



SAMOA

CUSTOMS TARIFF ACT 1975

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CUSTOMS TARIFF ACT 1975

1975

No.7

AN ACT to prescribe the Customs Tariff of Samoa.

[Assent and commencement date: 11 August 1975]

- 1. Short title** – This Act may be cited as the Customs Tariff Act 1975.
- 2. Interpretation** – (1) In this Act, unless the context otherwise requires:
“Customs Tariff” means the Customs tariff contained in the First Schedule;
“Harmonized System 2017” means the Harmonized Commodity Description and Coding System;
“Minister” means the Minister responsible for Revenue;
“Revenue Board” means the National Revenue Board established pursuant to the Public Finance Management Act 2001.

(2) This Act is declared to be a Customs Act for the purposes of section 3(3) and (4) of the Customs Act 2014, and in this Act, unless the context otherwise requires, expressions used have the same meanings as they have in the Customs Act 2014.

(3) Section 121 of the Customs Act 2014 applies to all alterations made by this Act to the Customs duties in force in Samoa on the commencement of this Act.

3. Imposition of Customs duty – (1) Duty is imposed, and shall be levied, collected, and paid, on all goods:

- (a) imported into Samoa; or
- (b) entered therein for home consumption, –

according to the value of the goods, under Part I of the Customs Tariff contained in the First Schedule, or as otherwise provided therein.

(2) Despite subsection (1), the Minister may, in the Minister's discretion and in accordance with Part II of the Customs Tariff, approve in respect of the entry of goods of any of the classes specified in Part II the appropriate rate of duty or exemption specified in Part II, and duty shall be levied, collected, and paid accordingly in respect of goods of such class:

PROVIDED THAT, acting on the advice of Cabinet, the Minister may, subject to such conditions as the Minister considers fit, approve a rate of duty not less than that specified in Part II, and not more than that specified in Part I of the Customs Tariff.

(3) An approval given by the Minister under subsection (2) is to be published in the *Gazette* and in the *Savali*, and the approval does not have effect until it has been published either in the *Gazette* or in the *Savali*.

3A. Primage duty – (1) Despite anything to the contrary in this Act or any other Customs Act, and in addition to the duty imposed by section 3, there is imposed, and to be levied, collected, and paid, on all dutiable goods imported into Samoa or entered for home consumption, after this Act comes into force, a duty of Customs to be known as primage duty at the rate of 4% of the value of such goods.

(2) The value of goods for the purposes of this section is to be determined under the Customs Act 2014.

4. Alterations to nomenclature – (1) The Head of State, acting on the advice of Cabinet, may by Order amend the Customs Tariff:

- (a) by revoking or amending any heading, heading number, subheading, item, or item number, or the title of any Part, section, chapter, or subchapter of the Customs Tariff, or by

inserting any new heading, heading number, subheading, item, item number, or title, in such manner as he thinks necessary for the purpose of ensuring that the Customs Tariff conforms to any international nomenclature or trade classification upon which it is for the time being based; or

(b) by revoking, suspending, or amending any provision of the notes forming part of the Customs Tariff, or by inserting any new provision in the notes, for the purpose of ensuring the proper operation of the Customs Tariff; or

(c) by inserting, omitting, or altering any statistical unit.

(2) No amendment made pursuant to subsection (1)(a) shall alter the duties or exemptions from duty applicable to goods classified under any item or heading so revoked or amended.

