



SAMOA

PASSPORTS ACT 2008

Arrangement of Provisions

PART 1 PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Delegation by Minister
4. Act binds Government

PART 2 SAMOAN PASSPORTS

5. Issue of passports
6. Life of passport
7. Renewal of passport
8. Endorsement of passport
9. Cancellation of passport where holder ceases to be entitled to passport
10. Cancellation of passport on other grounds
11. Retention of passport by Minister on other grounds
12. Delivery of passport required to be returned

PART 3 SURRENDER OF PASSPORTS

13. Surrender of passport where proceedings for deprivation of citizenship commenced
14. Extension of time to hold surrendered passport

15. Return of surrendered passport if person not deprived of citizenship

PART 4 CERTIFICATE OF IDENTITY

16. Issue of certificate of identity
17. Life of certificate of identity
18. Cancellation of certificate of identity

PART 5 DOCUMENT OF IDENTITY

19. Issue of document of identity
20. Life, renewal and replacement
21. Endorsement of document of identity
22. Cancellation of document of identity
23. Retention of document of identity by Minister on other grounds
24. Delivery of recalled document of identity

PART 6 APPEALS

25. Appeals

PART 7 MISCELLANEOUS

- | | |
|---|--|
| 26. Landing without passport | 33. Forged and false Samoan travel documents |
| 27. Passports may be required to be delivered | 34. Falsifying foreign passports |
| 28. Minister may authorise issue of passports by overseas representatives | 35. Offences relating to passport information and material |
| 29. Notice of decision | 36. Improper issue of Samoan travel document |
| 30. Notification of loss or theft of passports | 37. Other offences |
| 31. Attorney General to file suit | 38. False representations |
| 32. Travel documents are property of Samoan Government | 39. Regulations |
| | 40. Repeal and consequential amendments |
| | 41. Savings |
| | 42. Transitional |

**PART 8
OFFENCES AND PENALTIES**

PASSPORTS ACT 2008

2008

No. 29

AN ACT to give proper recognition to Samoan passports and to the right of Samoan citizens to such passports, and to consolidate and amend the law relating to passports and documents of identity and certificates of identity.

[Assent and commencement date: 1 September 2008]

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

**PART 1
PRELIMINARY**

1. Short title and commencement – (1) This Act may be cited as the Passports Act 2008.

(2) This Act commences on the day it is assented to by the Head of State.

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

“applicant” means a person applying for the issue of a travel document under this Act whether such person does so in a personal capacity or through a legal representative;

- “authorised” means authorised by the Minister;
- “approved form” means a form approved by the Chief Executive Officer;
- “certificate of identity” means the certificate of identity issued under Part 4;
- “citizen” means a person who is a citizen of Samoa under the Citizenship Act 2004;
- “Court” means the Supreme Court;
- “document of identity” is the document of identity issued under Part 5;
- “holder” of a passport, a certificate of identity or a document of identity, means the person in whose name the document has been issued;
- “Minister” means the Minister responsible for Immigration;
- “Ministry” means the Ministry responsible for Immigration;
- “officer”:
- (a) means an officer employed in the Immigration Division of the Ministry; and
 - (b) includes any other person authorised by the Minister to exercise any power or powers conferred on officers by this Act to the extent of such authority;
- “overseas representative” includes:
- (a) an overseas representative or agent of the Government of Samoa, or of any country, which has been requested to act for Samoa in passports and immigration matters; and
 - (b) an Ambassador, High Commissioner or Head of Mission;
- “passport”:
- (a) includes—
 - (i) an ordinary passport, official passport or a diplomatic passport; and
 - (ii) a document which is issued by or on behalf of the Government of any country, and which purports to establish the personal identity and national identity of the holder; but
 - (b) does not include such document that has expired and is incapable of being renewed, or that has been cancelled;

“passport database” means a file, register, or device in or on which information is or is to be recorded by officers for the purposes of this Act;

“prohibited immigrant” has the same meaning as is given to it in the Immigration Act 2004;

“recall” means to return to the Ministry or Minister, as the case may be, such travel documents where required under this Act;

“ship”:

(a) means a navigable vessel capable of being used to transport people from a country to another; and

(b) includes airplane, aircraft, yacht, ferry or dinghy;

“travel document” means a Samoan passport, document of identity or certificate of identity issued under this Act.

