



SAMOA

POLICE OFFENCES ORDINANCE 1961

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POLICE OFFENCES ORDINANCE 1961

1961,

No. 15

AN ORDINANCE to consolidate certain enactments of the Legislative Assembly relating to the suppression of various offences and for related purposes.

[Assent date: 29 December 1961]

[Commencement date: 1 January 1962]

1. Short title and commencement – (1) This Ordinance may be cited as the Police Offences Ordinance 1961.

(2) This Ordinance comes into force on 1 January 1962.

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

“animal” includes any beast or bird of any kind or species whatever of domestic or wild nature;

“cattle” includes any horse, mare, gelding, colt, filly, or foal; any bull, cow, ox, steer, heifer, or calf; any sheep, ass, mule, goat or pig;

“constable” means any member of the Samoa Police Service;

“Court” means the District Court of Samoa;

“*Gazette*” means the Samoa *Gazette*;

“night” means the time between 8 pm and 6 am;

“public place” means:

(a) any road; or

(b) any place of public resort open to or used by the public (whether on payment of money or otherwise); or

(c) any wharf or jetty;

(d) any passenger ship or boat or other vessel plying for hire at a wharf or jetty or within 1 mile of the shore; or

(e) any licensed public vehicle plying for hire; or

(f) any church or other building where Divine service is being publicly held; or

(g) any hall or room in which any public entertainment is being held; or

(h) any market place.

3. Offences against public cleanliness and convenience – A person commits an offence and is liable to a fine of up to 2 penalty units who:

(a) throws or places any glass, filth, dirt, rubbish or other matter of a similar nature, or any earth, stones or other material upon a public place; or

(b) places any hoarding, scaffolding, timber, bricks or other building material upon a public place without the permission of the Commissioner of

Police, or otherwise than in accordance with the terms of any such permission; or

- (c) burns any litter, straw, wood, shavings or other combustible material in any public place, or in any open space so as to endanger any building near thereto; or
- (d) leaves any inflammable material in any public place or in any open space near a building; or
- (e) casts into Apia Harbour or onto or into any foreshore place or stream any log or floating thing which is likely to become a danger to boats or shipping; or
- (f) opens any drain or sewer or removes the surface of any public footpath or public place without having first obtained the permission of the Chief Executive Officer of the Ministry of Works, Transport and Infrastructure; or
- (g) has any awning or showboard or signboard on a public footpath not being 8 feet clear above such footpath, or hangs any goods on or under such awning over such footpath; or
- (h) exposes for sale any article in or outside any shop window abutting on a public place so as to encroach thereon; or
- (i) suspends or places any carcase, meat or offal so as to overhang a part of a public place; or
- (j) empties a privy or cesspool or carts away any night soil or other offensive matter, without the permission of, and without having taken such precautions as may be required by, the Chief Executive Officer of the Ministry of Works, Transport and Infrastructure; or
- (k) spills or casts, or allows to be spilt or cast, into or upon any public place any night soil or other offensive matter; or
- (l) slaughters, except in case of inevitable necessity, or skins any animal upon a public place, or permits any slaughtered animal or skin to remain there, or leaves a dead animal on such place; or
- (m) throws or leaves a dead animal or part thereof, or animal remains or offensive matter of any kind,

- upon a public place, or into a river, creek, stream or other water, or on the bank thereof; or
- (n) suffers any dead animal or part thereof to remain unburied upon his or her land, or on premises in his or her occupation, so as to become a nuisance to any other persons; or
 - (o) neglects to bury or cause to be buried the body or part of the body of an animal belonging to him or her, or in his or her charge or keeping, that may have died while straying or while being driven from one place to another; or
 - (p) wantonly or maliciously disturbs a person by blowing any horn, beating any drum, ringing any bell, or using any other noisy instrument, or uttering the cry *usususu* contrary to Samoan custom; or
 - (q) places a placard or other document, writing or painting on, or otherwise defaces, a house or building or a wall, fence, lamp-post, or gate, without the consent of the occupier or owner thereof; or
 - (r) places an advertisement or writing on, or otherwise defaces or removes a tomb, monument, memorial, or any object of interest which may be declared to be such by Proclamation of the Head of State in the *Gazette*; or
 - (s) removes any sand, boulders or stone from a foreshore or from the bed or bank of a stream without the permission in writing of the Chief Executive Officer of the Ministry of Works, Transport and Infrastructure; or
 - (t) blasts any rock, stone, or timber in or near a public place without the permission of the Director of Works or does not comply with any directions in regard thereto, given by the said Chief Executive Officer; or
 - (u) discharges a firearm without reasonable cause, or sets off any fireworks or explosive material in or on a public place, or so near thereto as to endanger, annoy or frighten passers-by or residents; or

- (v) permits a horse to serve a mare in or within sight of a public place; or
- (w) without lawful justification, places any poison in a place so as to be a source of danger to human beings or to animals; or
- (x) permits a horse, bull, cow, pig or other animal to be tethered whether the same be tethered on private property or otherwise, in such a manner that the animal so tethered is enabled to encroach on a public road or public place; or
- (y) permits a horse, sheep, pig, goat, or cattle to wander or be at large in a public place or to trespass upon any land; or
- (z) without lawful justification obstructs a public place, or creates a source of danger therein, or otherwise commits a public nuisance therein.

