, if made by the Corporation,

be in writing under the seal of the Corporation.

(2) A contract which, if made between private persons must be in writing signed by the parties to be charged with the contract, shall, if made by the Corporation, be in writing either under the seal of the Corporation or signed by a person acting on behalf of and under the express or implied authority of the Corporation.

(3) A contract which, if made between private persons may be made orally, may be made in the manner specified in subsection (1) as in the case of a deed, or in the manner specified in subsection (2) as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Corporation by any person acting under the express or implied authority of the Corporation.

(4) Despite subsection (1), (2) or (3), no contract made by or on behalf of the Corporation is invalid by reason only that it was not made in manner provided by this section, if it was made under a resolution of the Corporation or to give effect to a resolution of the Corporation in relation to contracts generally or in relation to that particular contract.

14. Delegation of powers of Corporation – (1) The Corporation may, in respect of any particular matter or class of matters by writing under its seal delegate to any member or officer, or committee of members or officers of the Corporation, or to the holder of any specified office under the Corporation, any of its powers under this Act (including a power to execute deeds on behalf of the Corporation, but not including this power of delegation), so that the delegated powers may be executed by him, her or them in respect of the matters or class of matters or area specified in the instrument of delegation.

(2) Subject to any general or special directions given or conditions imposed by the Corporation, the person or committee to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him, her or them directly by this Act and not by delegation.

(3) A person or committee purporting to act under a delegation under this section is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

(4) A delegation under this section is revocable at will, and no delegation prevents the exercise of any power by the Corporation.

15. Corporation staff – (1) The Head of State, acting on the advice of Cabinet, shall appoint a Manager of the Corporation.

(2) The Manager is the Chief Executive Officer of the Corporation and is responsible to the Corporation for the efficient administration of the operations of the Corporation.

- (3) The Manager is to attend every meeting of the Corporation unless in any particular case he or she is excused by the Corporation from attendance.
- (4) The Corporation may appoint any other officers and employees (full-time and part-time) as may be necessary for the efficient carrying out of its functions.
- (5) Subject to subsection (1), and to any regulations made under this Act, the Manager and other officers and employees of the Corporation shall hold office or employment on such terms and conditions as the Corporation shall determine.
- (6) In fixing the salary or remuneration of any of its officers or employees, the Corporation shall have regard to the salaries payable to officers or employees of the Public Service holding positions of comparable responsibility.
- (7) The salaries and remuneration of the officers and employees of the Corporation is to be paid out of its funds.

PART 4 FINANCIAL PROVISIONS

16. Funds and assets of Corporation – (1) The funds of the Corporation shall consist of:

- (a) the money vested in the Corporation by subsection (2); and
- (b) such money as may be appropriated by the Legislative Assembly for that purpose; and
- (c) such other money as the Corporation may lawfully acquire in the carrying out of its functions; and
- (d) all accumulations of money belonging to the Corporation.

(2) On the commencement of this Act, the existing separate fund known as the Agricultural Store Fund established by the Minister of Finance under section 17 of the Public Money Act 1964 from money appropriated by the Appropriation Act 1974 to Development Vote Treasury shall, by operation of this section and without further conveyance, transfer, or assignment, vest in and become the property of the Corporation.

(3) On the commencement of this Act, all the existing assets, contracts, debts and liabilities of the Government of Samoa that are administered in the Treasury Department by the administrative unit within that Department known as the Agricultural Store shall, by operation of this section and without further conveyance, transfer or assignment, vest in and become the assets, contracts, debts and liabilities of the Corporation.

(4) If a question arises or may arise as to whether any asset, contract, debt or liability has under subsection (3) become an asset, contract, debt or liability of the Corporation, the Corporation shall refer the question in writing to the Minister of Finance before 1 January 1976 and the Minister of Finance shall within 14 days determine in writing the question, and the determination of the Minister of Finance is final and binding on the question with retrospective effect from the date of commencement of this Act. Within 14 days after determining any question under this subsection, if the Legislative Assembly is then sitting, or the Legislative Assembly is not sitting, then within 14 days after the commencement of the next session of the Legislative Assembly, the Minister of Finance shall lay a copy of the Minister's determination on the table of the Legislative Assembly and shall also forward a copy to the Controller and Chief Auditor.

(5) The land and building presently occupied by the Corporation shall, by operation of this section and without further conveyance, transfer or assignment, vest in and become assets of the Corporation.

17. Borrowing powers – (1) The Corporation may borrow money for the purposes of its operations and issue debentures or mortgage or charge any of its real or personal property by way of security for any such loans.

(2) The Ministry of Finance may make advances to the Corporation under this section.

18. Agriculture Store Account – (1) The Corporation shall at the commencement of this Act establish and thereafter maintain with the ANZ Bank of Samoa an account to be known as the Agriculture Store Account.

(2) The funds of the Corporation, subject to section 19, are to be paid into the Agriculture Store Account.

(3) There shall be paid out of the Agriculture Store Account all costs, charges and expenditure lawfully incurred by the Corporation in its operations and all other money lawfully payable by the Corporation.

(4) There may be established with the ANZ Bank of Samoa, within the Agriculture Store Account, such special accounts or subsidiary accounts as the Corporation may consider necessary or expedient for the proper operation of the Corporation.