3. Delegation by Minister – (1) The Minister may, by writing under his or her hand, either generally or particularly, delegate to such officer or officers of the Ministry as the Minister thinks fit, all or any of the powers and functions exercisable by the Minister under this Act or any regulations made under this Act, other than the power of delegation conferred by this subsection.

(2) A person purporting to act pursuant to a delegation under this section is presumed to be acting in accordance with its terms, in the absence of evidence to the contrary.

(3) A delegation under this section may be made to a specified officer or to officers of a specified class, or to the holder of a specified office or class of office.

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

(5) Any such delegation, until revoked, continues in force according to its tenor, even if the Minister who made it have ceased to hold office, and continues to have effect as if made by the successor in office of that Minister.

4. Act binds Government – This Act binds the Government.

PART 2 SAMOAN PASSPORTS

5. Issue of passports – (1) Subject to this Act, the Minister shall issue a Samoan passport to a Samoan citizen who makes an application for a Samoan passport, or on whose behalf an application for a passport is made for a lawful purpose.

(2) An application is to be made to the Minister in an approved form and accompanied by the prescribed fee.

(3) The Minister may refuse to issue a Samoan passport:

- (a) if the applicant has not attained the age of 16 years and has not produced the written consent of one of the person's parents or guardians to the issue of a Samoan passport; or
- (b) where—
 - (i) there is in force a warrant issued in Samoa for the arrest of the applicant; or
 - (ii) the applicant is on bail, probation or parole; or
 - (iii) the applicant is required by an order of a court to remain in Samoa or to surrender a passport; or
- (c) where the applicant already holds a Samoan passport and there is no sufficient reason why another Samoan passport should be issued to the applicant; or
- (d) if the applicant holds a Samoan document of identity and refuses to surrender it.

6. Life of passport – (1) Subject to subsection (2), a Samoan passport is valid for 10 years from the date of issue unless it is sooner cancelled under this Act.

(2) Despite subsection (1), the Minister may, in any particular case, if satisfied that good reasons exist and that it would be in the interests of the proper administration of this Act to do so, determine that a Samoan passport is issued for a period shorter than 10 years.

(3) This section and section 7 are subject to section 18(1)(a) of the Citizenship Investment Act 2015.

7. Renewal of passport – (1) Save for where it is provided for by this Act, or if the Minister is satisfied that exceptional circumstances exist, a Samoan passport will not be renewed during the period of 10 years that the passport is still valid.

(2) On the application of the holder of a Samoan passport that was issued for a term of less than 10 years, the Minister may renew that passport upon payment of the prescribed fee, but so that the original period for which the passport was issued plus the renewed period does not exceed 10 years.

(3) Subject to section 5(3), in a case where the Minister refuses to renew a Samoan passport under subsection (2), the Minister shall, on the application of the holder of that passport, issue another Samoan passport to replace that passport.

8. Endorsement of passport – (1) If the Minister is satisfied that the particulars recorded in a Samoan passport do not accurately state the identity or status of the holder, the Minister may endorse on the passport any alterations or additions as may be necessary to correct the particulars upon payment of the prescribed fee.

(2) Without limiting subsection (1), the Minister may require or permit the addition to a Samoan passport of a more recent photograph of the holder.

9. Cancellation of passport where holder ceases to be entitled to passport – (1) The Minister may, by notice in writing, require that a Samoan passport be returned, and cancel the passport or retain possession of it, if:

- (a) the holder has not attained the age of 16 years and the parent or guardian who gave consent to the issue of the Samoan passport has written to the Minister withdrawing that consent; or
- (b) the Samoan passport was issued to the holder in the mistaken belief that the holder was, at the time of issue, a Samoan citizen; or
- (c) the Samoan citizenship of the holder has lapsed under section 15 of the Citizenship Act 2004; or
- (d) the holder has renounced Samoan citizenship under section 14 of the Citizenship Act 2004; or
- (e) the holder has been deprived of Samoan citizenship under section 16 or 17 of the Citizenship Act 2004; or
- (f) two or more valid Samoan passports are in existence in respect of the holder and there is no longer any sufficient reason why that should continue to be the case.

