



SAMOA

## MINISTRY OF TRANSPORT ACT 1978

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## MINISTRY OF TRANSPORT ACT 1978

1978

No.32

**AN ACT** to establish the Ministry of Transport to provide for the development and administration of an efficient and economical transport policy for Samoa, and to provide for matters incidental thereto.

*[Assent date: 18 December 1978]*

*[Commencement date: 1 January 1983]*

**1. Short title and commencement** – This Act may be cited as the Ministry of Transport Act 1978, and comes into force on a date to be appointed by the Head of State, acting on the advice of Cabinet, by Order.

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

“Government” means the Government of Samoa;

*Ministry of Transport Act 1978*

“Minister” means the Minister of Transport;

“Ministry” means the Ministry of Transport established by this Act;

“Secretary” means the Secretary for Transport appointed under this Act.

**3. Ministry of Transport** – There is established a Department of the Government, to be called the Ministry of Transport, which, under the control of the Minister, shall be charged with the administration of this Act and of the enactments specified in the First Schedule and with such other functions as may be lawfully conferred on it.

**4. Functions of Ministry** – (1) The Ministry shall have and undertake such functions as are necessary for the due and proper administration of this Act and the other Acts administered by the Ministry and for the development of an efficient and economical transport policy for Samoa.

(2) Without limiting subsection (1), the Ministry has the following functions:

- (a) to advise the Minister on the development of an efficient transport policy for Samoa;
- (b) to undertake research into all aspects of transportation, including the economics of the various forms of transport, whether by land, sea, or air;
- (c) to advise the Minister on investment in transport, whether by land, sea, or air, with particular reference to priorities for Government or other expenditure.

**5. Powers of Minister** – (1) The Minister shall have a general superintendence and control over all matters relating to ports and shipping, and civil aviation which fall within the competence of the Government.

(2) For the purpose of enabling the Ministry to carry out its functions, the Minister may:

- (a) give such directions on matters relating to ports and shipping and road transport to the Secretary as the Minister thinks fit in connection with the

administration of this Act or any other Act administered by the Ministry;

- (b) *Repealed by s142 of Act 1998, No.4.*
- (c) exercise such powers as are conferred on the Minister by this Act or any other enactment;
- (d) exercise such other powers as are reasonably necessary for effective performance of the functions of the Ministry.

(3) Where the Minister is authorised to enter into any contract or agreement or make any lease under this Act or any other Act, all the rights and liabilities in respect thereof and all benefit and advantage thereunder or interest therein shall vest in his or her successor or successors in office without the necessity of any transfer or assignment whatsoever.

**6. Secretary for Transport** – There shall be appointed as an officer of the Public Service a Secretary for Transport, who shall be the administrative head of the Ministry.

6A. *Repealed by s142 of Act 1998, No.4.*

**7. Appointment of Assistant Secretaries and other officers and employees** – (1) There shall be appointed under the Public Service Act 2004:

- (a) an Assistant Secretary Marine Division of the Ministry;
- (b) an Assistant Secretary Planning and Development Division of the Ministry; and
- (c) such other officers and employees of the Ministry as may be necessary for the efficient administration of this Act and of the other Acts administered by the Ministry.

(2) All officers and employees of the Ministry shall:

- (a) act under the direction of the Secretary in the exercise and performance of the powers, duties, and functions conferred or imposed on them by this Act or any other enactment; and shall
  - (b) have all such powers, duties, and functions as may be conferred upon them by that enactment or may be delegated or assigned to them by the Secretary.
- (Amended by s142 of Act 1998, No.4)

*(3) Repealed by s142 of Act 1998, No.4.*

**8. Delegation of powers by Minister – (1)** The Minister may from time to time, either generally or particularly, delegate to the Secretary all or any of the powers which are conferred on him or her as Minister of Transport by any enactment, including powers delegated to him or her under any enactment, but not including the power to delegate under this section or the power to consent to a delegation under section 9 of this Act.

**(2)** Subject to any general or special directions given or conditions attached by the Minister, the Secretary may exercise any powers delegated to him or her as aforesaid in the same manner and with the same effect as if they had been conferred on him or her directly by this section and not by delegation.

**(3)** Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister.

**(4)** In the event of the Secretary to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Secretary or, if there is no Secretary in office or if the Secretary is absent from duty, to the person for the time being directed under the Public Service Act 2004 to act in the place of the Secretary.