4. Offences relating to public order and interest – A person commits an offence and is liable to imprisonment for a term not exceeding 3 months or to a fine of 2 penalty units who:

- (a) uses any profane, indecent or obscene language in a public place or within hearing of a person in a public place; or
- (b) disturbs a congregation assembled for public worship, or a public meeting or audience at an entertainment or lecture; or
- (c) wantonly or maliciously defaces, injures or removes a notice of a public nature exhibited by a person having authority so to do; or
- (d) publicly advertises a reward for the return of any property which has been stolen or lost and in such advertisement uses any words purporting that no questions will be asked; or
- (e) *(Repealed by section 6 of the Fish Dynamiting Act 1972, No.16)*
- (f) uses the plants *avaniukini* or *futu* or any derivative thereof for the purpose of capturing fish or has in his or her possession any part or derivative thereof in a form adapted for the purpose of capturing fish; or
- (g) uses any threatening, abusive, insulting words or behaviour with intent to provoke a breach of the

peace or whereby a breach of the peace may be occasioned; or

- (h) throws or discharges a stone or other thing at or to the danger of a vehicle or building, whether or not the stone or thing actually hits the object at which it is aimed; or
- (i) hits or throws a ball or other like object used in playing cricket thereby causing damage, personal injury, or annoyance to a motor, pedestrian or other traffic on a public highway; or
- (j) commits an offence of disorderly conduct in a public place.

4A. Procession, parade or march – (1) A person or group of persons who desires to hold a procession, parade or march along Main Beach Road shall, before holding such procession, parade or march, first obtain a permit from the Commissioner of Police who shall determine whether a permit is to be granted or refused.

(2) A person or group of persons who holds a procession, parade or march pursuant to a permit granted by the Commissioner of Police shall comply with any terms or conditions specified in the permit.

(3) A person or group of persons who is refused a permit under subsection (1) shall not hold a procession, parade or march along Main Beach Road.

(4) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding 2 penalty units.

(5) This section does not apply to any procession, parade or march held during the Independence Day Celebrations for the purpose of such Celebrations or held for the purpose of a funeral.

5. Insanitary premises – A person is liable to a fine not exceeding 2 penalty units who permits any premises in his or her occupation or belonging to him or her to be in an insanitary or offensive condition to the danger or annoyance of the public or his or her neighbours.

6. Cruelty to animals – (1) A person is liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding 2 penalty units, or to both, who:

- (a) cruelly beats, kicks, ill-treats, overrides, overdrives, overloads, tortures, infuriates, or terrifies an animal; or causes or procures an animal to be so used; or, being the owner or having the charge of an animal, permits it to be so used; or by wantonly or unreasonably doing or omitting to do an act, or causing or procuring the commission or omission of an act, causes any unnecessary suffering to an animal, or, being the owner or having the charge of an animal, permits any unnecessary suffering to be so caused to it; or
- (b) being the owner of or having the charge of an animal, omits to supply such animal with proper and sufficient food, water, or shelter; or
- (c) slaughters, brands, conveys, or carries, or causes to be slaughtered, branded, conveyed, or carried, an animal in such a manner or position as to subject such animal to unnecessary pain or suffering.

(2) In this section and the next succeeding section, "animal" includes a beast or bird of any kind or species whatever, whether of domestic or wild nature and whether indigenous or imported into Samoa.

(3) A constable may without warrant enter into a place where he or she has reasonable cause to believe that animals are kept and inspect the condition of the same and of any animal therein.

(4) A constable may with the authority of a Judge of the Supreme Court or a District Court destroy an animal which by reason of its weakness, disablement or diseased state, ought to be killed:

PROVIDED THAT a constable shall not incur any liability, civil or criminal, where in cases of urgency he or she destroys a weak, disabled or diseased animal without such authority if his or her action is subsequently approved by a Judge of the Supreme Court or a District Court Judge.

(5) A constable may arrest an offender under this section without warrant and take possession of any animal believed by him or her to be the subject of the offence and detain it in a place of safety until the information in respect of the offence has been determined.