(2) If the Minister cancels a Samoan passport under this section, the Minister shall not issue another Samoan passport to replace that passport.

10. Cancellation of passport on other grounds – (1) The Minister may, by notice in writing, require that any Samoan passport be returned to the Ministry, and cancel the passport or retain possession of it, where:

- (a) it is produced in support of an application for the issue of another Samoan passport in substitution for the first one; or
- (b) it has expired and is incapable of being renewed; or
- (c) it has been so damaged or defaced as to render it, in the opinion of the Minister, unsuitable for use; or
- (d) there is reasonable cause to believe that the Samoan passport, or any renewal or endorsement of the passport, has been obtained by means of a false representation or a statement that is false in a material particular; or
- (e) there is reasonable cause to believe that particulars recorded in it are incorrect and, in the opinion of the Minister, it would not be appropriate to correct them by way of endorsement in accordance with section 8.

(2) Subject to section 5, where the Minister retains or cancels a Samoan passport under this section, the Minister shall, on the application of the holder of that passport, issue, as soon as practicable, another Samoan passport to replace that passport.

11. Retention of passport by Minister on other grounds – (1) The Minister may, by notice in writing, require that a Samoan passport be returned for retention by the Ministry if:

- (a) there is in force a warrant issued in Samoa for the arrest of the holder; or
- (b) there is reasonable cause to believe that the Samoan passport is in the wrongful possession of a person other than the holder; or
- (c) the holder of an official or diplomatic Samoan passport ceases to hold the post or employment for which the official or diplomatic Samoan passport was issued.

(2) If the Minister has required that a Samoan passport be returned to the Ministry under subsection (1)(a), the Minister shall return that passport to the holder as soon as practicable after the warrant is executed or withdrawn.

(3) Where the Minister has required that a Samoan passport be returned to the Ministry under subsection (1)(b), the Minister shall, unless the holder has been issued with a new passport, forthwith return that Samoan passport to the holder.

12. Delivery of passport required to be returned – (1) If the Minister requires the return of a Samoan passport under any of sections 9, 10 and 11, the holder or other person who has the Samoan passport in his or her possession or control shall, on demand by an officer, deliver the Samoan passport to the officer.

(2) A person commits an offence who knowingly fails without lawful excuse to comply with this section.

PART 3 SURRENDER OF PASSPORTS

13. Surrender of passport where proceedings for deprivation of citizenship commenced – (1) If the Minister gives a notice pursuant to section 18 of the Citizenship Act 2004 to the holder of a Samoan passport of the Minister's intention to make an order under section 16 or 17 of that Act depriving that person of Samoan citizenship, the Minister may give a notice to that person requiring the surrender of the Samoan passport which that person holds.

(2) The Minister is entitled to retain possession of the surrendered Samoan passport until:

- (a) the expiry of 12 months from the date on which the Samoan passport is surrendered, or the expiry of any extension of that time in which the notice was issued; or
 - (b) the conclusion of the proceedings for deprivation of Samoan citizenship, –
- whichever occurs first.

(3) The notice shall inform the person on whom it is served of the effect of subsection (2).

(4) If the Minister requires the surrender of a Samoan passport under this section, the holder or other person in

possession of the Samoan passport shall, on demand by an officer, surrender the Samoan passport to the officer.

(5) A person commits an offence who knowingly fails without lawful excuse to comply with subsection (4).

14. Extension of time to hold surrendered passport – (1)

If the Minister has required the surrender of a Samoan passport under section 13, the Minister may, before the expiry of 12 months from the date on which the Samoan passport was surrendered, apply to the Court for an order extending the time during which the Minister may retain the surrendered passport.

(2) An extension granted by the Court shall be for a period of 6 months.

(3) The Minister may re-apply for another extension at any time before the current extension expires.

(4) The Court shall decline an application for a second or subsequent extension unless satisfied that there is good reason why the Samoan passport has not been returned by the time of the application.

(5) If an application for an extension has been made by the Minister, but has not been determined by the date on which the Minister is required to return the passport due to lapse of time, an extension is taken to have been granted until such time as the Court determines the application.