**(5)** Where the Secretary or any other person purports to act pursuant to any delegation under this section, he or she shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

**(6)** The delegation is revocable at will, and no such delegation prevents the exercise of any power by the Minister.

*(7) – (8) Repealed by s142 of Act 1998, No.4.*

**9. Delegation of powers by Secretary or Administrator of Civil Aviation – (1)** The Secretary may, either generally or particularly, delegate to such officer or officers or employee or employees of the Ministry as he or she thinks fit all or any of the powers exercisable by him or her under any enactment, including any powers delegated to him or her under any enactment but not including this present power of delegation:

**PROVIDED THAT** the Secretary shall not delegate any powers delegated to him or her by the Minister without the written consent of the Minister.

(2) Subject to any general or special directions given or conditions attached by the Secretary, the officer or employee to whom any powers are delegated under this section may exercise these powers in the same manner and with the same effect as if they had been conferred on him or her directly by this section and not by delegation.

(3) A person purporting to act pursuant to any delegation under this section is presumed to be acting under the terms of the delegation in the absence of proof to the contrary.

(4) A delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) A delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Secretary.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.

*(7) Repealed by s142 of Act 1998, No.4.*

**10. Annual report** – (1) The Secretary shall as soon as practicable after the end of each financial year provide to the Minister a report on the operations of the Ministry for that year.

(2) A copy of the report shall be laid before the Legislative Assembly within 28 days after it has been provided to the Minister if the Legislative Assembly is then in session, and, if not, shall be laid before the Legislative Assembly within 28 days after the commencement of the next ensuing session.

**11. Regulations** – 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 this Act and for the due administration thereof.

**12. Consequential amendments** – (1) The enactments specified in the Second Schedule to this Act are amended in the manner indicated in that Schedule.

(2) All references to the Principal Licensing Authority in the provisions of the Road Traffic Ordinance specified in the Third Schedule to this Act shall after the commencement of this Act be read as references to the Licence Controller.

(3) All references to the licensing authority or the authority in the provisions of the Road Traffic Ordinance 1960 specified in the Fourth Schedule to this Act shall after the commencement of this Act be read as references to the Assistant Licence Controller, and the pronoun “its” in relation thereto shall be read as the pronoun “his or her”.

(4) All references to the Transport Control Board or the Board in the provisions of the Road Traffic Ordinance 1960 specified in the Fifth Schedule to this Act shall be read as references to the Assistant Secretary Road Traffic, and the pronoun “its” in relation thereto shall be read as the pronoun “his or her”.

(5) Unless the context otherwise requires, every reference in any enactment not specified in the second column of the Second Schedule to this Act or in any regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever in force at the commencement of this Act:

- (a) to the Minister of Civil Aviation shall, after the commencement of this Act, be read as a reference to the Minister of Transport;
- (b) to the Department of Civil Aviation shall, after the commencement of this Act, be read as a reference to the Ministry of Transport;
- (c) to the Minister of Marine shall, after the commencement of this Act, be read as a reference to the Minister of Transport;
- (d) to the Marine Department shall, after the commencement of this Act, be read as a reference to the Ministry of Transport.

(6) An act of authority done by the Minister of Marine or the Marine Department, the Minister of Civil Aviation or the Civil Aviation Department, pursuant to any of the Acts referred to in section 3 of this Act or to any regulation, rule, order, notice or other authority under any of those Acts, and subsisting at the

commencement of this Act, shall continue to have effect after the commencement of this Act as if it had been done by the Minister of Transport.

**13. Repeals** – The enactments specified in the Sixth Schedule to this Act are hereby repealed.

## **SCHEDULES**

### **FIRST SCHEDULE**

*(Section 3)*

#### **ENACTMENTS ADMINISTERED BY MINISTRY OF TRANSPORT**

1. 1998 - No. 4                      -The Civil Aviation Act 1998  
*(repeals the Civil Aviation Act 1963,  
No.6)*
2. 1964 - No. 22                    -The Carriage by Air Act 1964.
3. 1998 - No. 31                    -The Shipping Act 1998  
*(repeals the Shipping Act 1972, No.18).*

### **SECOND SCHEDULE**

*(Section 12(1))*

#### **ENACTMENTS AMENDED**

##### **ENACTMENT**

##### **AMENDMENT**

**1960 : No.23  
Road Traffic  
Ordinance 1960**

By repealing the definition of "Board" in section 2, and inserting the following definitions:

**"Assistant Secretary Road Transport"** means the Assistant Secretary Road Transport Division of the Ministry appointed under the Ministry of Transport Act 1978.