5. Power to alter Customs Tariff for certain purposes – (1) Subject to subsection (2), whenever the Head of State, acting on the advice of Cabinet, is satisfied:

(a) that the existence of a duty of Customs, or the rate of any such duty, or the exemption of any goods from duty, operates or is likely to operate in an injurious, unfair, or anomalous manner in respect either generally to the public interest or particularly to any industry, trade, business, or occupation established or carried on in Samoa; or

(b) that trade concessions (whether by way of railway or shipping or air freight, special bounty, rebate, or otherwise) are being allowed, taken, or granted on goods from Samoa; or

(c) that the duties payable in any country on the importation of goods from Samoa are excessive; or

(d) that the importation into any country of any goods is prohibited or restricted, and that the prohibition or restriction operates or is likely to operate in a manner that is prejudicial or injurious to any industry, trade, business, or occupation established or carried on in Samoa; or

(e) that by reason of any agreement or arrangement made with the Government of any country, as referred to in section 8, the duties payable on the importation into Samoa of goods being the produce or manufacture of any other country operate, or are likely to operate, to the disadvantage of that other country,–

the Head of State may by Order suspend the existing Customs Tariff in whole or in part, and by the same or a subsequent Order in lieu thereof, impose on

any goods such duties of Customs, or create such exemptions from duty, as appear to the Head of State to be just.

(2) Any duties imposed under this section shall not, except so far as they are imposed for any of the reasons specified in subsection (1)(c) or (d) or for the protection of any industry, trade, business, or occupation established or carried on in Samoa, exceed the duties in lieu of which they are imposed.

(3) An order under this section may relate generally to all goods or to goods of any specified class or classes or to goods imported from any specified country or from any specified person.

6. Modification of Customs Tariff – Subject to section 8, the Head of State, acting on the advice of Cabinet, may by Order modify the Customs Tariff, but so that such modification shall not, except for the purposes of such an agreement or arrangement as is referred to in section 8 have the effect of imposing on any goods a higher duty than that set forth in respect of those goods in the Customs tariff.

7. Imposition of duties corresponding with duties imposed on Samoan goods – Subject to section 8, but despite any other provision of this Act, the Head of State, acting on the advice of Cabinet, may by Order adopt with respect to goods being the produce or manufacture of, or imported from, any country the Customs tariff of that country, either in whole or in part, so far as it applies to goods being the produce or manufacture of, or imported from, Samoa, and duties shall be levied, collected, and paid accordingly, and in any such case the Customs Tariff shall, to the extent specified in the Order, cease to apply to such goods.

8. Conditions as to exercise of powers conferred by sections 6 and 7 – The powers conferred on the Head of State, acting on the advice of Cabinet, by sections 6 and 7 are exercisable:

- (a) for the purpose of giving effect to any agreement or arrangement entered into by or on behalf of the Government of Samoa with the Government of any other country with the object of promoting trade between those countries; or
- (b) in case of the adoption by any country of a tariff that imposes excessive rates of duty on any goods being the produce or manufacture of Samoa; or
- (c) in any case where the Head of State, acting on the advice of Cabinet, is of opinion that the exercise of those powers or of any such powers is necessary or advisable in protection or furtherance of the public interest.

9. Dumping duty for protection of domestic industry – (1) A dumping duty may be imposed on goods imported into Samoa where:

- (a) goods are imported at less than their normal value; and
- (b) the importation causes or threatens to cause material injury to an established industry in Samoa, or materially retards the establishment of a domestic industry.

(2) For the purposes of this section, a product is deemed to be imported at less than its normal value if the price of the product exported from another country into Samoa is:

- (a) less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country; or
- (b) in the absence of such domestic price, is less than—
 - (i) the highest comparable price for the like product for export to any third country in the ordinary course of trade; or
 - (ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

(3) The rate or amount of a dumping duty levied under this section shall not be greater than the margin of dumping in respect of such product.

(4) For the purposes of subsection (3), the margin of dumping is the price difference determined under subsection (2).

(5) For the purposes of this section, the actual selling price of any goods is deemed not to exceed the amount payable under usual commercial practice by the importer or purchaser of the goods, exclusive of any charges that are not taken into account in determining the current domestic value of goods under the Customs Act 2014.

(6) In every such case in subsection (5), the amount payable as aforesaid of any goods is ascertained as if the parties had agreed that payment for those goods should be made in Samoa.

(7) Pursuant to section 333 of the Customs Act 2014, the Head of State, acting on the advice of Cabinet, may make regulations to give effect to this section.

