

SAMOA

Arrangement of Provisions

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1999, No. 18

AN ACT to make provision with respect to the internal waters, territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of Samoa; and related matters. *[25th August 1999]*

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

**PART I
PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the Maritime Zones Act 1999.

(2) This Act shall come into force on the date that it is assented to by the Head of State.

2. Interpretation-(1) In this Act, unless the context otherwise requires -

"Baseline" means the line from which -

- (a) The breadth of the territorial sea;
 - (b) The outer limits of:
 - (i) the contiguous zone;
 - (ii) the exclusive economic zone; and
 - (iii) the continental shelf;
- are measured;

"Bay" means a well-marked indentation of the coast such that its area is as large as or larger than that of the area of the semi-circle whose diameter is a line drawn across the mouth of that indentation; and for the purposes of this definition the area of an indentation shall be taken to be the area bounded by the low-water mark around the shore of the indentation and the straight baseline joining the low-water marks of its natural entrance points; and where, because of the presence of islands, an indentation has more than one mouth the length of the diameter of the semi-circle referred to shall be the sum of the lengths of the straight baselines drawn across each of the mouths and in calculating the area of an indentation the area of any islands lying within it shall be included as if they were part of the water area of the indentation:

"Exclusive economic zone" means the exclusive economic zone of Samoa as defined in section 19:

"Foreign vessel" means any vessel which is, for the time being, not registered in Samoa:

"High-water mark" means the line of mean high water:

"Internal waters" means the internal waters of Samoa as defined in section 3:

"Island" means a naturally formed area of land which is surrounded by water and which is above water at high tide:

"Low-water mark" has the meaning assigned thereto by section 10 and "low-water line" shall have the corresponding meaning:

"Low-tide elevation" means a naturally formed area of land which is surrounded by and above water at low tide but is submerged at mean high tide:

"Minister" shall mean the Minister responsible for Foreign Affairs:

"Nautical mile" means the international nautical mile of 1,852 meters:

"Official chart" means a chart notified under section 10(3):

"Official list of geographical coordinates" means a list of geographical coordinates specifying geodetic datum and notified under section 10(3):

"Territorial sea" means the territorial sea of Samoa as defined in section 4 of the Act.

(2) For the purpose of assisting in determining the meaning of any words defined in subsection (1), and in the application of any principle or matter provided for by this Act, reference may be made to any book or reference document prescribed under this Act.

PART II

INTERNAL WATERS AND TERRITORIAL SEA

3. Internal waters - The internal waters include any areas of the sea that are on the landward side of the baseline of the territorial sea of Samoa.

4. Territorial sea - The territorial sea of Samoa comprises those areas of the sea having, as their inner limits, the baselines described in sections 6 and 7 and, as their outer limits, a line measured seaward from those baselines, every point of which is distant 12 nautical miles from the nearest point of the baseline.

5. Sovereignty - The sovereignty of the Independent State of Samoa extends beyond its land territory and internal waters to the territorial sea and over the airspace of the territorial sea as well as its bed and subsoil.

6. Baseline of the territorial sea - Except as otherwise provided in section 7, the baseline from which the breadth of the territorial sea of Samoa is measured shall be the seaward side of -

- (a) The low-water mark of any reef fringing the coast of any part of Samoa;

- (b) The low-water line of any low tide elevation which is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island;
- (c) The low-water line along the coast of Samoa, in the case where a fringing reef is not present.

7. Baseline of the territorial sea adjacent to a bay - In the case of the sea adjacent to a bay, the baseline from which the breadth of the territorial sea is measured shall be -

- (a) If the bay has only one mouth and the distance between the low-water marks of the natural entrance points of the bay does not exceed 24 nautical miles, a straight line joining the said low-water marks;
- (b) If, because of the presence of islands, the bay has more than one mouth and the sum total of the distances between the low-water marks of the natural entrance points of each mouth does not exceed 24 nautical miles, a series of straight lines across each of the mouths so as to join the said low-water marks;
- (c) If the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles drawn from low-water mark to low-water mark within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

8. Ports - For the purposes of this Act, the outermost permanent harbour works which form an integral part of a harbour system shall be treated as forming part of the coast.

Provided that offshore installations and artificial islands shall not be considered as permanent harbour works.

9. Bed of the territorial sea and internal waters vested in Samoa - Subject to the grant of any estate or interest therein (whether by or pursuant to the provisions of any enactment or otherwise, and whether made before or after the commencement of this Act), the sea bed and subsoil of the submarine areas bounded on the landward side by the high-water mark along the coast of Samoa including the coast of all islands, and on the seaward side by the outer limits of the territorial sea of Samoa shall be deemed to be and always to have been public land vested in Samoa.