15. Return of surrendered passport if person not deprived of citizenship – The Minister shall return a surrendered Samoan passport to the holder as soon as:

- (a) a declaration is made under section 19 of the Citizenship Act 2004 that there are insufficient grounds to justify the making of an order under section 16 or 17 of that Act to deprive the person by whom the passport was surrendered of Samoan citizenship; or
- (b) the Minister is no longer entitled to retain possession of the passport pursuant to section 14 (2), –
whichever first occurs.

PART 4
CERTIFICATE OF IDENTITY

16. Issue of certificate of identity – The Minister may, upon payment of the prescribed fee, issue a certificate of identity:

- (a) to a person who is not a citizen of Samoa to facilitate that person's travel back to the person's country of origin or to a country where that person may obtain proper travel documents;
- (b) to a Samoan citizen to facilitate travel back to Samoa; or
- (c) for any other purpose as the Minister considers appropriate.

17. Life of certificate of identity – (1) The validity of a certificate of identity issued under section 16(a) ceases upon the holder's arrival at the country of origin or to a country where the holder obtains proper travel documents.

(2) The validity of a certificate of identity issued under section 16(b) ceases upon the Samoan citizen's arrival in Samoa.

(3) The validity of a certificate of identity issued under section 16(c) ceases as determined by the Minister.

18. Cancellation of certificate of identity – The Minister may cancel a certificate of identity as the Minister deems fit.

PART 5
DOCUMENT OF IDENTITY

19. Issue of document of identity – (1) The Minister may, upon payment of the prescribed fee, issue a document of identity to a Samoan citizen:

- (a) to facilitate travel between American Samoa and Samoa; or
- (b) for any other purpose as the Minister deems fit.

(2) The Minister may refuse to issue a document of identity if:

- (a) the applicant has not attained the age of 16 years and has not produced the written consent of one of the person's parents or guardians to the issue of a document of identity to such person; or

- (b) there is in force a warrant issued in Samoa for the arrest of the applicant; or
- (c) the applicant is on bail, probation or parole; or
- (d) the applicant is required by an order of a court to remain in Samoa, or to surrender a passport; or
- (e) the applicant already holds a document of identity and there is no sufficient reason why another document of identity should be issued to the person; or
- (f) the applicant holds a Samoan passport and refuses to surrender it.

20. Life, renewal and replacement – (1) A document of identity shall be valid for 2 years or such shorter time as the Minister may determine in any particular case.

(2) On the application by a holder for renewal of a document of identity, the Minister may renew that document of identity for another 2 years, or other period determined by the Minister, upon payment of the prescribed fee.

(3) Subject to section 16, if the Minister refuses to renew a document under subsection (2), the Minister may, on the application of the holder of that document, issue another document of identity to replace that document.

21. Endorsement of document of identity – If the Minister is satisfied that the particulars recorded in a document of identity do not accurately state the identity or status of the holder or dependants of the holder, the Minister may endorse on the document such alterations or additions as may be necessary to render the particulars accurate, upon payment of the prescribed fee.

22. Cancellation of document of identity – (1) The Minister may, in writing, recall any document of identity issued to a person by or on behalf of the Government, and cancel it or retain possession of it:

- (a) where 2 or more valid documents of identity are in existence in respect of the holder and there is no longer any sufficient reason why that should continue to be the case; or

(b) where a Samoan passport has been issued to the person.

(2) The provisions relating to the cancellation of Samoan passports in section 10(1)(a) to (d) apply to documents of identity with respective differences taken into consideration.

(3) Subject to section 16, if the Minister retains or cancels a document of identity under section 10(1)(a) to (d), the Minister may, on the application of the holder of the document, issue another document of identity to replace that document.

23. Retention of document of identity by Minister on other grounds – (1) The Minister may, by notice in writing, recall a document of identity issued to a person by or on behalf of the Government, and retain possession of it:

(a) where there is in force a warrant issued in Samoa for the arrest of the holder; or

(b) where there is reasonable cause to believe that the document of identity is in the possession of a person who is not the holder.

(2) If the Minister has recalled a document of identity under subsection (1)(a), the Minister shall return that document to the holder as soon as practicable after the warrant is executed or withdrawn.

(3) If the Minister has recalled a document of identity under subsection (1)(b), the Minister shall, unless the holder has been issued with a new document, forthwith return that document to the holder.