(8) Where applicable under this section, a dumping duty is levied, collected and paid, except where the Minister directs that the imposition of the duty is not required in the public interest.

10. Repeals, revocations, amendments, and savings – (1) To the extent that they form part of the law of Samoa, the enactments specified in the Second Schedule are repealed.

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(2) To the extent that they form part of the law of Samoa, the Orders and regulations specified in the Third Schedule are revoked.

(3) The enactments specified in the Fourth Schedule are amended in the manner indicated in that Schedule.

(4) Despite the preceding provisions of this Act, an exemption notice specified in the Fifth Schedule remains in full force and effect, as if made under this Act, until it is revoked by the Minister in the manner in which it was made.

(5) The Customs Duty (Primage) Exemption Notice 1972 is revoked.

FIRST SCHEDULE

(Sections 2 and 3)

THE CUSTOMS TARIFF OF SAMOA

(Harmonized System 2017)

This is available as a separate document.

SECOND SCHEDULE

(Section 10)

(of the Customs Tariff Amendment Act 1997)

PART A – CONCESSIONS APPLICABLE TO PARTICULAR GOODS OR BODIES;**PART B – CONCESSIONS APPLICABLE TO TRADE AGREEMENTS.**

This is available as a separate document.

THIRD SCHEDULE

(Section 10)

PART I – NEW ZEALAND ORDERS AND REGULATIONS REVOKED

S.R 1939/104 The Samoa Customs Order 1939: clause 20, the Second Schedule and the Third Schedule

S.R. 1941/254 The Samoa Customs Order 1939, Amendment No. 2

S.R. 1959/93 The Customs Regulations 1959: regulations 66, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131 and 132, Forms 18, 57, 58, 59 and 60 of the First Schedule.

FOURTH SCHEDULE
(Section 10)

ENACTMENTS AMENDED

Enactment amended	Amendment
1913 No 63 The Customs Act 1913(NZ)	By omitting paragraphs (b) to (h) of subsection (1) of section 3 By omitting from subsection (1) of section 114 the words “with ten percent added to such fair market value” By omitting from subsection (3) of section 154 (as amended by section 32 of the Customs Amendment Act 1921) the words “other than duty imposed only on goods not produced in British dominions or imposed by way of primage duty:
1972 No. 26 The Reprint of Statutes Act 1972	By omitting from the Schedule, under the heading “Samoa Act 1921”, the reference to the Samoa Customs order 1939, Amendment No. 2.

FIFTH SCHEDULE
(Section 10)

EXEMPTION NOTICES REMAINING IN FORCE

Statutory Regulations Serial number	Name of Notice
S.R. 1955/2	The Customs Tariff Exemption Notice 1955

S.R. 1958/4	The Customs Tariff Exemption Notice 1955, Amendment No. 1
S.R. 1958/12	The Customs Tariff Exemption Notice 1955, Amendment No. 2
S.R. 1958/15	The Customs Tariff Exemption Notice 1955, Amendment No. 3

REVISION NOTES 2008 – 2020/3 March 2021

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division from 2008 to 2020/3 March 2021 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) Amendments have been made to up-date references to offices, officers and statutes (e.g. Minister responsible for Revenue).
- (c) References to the male gender have been made gender neutral
- (d) Insertion of the commencement date
- (e) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “Every” and “any” changed to “a”, “an” or “each” where appropriate
 - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” or “in accordance with the provisions of” changed to “under”
 - (vii) Numbers in words changed to figures
 - (viii) “hereby” and “from time to time” (or “at any time” or “at all times”) removed
 - (ix) Correct references to authorising sections for the Schedules have been inserted into the respective Schedules.
 - (x) Other formatting and drafting changes (including changes to the arrangement of provisions to be consistent with the body of the text; and also inserted into the arrangement of provisions an indication that there are Schedules to this Act).