10. Low-water mark, official charts and publicity-(1) For the purposes of this Act, the low-water mark in any area shall be the low-water mark at low tides either -

- (a) As depicted on an official chart; or
- (b) As determined by reference to an official list of geographical coordinates.

(2) In any proceedings in any court, a certificate purporting to be signed by the Director of Lands, Surveys and Environment or by a Port Master appointed under the Ports Authority Act 1998 or by the Ministry of Transport that any chart of any area is the official chart for that area, shall be admissible as evidence of the matters stated in the certificate.

(3) The Head of State acting on the advice of Cabinet, shall by Order, cause all closing lines, baselines and other lines drawn under the provisions of this Act for the purpose of determining the limits of the internal waters, the territorial sea, the contiguous zone and exclusive economic zone of Samoa to be clearly indicated on an official chart prepared on a scale adequate for ascertaining their position, or cause an official list of geographical coordinates, specifying the geodetic datum defining their position, to be produced and shall give due publicity to such charts or list of geographic coordinates by notice in the Savali.

(4) When making an Order under subsection (3) of this section, the Head of State may also declare, by reference to physical features marked on an official chart or an official list of

geographical coordinates, the points between baselines to be drawn for determining the limits of the internal waters, the territorial sea and exclusive economic zone.

PART III INNOCENT PASSAGE

11. Right of innocent passage-(1) Any foreign vessel shall enjoy the right of innocent passage through the territorial sea, in accordance with the provisions of this Act and international law.

(2) Passage means navigation through the territorial sea for the purpose of -

- (a) Traversing that sea without entering internal waters or calling at a roadstead or port facility outside the internal waters; or
- (b) Proceeding to or from internal waters or a call at such roadstead or port facility.

(3) Stopping and anchoring shall only be permitted insofar as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or in distress.

12. Prohibited passage - Passage of a foreign vessel through the territorial sea shall be prejudicial to the peace, good order and security of Samoa if it engages in any of the following activities -

- (a) Any threat or use of force against the sovereignty, territorial integrity or political independence of Samoa or in any other manner in violation of the principles of international law;
- (b) Any unauthorised exercised or practice with weapons of any kind;
- (c) Any act aimed at collecting information prejudicial to the national security, or defence of Samoa;

- (d) Any act of propaganda aimed at affecting the national security or defence of Samoa;
- (e) The launching, landing or taking on board of any aircraft or helicopter or military device;
- (f) The loading or unloading of any commodity, currency or persons contrary to the laws and regulations of Samoa;
- (g) Any act of wilful and serious pollution of the marine environment of Samoa;
- (h) Any fishing activities without a licence issued in accordance with the laws of Samoa;
- (i) The carrying out of scientific research or hydrographic survey activities;
- (j) Any activity aimed at interfering with any system of communication or any such facilities or installations of Samoa; and
- (k) Any other activity not having a direct bearing on passage.

13. Suspension of innocent passage-(1) The government of Samoa may take any steps necessary to prevent passage by any foreign vessel which is prejudicial to the peace order and good government of Samoa under section 12.

(2) The Minister may suspend temporarily in specified areas of its territorial sea, the innocent passage of foreign vessels if such suspension is essential for the protection of national security.

(3) Such suspension referred to in subsection (2) shall only take effect after it has been duly publicised.

14. Obligations of foreign vessels-(1) Submarines and other underwater vehicles shall navigate on the surface and show their flag during their passage through the territorial sea.

(2) Vessels carrying radioactive wastes or other inherently dangerous, noxious or hazardous wastes, or substances harmful to the environment, through the territorial sea must have the prior authorization of the Minister and any other authority in Samoa vested with relevant lawful authority.

15. Charges which may be levied on foreign vessels-(1)

No charges may be levied on foreign vessels by reason only of their passage through the territorial sea.

(2) Notwithstanding subsection (1), charges may be levied upon a foreign vessel passing through the territorial sea as payment for specific services rendered to the ship.

**PART IV
JURISDICTION OVER FOREIGN VESSELS**

16. Criminal jurisdiction - The criminal jurisdiction of Samoa shall not extend to crimes committed on board a foreign commercial vessel passing through the territorial sea, except -

- (a) Where the consequences of the crime extend to or have any affect in Samoa; or
- (b) If the crime is of a kind to disturb the peace of Samoa or the good order of the territorial sea;
- (c) Where the master of the vessel or a diplomatic agent or consular officer of the flag State seeks the assistance of the Government of Samoa; or
- (d) If such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

17. Civil jurisdiction-(1) A foreign vessel passing through the territorial sea shall not be stopped for the purpose of exercising civil jurisdiction in relation to a person on board the vessel.