24. Delivery of recalled document of identity – (1) Where the Minister recalls a document of identity under section 22 or 23, the holder or other person who has the document in their possession or under their control shall, on demand by an officer, deliver the document to the officer.

(2) A person commits an offence who knowingly fails without reasonable excuse to comply with subsection (1).

PART 6 APPEALS

25. Appeals – (1) A person who, being:

- (a) the applicant for the issue, renewal, or endorsement of a Samoan passport; or
- (b) the applicant for the issue, renewal, or endorsement of a document of identity,—

is dissatisfied with a decision of the Minister made in relation to the application of a passport or document of identity under this Act may appeal to the Supreme Court against that decision.

(2) An appeal under this section must be filed within 28 days after the date on which notice of the decision that is the subject of the appeal has been received by the person seeking to bring the appeal, or within such extended time as the Court may allow.

(3) On an appeal under this section, the Court may confirm, modify, or quash the decision that is the subject of the appeal, and may give all such directions to the Minister or any other person concerned as may be necessary to give effect to the Court's decision.

(4) If the appeal relates to a matter within the discretion of the Minister, the Court may substitute its own discretion for that of the Minister.

(5) Subject to subsections (1) to (4), the procedure in respect of an appeal under this section is to be under the rules of Court.

(6) A party to an appeal before the Supreme Court under this section who is dissatisfied with a decision of the Supreme Court may appeal to the Court of Appeal.

PART 7 MISCELLANEOUS

26. Landing without passport – (1) Subject to subsection (3), no person shall land in Samoa, unless such person produces on arrival a valid and current passport which establishes to the satisfaction of an officer the nationality and identity of that person.

(2) Despite subsection (1), no passport is required for a child under the age of 16 years accompanied by a parent, if the name of the child is included in the passport or other travel document of that parent.

(3) Despite subsections (1) and (2), the Minister, or an authorised officer may grant to a person or class of persons permission to land in Samoa without being in possession of a

passport, subject to such conditions as the Minister or authorised officer deems fit to impose.

(4) A person who lands in Samoa without complying with this section commits an offence and on conviction is taken for all purposes to be a prohibited immigrant and is to be handled accordingly.

27. Passports may be required to be delivered – (1) A person required under this Act to produce a passport upon arrival in Samoa, shall, where required, deliver the passport to an officer before leaving the ship on which the person enters the country.

(2) A passport delivered under subsection (1) may, subject to a direction of the Minister, be retained by the officer or returned to the person who delivered it, as the officer deems fit.

(3) A person who fails without reasonable excuse to deliver such person's passport as and when required under this section commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units, or to imprisonment for a term not exceeding 1 year or, to both.

28. Minister may authorise issue of passports by overseas representatives – (1) The Minister may, in writing, authorise an overseas representative of Samoa in any other country to exercise in that country all or any of the powers and functions that the Minister is authorised by this Act to exercise in Samoa, and in every such case this Act shall, so far as it is applicable and with the necessary modifications, apply accordingly.

(2) In the exercise of any such powers or functions, an overseas representative shall act under any general or special directions issued in writing by the Minister.

29. Notice of decision – (1) If the Minister makes a decision pursuant to a power given under this Act, and gives to the person or persons whose interests are affected by the decision notice in writing of the making of the decision, that notice must include a statement to the effect that the person may apply to the Court to review the decision to which the notice relates by or on behalf of the person or persons whose interests are affected by the decision.

(2) Failure to comply with subsection (1) in relation to a decision does not affect the validity of the decision.

30. Notification of loss or theft of passports – Where a Samoan travel document is lost or stolen, the person to whom the travel document was issued shall, as soon as practicable after the person becomes aware of the loss or theft:

- (a) if the passport is lost or stolen within Samoa, report the loss or theft to an officer or the Samoa Police Service; or
- (b) if the passport is lost or stolen outside Samoa, report the loss or theft to an officer of, or a person employed at, a Samoan diplomatic or consular mission, overseas representative or the Police Service within the country in which the passport is lost or stolen.

31. Attorney General to file suit – A person who commits an offence or who aids and abets the commission of an offence, is liable at the suit of the Attorney General to repay to the Government any expenses incurred by the Government as a result of the commission of such offence.

32. Travel documents are property of Samoan Government – (1) All Samoan travel documents issued by or on behalf of the Government under this Act, whether before or after the commencement of this Act, are the property of the Government.