**"Certifying Officer"** means an officer of the Ministry of Transport who is appointed as a

***Ministry of Transport Act 1978***

Certifying Officer in accordance with the Public Service Act 1977.

**“Examining Officer”** means an officer of the Ministry of Transport who is appointed as an Examining Officer in accordance with the Public Service Act 1977.

**“Licence Controller”** means the Licence Controller appointed under this Act.

**“Traffic Officer”** means an officer of the Ministry of Transport (not being a member of the Police Service) appointed as a Traffic Officer in accordance with the Public Service Act 1977.”

By repealing section 3 and substituting the following section:

**“3. Appointment of officers** - There shall from time to time be appointed in accordance with the Public Service Act 1977 a Licence Controller who shall be charged with the licensing of motor vehicles, trailers and drivers, other than riders of bicycles, and matters incidental thereto, a Road Safety Controller, a Traffic Controller and such other officers of the Ministry of Transport as may be necessary for the efficient administration of this Act and matters incidental thereto.”

By inserting before section 6, the following section:

**“5. Licensing Areas** - (1) The Assistant Secretary Road Transport may designate such licensing areas as may be necessary for carrying out the provisions of this Ordinance. (2) There may be appointed in accordance with the Public Service Act 1977, for any licensing area so designated under subsection (1) of this section, an Assistant Licence Controller who shall in all respects act under the conform to the directions of the Licence Controller and



may exercise all the functions of the Licence Controller as expressed in this Ordinance.”

By inserting in section 27(5) after the words “police officer” wherever they occur, the words “or traffic officer”.

By omitting from section 49(6) the words “Director of Works” and substituting the words “Assistant Secretary Road Transport”.

By inserting in section 50(1) and 72B after the words “police officer” wherever they occur, the words "or traffic officer".

**1963 : No.6**

By repealing the definition of the term "Minister" in section 2(1), and substituting the following definition:

**The Civil Aviation Act 1963.**

“**Minister'** means the Minister of Transport.”

By omitting from section 76 the words "Minister of Civil Aviation", and substituting the words "Minister of Transport".

**1964 : No.22**

By repealing the definition of the term "Minister" in section 2, and substituting the following definition:

“**Minister'** means the Minister of Transport.”

**The Carriage by Air Act 1964.**

**1971 : No.3**

By omitting from section 8(2) the words "Marine Department" and substituting the words "Ministry of Transport".

**The Territorial Sea Act 1971**

**1972 : No. 18**

By repealing the definition of the term "Committee" in section 2.

**The Shipping Act 1972.**

By inserting in section 2, before the definition of "Government", the following definition:-

**Ministry of Transport Act 1978**

**"Department"** means the Ministry of Transport established under the Ministry of Transport Act 1978."

By repealing the definition of the term "Minister" in section 2, and substituting the following definition:

**"Minister"** means the Minister of Transport."

By inserting after the word "Department" where it first occurs in section 4(1), the words "under this Act".

By repealing section 8(1), and substituting the following:

**"(1)** The Port Administrator shall be responsible to the Assistant Secretary Marine Division of the Ministry of Transport for the administration of the Marine Division."

By omitting from section 26(6) the words "Marine Department" and substituting the words "Ministry of Transport".

**THIRD SCHEDULE****(Section 12(2))**

*(Repealed by s8(2))*

*Road Transport and Traffic Control Act 1990)*

**FOURTH SCHEDULE****(Section 12(3))**

*(Repealed by s8(2))*

*Road Transport and Traffic Control Act 1990)*

**FIFTH SCHEDULE****(Section 12(4))**

*(Repealed by Section 8(2))*

*Road Transport and Traffic Control Act 1990)*

**SIXTH SCHEDULE  
(Section 13)**

**ENACTMENTS REPEALED**

<b>1963 : No.6</b>	The Civil Aviation Act 1963 Sections 5, 6, and 7.
<b>1972 : No. 18</b>	The Shipping Act 1972 Sections 3, 5, and 6.

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**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 – 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;
- (c) Insertion of the commencement date;
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General;
  - (i) “Every” and “any” changed to “a”;
  - (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” changed to “under”;
  - (vii) “it shall be lawful” changed to “may”;
  - (viii) “it shall be the duty” changed to “shall”;
  - (ix) Numbers in words changed to figures;
  - (x) “hereby” and “from time to time” (or “at any time” or “at all times”) removed;
  - (xi) “under the hand of” changed to “signed by”.

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

*This Act is administered by  
the Ministry of Works, Transport and Infrastructure.*