(6) The reasonable costs of the maintenance and treatment of any animal detained under subsection (5) is to be determined by

the Court upon the conviction of an offender and the non-payment of the amount so determined within the time fixed in that behalf constitutes an offence punishable by a fine not exceeding 1 penalty unit which is additional to the first-mentioned amount.

7. Wilful trespass – A person is liable to a fine not exceeding 20 penalty units or a term of imprisonment not exceeding 6 months, or both who wilfully trespasses on land or premises in the occupation of any other person.

8. Publication of false notices – (1) A person is liable to a fine not exceeding 2 penalty units who:

- (a) sends or causes to be delivered to the proprietor, printer, or publisher of a newspaper for the purpose of publication therein a false notice of the birth of a child or of the marriage of a persons or of the death of a person; or
- (b) being a printer or a publisher of a newspaper, prints or publishes any such notice knowing the same to be false.

(2) A printer or publisher of a newspaper is liable to a fine not exceeding 2 penalty units who on application in writing made to him or her by a person interested within 14 days from the publication of the notice of a birth, marriage or death in such newspaper refuses to furnish the person so applying with the name of the person who sent or delivered such notice.

9. Publication of false statements – A person is liable to a fine not exceeding 2 penalty units who makes or repeats or publishes a false statement or originates or repeats or publishes a false rumour whether such person believes such statement or rumour to be false or not, if such statement or rumour is of a nature likely to agitate or distress or to create disaffection, resentment or dissension among the population of Samoa or any section of it and if such person knew or reasonably might have known that such statement or rumour was of such a nature:

PROVIDED THAT:

- (a) a prosecution under this section is to be heard before a District Court Judge; and

- (b) no such prosecution is to be instituted without the previous consent in writing of the Attorney General.

10. Resisting and misleading the police – (1) A person commits an offence and is liable to imprisonment for a term not exceeding 1 year or to a fine of 2 penalty units who:

- (a) resists, assaults or wilfully obstructs a constable in the execution of his or her duty or a person acting in aid of any such constable; or
- (b) incites or encourages a person to resist assault or obstruct a constable in the execution of his or her duty or a person acting in aid of any such constable; or
- (c) by word or action threatens a constable with intent to intimidate him or her in the execution of his or her duty.

(2) A person who wilfully gives a false name or information to a constable with intent to mislead him or her in the execution of his or her duty commits an offence and is liable to imprisonment for a term not exceeding 3 months.

11. Liabilities of traders – (1) A trader commits an offence and is liable to imprisonment for a term not exceeding 6 months or to a fine of 5 penalty units who:

- (a) gives out goods or money belonging to his or her employer on credit without the written authority of his or her employer; and
- (b) fails at any time fully and properly to account for the goods and money of his or her employer received by and entrusted to such trader in the ordinary course of his or her employment.

(2) Nothing in this section affects the liability of a trader to be prosecuted for theft.

(3) In this section, “trader” means the manager or person-in-charge of a trading station in Samoa employed as such by the owner thereof.

12. Control of entertainments and meetings – (1) In this section, “public entertainment” includes a cinema screening, theatrical or vaudeville performance, concert, dance, musical

entertainment (whether live or recorded), sporting fixture or contest, or other recreational entertainment or amusement to which the public are admitted or in which the public may take part, whether or not a charge is made to the public for admission.

(2) A person who holds or takes part in the conduct of a public entertainment in a building that has not been approved in writing for such entertainment by the Commissioner of Police commits an offence and is liable on conviction to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 6 months.

(3) A constable in uniform may enter and remain in a building or place in or at which a public entertainment is taking place or is about to take place.

(4) A constable in uniform present at a public entertainment may stop a wrestling or boxing or other contest or match in which physical force is employed if in his or her opinion 1 or more of the contestants are not in a fit condition to continue such contest or match.

(5) A contestant who continues and a person who incites or encourages a contestant to continue a match or contest which has been duly stopped by a constable commits an offence and is liable on conviction to a fine not exceeding 2 penalty units.

(6) The Commissioner of Police by warrant under his or her hand may prohibit the holding of a proposed public entertainment either absolutely or except upon and subject to such conditions as he or she shall impose if he or she is satisfied that such prohibition or restriction is necessary for the peace, order or good government of Samoa and without limiting the conditions which may be imposed by the Commissioner under this subsection, he or she may specify the times of day at which any public entertainment is to cease, and any such condition may be imposed in respect of any 1 or more public entertainments in Samoa or in any specified locality, area or place in Samoa.