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

By the *Customs Tariff Amendment Act (No.2) 2011* (commenced on 11 October 2011):

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Section 9 - substituted by section 2 of the *Customs Tariff Amendment Act (No.2) 2011*

By the *Customs Tariff Amendment Act 2012* (commenced on 1 May 2012):

First Schedule - amends the tariff items in 2202, 2203, 2204, 2205, 2206, 2208, 2402, 2403, and 2710.

By the *Excise Tax Rates Amendment Act 2017, No. 12* (commenced on 1 July 2017):

First Schedule - amends 2402.1000, 2402.2000, 2402.9000, 2403.1010, 2403.1090. The amendment is reflected in the text of the Schedule which is separate from this Act.

By the *Customs Tariff Amendment Act 2017, No. 15* (commenced on 4 July 2017):

Second Schedule- amends Code 120. The amendment is reflected in the text of the Schedule which is separate from this Act.

By the *Customs Tariff Amendment Act 2018, No. 9* (commenced on 26 March 2018):

First Schedule 02,02 – 0204.4300 ; 0207.1410, 0207.261

Tariff Item	Description	Imports			Export	Statistical	
		Duty	Excise	VAGST	Duty	Unit/Qty	SITC Code
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

02.04 Meat of sheep or goats fresh chilled or frozen.

0204.100 - Carcasses 20% free 15% free Kg 01211A
0 and half carcasses of lamb fresh or chilled:

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0204.210 0	- carcasses and half carcasses	20%	free	15%	free	Kg	01211B
0204.220 0	- Other cuts with bone in	20%	free	15%	free	Kg	01211C
0204.230 0	- Boneless	20%	free	15%	free	Kg	01211D
0204.300 0	- carcasses and half carcasses of lamb frozen	20%	free	15%	free	Kg	01212A
0204.410 0	- carcasses and half carcasses	20%	free	15%	free	Kg	01212B
0204.420 0	- other cuts with bone in	20%	free	15%	free	Kg	01212C
0204.430 0	- Boneless	20%	free	15%	free	kg	01212D
0207.141 0	- Frozen Chicken Cuts	10%	free	15%	free	kg	01231D
	- Turkey tails	20%	10%	15%	free	kg	01232C
0207.261							

By the *Customs Tariff Amendment Act 2019, No. 24* (commenced on 1 July 2019):

Section 2 inserted new definition of “Harmonized System 2017”.

First Schedule substituted the First Schedule with the Harmonized System 2017, which is the new Customs tariff of Samoa. This is reflected in the text of the Schedule (Harmonized System 2017) which is a separate document to this Act.

Second Schedule omitted heading “CONCESSIONS APPLICABLE TO PARTICULAR GOODS OR BODIES.”;

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inserted new headings "PART A - CONCESSIONS APPLICABLE TO PARTICULAR GOODS OR BODIES; PART B - CONCESSIONS APPLICABLE TO TRADE AGREEMENTS."

By the *Customs Tariff Amendment Act 2020, No. 21* (commenced on 20 November 2020):

Second Schedule substituting Columns (3) to (8) of Code 120(b) as follows:

Code No	Personal/Bodies	Goods eligible for Duty Concession	Import Duty	Duty Excise	Rates VAGS T	Conditions	Certificates to be signed by the Minister
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Code 120	(b) Energy Saving Devices	(a) Plant, equipment and machinery including vehicles and such other items as may be determined by the minister from time to time.	Free	5%	15%	Items must in the opinion of the Minister use alternative power such as solar, wind, electricity, water etc or a combination of the above with fossil fuel or other alternative energy source such as hybrid vehicles and energy saving devices. Concession is restricted to complete units and does not extend to spare part.	As may be determined by the Comptroller

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		(b) Electrical vehicles.	Free	Free	15%	(a) Concession applies only to electrical vehicles; (b) Concession does not apply to spare parts; and (c) Concession is only for two (2) years from the date of commence- ment of new amendment.	As may be determined by the Comptroller
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*This Act is administered by
the Ministry for Customs and Revenue.*