(2) No person shall levy execution or arrest a foreign vessel passing through the territorial sea in connection with any civil proceedings, except in respect of obligations or liabilities assumed or incurred by the vessel in the course of, or for the purpose of its voyage through the territorial sea.

(3) Notwithstanding subsection (2), any person may levy execution against, or arrest a foreign vessel for the purpose of any civil proceedings, if the vessel is lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

PART V THE CONTIGUOUS ZONE

18. The Contiguous zone-(1) The contiguous zone of Samoa comprises that part of the sea within 24 nautical miles from the baseline from which the breadth of the territorial sea is measured.

(2) The Government of Samoa may exercise any powers and take any measures in relation to the contiguous zone as may be necessary in order to prevent or punish infringements of its laws that relate to customs, fiscal matters, immigration, environmental protection or health, or any other law as prescribed under this Act.

PART VI EXCLUSIVE ECONOMIC ZONE

19. Exclusive economic zone - The exclusive economic zone of Samoa comprises that area of the sea, seabed, and subsoil that are beyond and adjacent to the territorial sea, having as their outer limits the line every point of which is 200 nautical miles seaward from the nearest point of the territorial sea baseline.

20. Rights and jurisdiction in the exclusive economic zone-(1) In the exclusive zone, the Government of Samoa has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources (whether living or non-living) of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to any other activity relating to the economic exploitation and exploration of the zone.

(2) Without limiting the generality of subsection (1), the Government of Samoa has jurisdiction in the exclusive economic zone with regard to the following -

- (a) The establishment and use of artificial islands, installations and structures;
- (b) Marine scientific research; and
- (c) The protection and preservation of the marine environment.

21. Delimitation of the exclusive economic zone-(1) Where the exclusive economic zone of Samoa overlaps with the zone of an opposite or adjacent state, then the delimitation of the outer limits of the exclusive economic zone of Samoa shall be affected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

(2) Pending the conclusion of an agreement referred to in subsection (1) between the Government of Samoa and another opposite or adjacent state, the median line shall, without prejudice to any negotiations of an agreement, provisionally constitute the outer limits of the exclusive economic zone of Samoa.

(3) For the purposes of subsection (2) "median line" means the line every point on which is equidistant from the nearest points on the territorial sea baselines of the coastline of Samoa and the territorial sea baselines of the coastlines of the opposite or adjacent States.

(4) The Minister shall deposit with the Secretary-General of the United Nations a copy of each chart and each official list prepared under this Act and showing the outer limit of the exclusive economic zone.

22. Prohibited activities-(1) No person shall within the limits of the exclusive economic zone engage in any activity which is inconsistent with the sovereign rights and jurisdiction of the Independent State of Samoa referred to in section 20 unless he is first authorized by the Minister or holds any other authorisation under any law in Samoa.

(2) Any person who contravenes subsection (1) of this section is liable on conviction to a fine not exceeding 1000 penalty units or to a term of imprisonment not exceeding five years, or both.

23. Offences in the exclusive economic zone - Any offence against this Act that is committed within the exclusive economic zone shall be deemed to have been committed in Samoa.

PART VII THE CONTINENTAL SHELF

24. The Continental shelf - The continental shelf of Samoa comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to -

- (a) The outer edge of the continental margin; or
- (b) A distance of 200 nautical miles from the baselines from which the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

PART VIII GENERAL PROVISIONS

25. Jurisdiction of the Courts - Notwithstanding any provision in any enactment, the Supreme Court shall have exclusive jurisdiction over any matter arising under this Act.

26. International agreements - The Head of State may, acting on the advice of Cabinet, from time to time, limit any provision of this Act so far as it is necessary to give effect to any obligations under any treaty to which Samoa is a party.

27. Regulations - The Head of State, acting on the advice of Cabinet, may make regulations for the purpose of carrying out or giving effect to the principles and provisions of the Act, and in particular, but without restricting the generality of the foregoing, may make regulations for all or any of the following -

- (a) Regulating the conduct of scientific research within the exclusive economic zone;
- (b) Regulating the exploration and exploitation of the exclusive economic zone for the production of energy from waters, currents and winds, and for other economic purposes;
- (c) Regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone including requirements for the establishment of safety zones around islands, installations and structures;
- (d) Prescribing measures for the protection and preservation of the marine environment of the fishery waters;
- (e) Regulate the passage of vessels in the territorial sea and the exclusive economic zone; and
- (f) Providing for such other matters as are necessary or expedient to give effect to the provisions of this Act.

28. Repeals - The following Acts are repealed:
The Territorial Sea Act 1971
Exclusive Economic Zone Act 1977