(2) The right in a travel document conferred on the Government by subsection (1) is not defeated or affected by any security, pledge, deposit, or encumbrance given, made or accepted in respect of the travel document by the holder or by any other person.

(3) No holder or any other person shall give, make, or accept as a security, pledge, or deposit, or otherwise encumber, a Samoan travel document issued by or on behalf of the Government, and any term of an agreement which would otherwise have that effect is void.

**PART 8
OFFENCES AND PENALTIES**

33. Forged and false Samoan travel documents – (1) A person commits an offence who:

- (a) forges a Samoan travel document; or
- (b) knowing a document to be a forged or false Samoan travel document, without reasonable excuse—
 - (i) uses, deals with, or acts upon it as if it were genuine; or
 - (ii) causes another person to use, deal with, or act upon it as if it were genuine; or
- (c) without reasonable excuse—
 - (i) has in the person's possession or under the person's control a document that the person knows or has reason to suspect is a forged or false Samoan travel document; or
 - (ii) sells, hires, lends, gives, or otherwise disposes of a document that the person knows or has reason to suspect is a forged or false Samoan travel document to another person.

(2) A person who commits an offence against subsection (1) is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 3 years, or both.

34. Falsifying foreign passports – (1) A person commits an offence if the person within Samoa:

- (a) falsifies a passport issued by or on behalf of the government of a foreign country; or
- (b) makes a document that is false with the intent that the false document may be used, acted on or accepted as if it were a passport issued by or on behalf of the government of a foreign country.

(2) A person convicted under subsection (1) is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 3 years or, both.

35. Offences relating to passport information and material – (1) A person commits an offence who knowingly, and without lawful authority or reasonable excuse:

- (a) deletes, alters, or copies any information recorded in or on a passport database; or
- (b) allows any information recorded in or on a passport database to be deleted, altered, or copied; or

- (c) records any information in or on a passport database;
or
- (d) allows any information to be recorded in or on a passport database; or
- (e) takes from where it is officially kept—
 - (i) a Samoan travel document or a blank or incomplete Samoan travel document; or
 - (ii) a seal, stamp, or other authenticating device or thing, that the person knows is specially used by the proper authorities for a purpose relating to Samoan travel documents; or
 - (iii) any paper or other material that the person knows is specially provided by the proper authorities for a purpose relating to Samoan travel documents; or
- (f) takes from where it is officially kept a file or register in or on which information is or is to be recorded by officers for the purposes of this Act; or
- (g) attempts to access or accesses a passport database; or
- (h) attempts to disclose or alter or disclose or alter any information held in a passport database.

(2) A person convicted under subsection (1) is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 3 years, or both.

36. Improper issue of Samoan travel document - (1) A person commits an offence who, without lawful authority or reasonable excuse, issues a Samoan travel document knowing that the person to whom it relates is not entitled to be issued it.

(2) A person convicted under subsection (1) is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 3 years, or both.

37. Other offences – (1) A person commits an offence who:

- (a) for purposes of travel or identification and without reasonable excuse, uses a Samoan travel document that the person knows or has reasonable cause to suspect was issued to or in respect of another person; or
- (b) being the holder of a Samoan travel document, without reasonable excuse permits another person

to have possession of that document where the holder knows or has reasonable cause to suspect that that person intends to use it for his or her purposes; or

- (c) without lawful authority or reasonable excuse, takes or retains in the person's possession or under the person's control a Samoan travel document against the will of the holder; or
- (d) without reasonable excuse, has in the person's possession or under the person's control within Samoa—

- (i) a passport issued by or on behalf of the Government of any country other than Samoa, being a passport that the person knows or has reason to suspect has been falsified or has been obtained by false representation; or

- (ii) a document purporting to be a passport issued by or on behalf of the Government of any country other than Samoa that the person knows or has reason to suspect is not such a passport.

(2) A person convicted under subsection (1) is liable upon conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 3 years, or both.

(3) A person who intentionally defaces or destroys a Samoan travel document commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 1 year, or both.

(4) A person who fails to comply with a provision of this Act for which a penalty is not provided commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 1 year, or both.