(5) An account under this section is to be operated on only by cheque or other instrument signed by any person who is authorised in that behalf by the Corporation and countersigned by any other person who is so authorised.

19. Agriculture Store Reserve Fund – (1) The Corporation shall establish and maintain a fund to be known as the Agriculture Store Reserve Fund.

(2) The Reserve Fund shall consist of such money as, after making adequate provision for the operating expenses of the Corporation, the Corporation considers proper to provide adequate reserves for the continuance of its functions.

(3) The Corporation shall invest the Reserve Fund in such public securities in Samoa and elsewhere as the Corporation may think fit.

(4) Despite subsection (3), the Corporation may invest any part of the Reserve Fund in real property.

(5) The Reserve Fund shall be available to meet any deficit in the Agriculture Store Account to offset past losses, and to provide for expansion and development and the replacement of its assets, but not otherwise.

20. Investment of other funds – Any funds of the Corporation that are not required to be dealt with in any other manner under this Act may be invested in public securities or, with the prior written consent of the Minister of Finance, in any other securities until such time as they are so required.

21. Exemptions from taxes – The Corporation is not liable to pay income tax or other taxes.

22. Financial year – The financial year of the Corporation shall end with 31 December in every year, or with such other day as the Corporation, with the prior written consent of the Minister of Finance, may resolve.

23. Application of surplus funds – Without derogating from section 10, the Corporation, having set aside such sums as may be necessary for its operations, for the provision of adequate reserves, to offset past losses, and to provide for expansion and development and the replacement of its assets, shall as soon as practicable after the end of any financial year pay any surplus funds that it may have into the Public Account.

24. Accounts – The Corporation shall at all times keep full and correct records and accounts of all its financial transactions, assets, liabilities and funds.

25. Audit of accounts – (1) Within 4 months after the end of each financial year, the Corporation shall prepare a balance sheet, profit and loss account, and statement of source and application of funds, and such other statements of accounts as are necessary to show fully the financial position of the Corporation and the financial results of its operations during that year.

(2) The balance sheet, statement, and other accounts are to be audited by the Audit Office which for that purpose shall have the same powers as it has in respect of public money within the meaning of the [Public Finance Management Act 2001](#).

26. Annual report – (1) Within 6 months after the end of every financial year the Corporation shall send to the Minister a report of its proceedings and operations for that year together with a copy of its audited accounts for that year and the report of the Audit Office on those accounts.

(2) A copy of the report and of the accounts of the Corporation, together with a copy of the report of the Audit Office on the accounts, are to be laid before the Legislative Assembly within 14 days after their receipt by the Minister, if the Legislative Assembly is then sitting, or if the Legislative Assembly is not sitting, then within 14 days after the commencement of the next session of the Legislative Assembly.

PART 5 **MISCELLANEOUS**

27. Protection of members and officers – A member or officer of the Corporation is not personally liable for any act or omission made by him or her in good faith in the exercise or performance of his or her functions, powers or duties as a member or officer of the Corporation.

28. Protection of name – (1) A company or other body is not to be incorporated or registered under any Act or otherwise under the name “Agriculture Store Corporation” or under any other name that in the opinion of the Registrar of Companies so resembles the name of the Corporation as to be calculated to deceive.

(2) A person (other than the Corporation) shall, by himself, herself or with any other person, not trade or carry on business under the name “Agriculture Store Corporation” or under any other name so resembling the name of the Corporation as to be calculated to deceive.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding 1 penalty unit and to a further fine not exceeding 1 penalty unit for each day on which the offence has continued.

(4) Despite subsections (2) and (3), a company or other body incorporated or registered before the commencement of this Act does not commit an offence by reason only of the fact that by itself it trades or carries on business after the commencement of this Act under its incorporated or registered name.

29. Regulations – The Head of State, acting on the advice of Cabinet, may make regulations for all or any of the following purposes:

(a) prescribing procedures for meetings of the Corporation or its committees;

(b) regulating the keeping of records and accounts by the Corporation;

(c) subject to this Act, prescribing terms and conditions of service of officers and employees of the Corporation, including the prescribing of salary scales, and appointments, promotion and discipline of its officers and employees;

(d) providing for such other matters as may be contemplated by or necessary for giving full effect to this Act and for its due administration.

REVISION NOTES 2008 – 2015

This is the official version of this Act as at 31 December 2015.

This Act has been revised by the Legislative Drafting Division in 2008 – 2015 respectively under the authority of the Attorney General given under the [Revision and Publication of Laws Act 2008](#).

The following general revisions have been made:

(a) 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) Insertion of the commencement date

(f) Other minor editing has been done in accordance with the lawful powers of the Attorney General.

(i) “shall be deemed” changed to “is taken”

(ii) “from time to time” and “for the time being” deleted

(iii) “member” or “member of board” changed to “director”

(iv) “shall have” changed to “has”

(v) “ever” and “any” changed to “a” or “an” where appropriate

(vi) Numbers in words changed to figures

(vii) “pursuant to” changed to “under”

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

By the *Composition of Boards of Public Bodies Act 2012*, No. 15:

- Sections 2 and 7(3) amended;
- Section 3(2) replaced.

*This Act is administered by
the Ministry of Agriculture and Fisheries*