38. False representations – (1) A person commits an offence who, for the purpose of procuring a Samoan travel document, or a renewal or endorsement of a Samoan travel document, whether for the person's benefit or for the benefit of any other person:

- (a) makes a written or oral statement that the person knows to be false or misleading in a material particular; or
- (b) recklessly makes a written or oral statement that is false or misleading in a material particular; or

(c) certifies an application form for a travel document knowing the certification to be false.

(2) A person convicted under subsection (1) is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 3 years, or both.

39. Regulations – (1) The Head of State, acting on the advice of Cabinet, may make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Without limiting subsection (1), regulations may be made for all or any of the following purposes:

- (a) prescribing fees and charges and other related matters for the purposes of this Act;
- (b) empowering the Minister to grant exemptions from the payment of fees; and
- (c) prescribing penalties not exceeding 10 penalty units, or imprisonment for a term not exceeding 3 months, for a breach of a regulation; and
- (d) prescribing forms to be used for the purposes of this Act.

(3) The amount of a fee or charge prescribed under subsection (2)(a):

- (a) shall be proposed by the Ministry;
- (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

40. Repeal and consequential amendments – (1) The Permits and Passports Act 1978 is repealed.

(2) Reference to any provision or matter under or concerning the Permits and Passports Act 1978 in any enactment shall be taken for all purposes to be a reference to the corresponding provision or matter in this Act, unless the Minister by notice determines otherwise.

41. Savings – (1) All passports and renewals, endorsements, certificates of identity and any other travel documents, issued, made or granted in Samoa or by any overseas representative before the commencement of this Act, and generally all acts of authority in relation to any such passports, renewals,

endorsements, certificates of identity, or other travel documents, which are subsisting or in force at the commencement of this Act, shall endure for the purposes of this Act as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary be deemed to have so originated.

(2) The Permits and Passports (Fees) Regulations 2007 made under the Permits and Passports Act 1978 continue in force as if made under this Act, until such time as they are amended or repealed.

(3) All criminal proceedings undertaken by or on behalf of the Ministry or arising out of or under the Permits and Passports Act 1978 as at the commencement of this Act are taken to have been instituted and continued under the corresponding provisions of this Act.

42. Transitional – All applications submitted to the Minister before the commencement of this Act arising out of or under the provisions of the Permits and Passports Act 1978 are to be determined in accordance with the provisions of the Permits and Passports Act 1978 as if this Act had not commenced, and all other matters shall be dealt with in accordance with this Act.

REVISION NOTES 2008 – 2019

This is the official version of this Act as at 31 December 2019.

This Act has been revised by the Legislative Drafting Division from 2008 to 2019 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) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Insertion of the commencement date
- (c) Other minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:
 - (i) “Every” and “any” changed to “a/an”
 - (ii) Present tense drafting style:
 - “shall be” changed to “is/are” or “is/are to be”
 - “at any time”, “for the time being” and “from time to time” removed
 - (iii) Offence provisions:

- “shall be guilty” changed to “commits” or “who commits an offence against” changed to “convicted under”
- “both such fine and imprisonment” changed to “both”
- (iv) Use of plain language:
 - “notwithstanding” changed to “despite” or “even if”
 - “where” changed to “if”
 - “deemed” changed to “taken”
 - “in accordance with” changed to “under”
- (v) Numbers in words changed to figures
- (vi) Removal of superfluous terms
 - “against this Act”
 - “the provisions of”
 - “under this Act”
- (vii) “the foregoing provisions of this section” changed to the actual subsections
- (viii) Interpretation of words paragraphed – “officer”, “overseas representative”, “passport” and “ship”
- (ix) Parts renumbered in decimal numbers

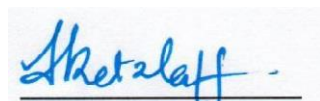
The following amendment was made since its enactment:

By the Citizenship Investment Act 2015, (No.48), commenced on 31st January 2017 –

Section 6 A new subsection (3) was inserted.

By the Fees and Charges (Miscellaneous Amendments) Act 2017, No. 13:

Amendments made to this Act reflect that fees charged under this Act are to be prescribed by Regulations. Amendments are made to sections 2, 5, 7, 8, 16, 19, 20, 21, 39.



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Ministry of the Prime Minister and Cabinet.*