(7) A person who takes part in the conduct of a public entertainment in breach of a warrant made under subsection (6) commits an offence and is liable for every such offence to a fine not exceeding 1 penalty unit or to imprisonment for a term not exceeding 6 months.

(8) A commissioned officer of the Samoa Police Service present at a public entertainment may stop that public entertainment, or permit it to continue only subject to such

conditions as he or she shall impose, if satisfied that such stopping or imposition of conditions is necessary in the interests of peace, order, or public welfare.

(9) A person who takes part in the continued conduct of a public entertainment in breach of any direction given by a commissioned officer of the Samoa Police Service under subsection (8) commits an offence and is liable for every such offence to a fine not exceeding 1 penalty unit or to imprisonment for a term not exceeding 6 months.

13. Gaining admission without payment – A person commits an offence and is liable on conviction to a fine of 2 penalty units who without right obtains admission or enters a place without having paid a fee or subscription lawfully chargeable for admission thereto at the time he or she obtains such admission.

14. Public billiard rooms – (1) A public billiard room shall be closed from 10.30 p.m. until 7 a.m. except on Saturdays when it shall be closed from 10.30 pm until 7 am on Monday.

(2) No person under the age of 16 years is permitted to enter the premises of a public billiard room.

(3) A person being the proprietor, manager or person in charge of a public billiard room commits an offence and is liable on conviction to a fine of 2 penalty units who:

- (a) fails to close the public billiard room as aforesaid, or permits a game to be played therein during the hours the public billiard room is required to be closed; or
- (b) permits a person under the age of 16 years to enter the premises of a public billiard room.

15. Imposters, loiterers, and trespassers – (1) A person is liable to imprisonment for a term not exceeding 6 months or to a fine of 1 penalty unit who:

- (a) wanders abroad or places himself or herself in a public place to beg or gather alms, or causes or procures or encourages a child so to do; or
- (b) solicits, gathers, or collects alms, subscriptions, or contributions under any false pretence; or

- (c) imposes or endeavours to impose upon a charitable institution or private individual by any false or fraudulent representation, either verbally or in writing, with a view to obtain money or any other benefit or advantage; or
 - (d) is found by night without lawful excuse (the proof of which excuse is to be on him or her) in or on a building or in an enclosed yard, boat, or other vessel or in or upon a vehicle; or
 - (e) is found near a port or harbour, river, canal, navigable stream, dock or basin, or quay or wharf, or any other public place, or a house, building, or other place adjacent to any such port or harbour, river, canal, navigable stream, dock or basin, or quay or wharf, with intent to commit an offence under this Ordinance or any other enactment.
- (2) A constable may arrest without warrant a person whom he or she has reason to suspect of an offence under this section.

16. Drunkenness and prostitution – A person commits an offence and is liable to imprisonment for a term not exceeding 3 months or to a fine of 2 penalty units who:

- (a) is found drunk in a public place; or
- (b) entices or solicits a person or persons in a public place for the purposes of prostitution.

17. Stowing away – (1) A person who secretes himself or herself and goes to sea in a ship without the consent of the owner, master, mate or purser of the ship or of any other person entitled to give that consent, is liable to imprisonment for a period not exceeding 6 months.

(2) In this section “ship” has the same meaning as defined in section 2 of the Crimes Act 2013.

18. Repealed by section 2 of the Police Offences Amendment Act 2014, No.14

19. Sale of unwholesome provisions – A person commits an offence and is liable on conviction to a fine of 2 penalty units who sells, or exposes for sale, or has in his or her possession with intent to sell, any food or drink which is unsound or unfit for human consumption.

20. Polluting water – A person is liable to imprisonment for a term not exceeding 6 months or to a fine of 2 penalty units who throws any offensive matter into or otherwise pollutes or contaminates any river, watercourse, well, cistern, or other place from which water for drinking purposes is obtained.

21. Insulting remarks as to genealogy – (1) A person who publishes or causes to be published without lawful excuse, any insulting or derogatory words concerning the genealogy or parentage of a person, with intent to provoke a breach of the peace or with intent to insult, taunt, annoy or offend, commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine of 2 penalty units.

(2) It is no defence to any proceedings under this section that such insulting or derogatory words are true, and no evidence is admitted to prove the truth or untruth of such words.

(3) In this section “to publish” means to put into writing or any other permanent form or to speak words so that the same may be read or heard by a person whether such person be the person whose genealogy or parentage is referred to or not.

22. Consumption and importation of methylated spirit – (1) A person who consumes or attempts to consume methylated spirit, whether subjected to any process of purification or not, or who has methylated spirit in his or her possession for the purpose of consumption by himself or herself or by any other person, is liable to imprisonment for a term not exceeding 3 months or to a fine of 2 penalty units, or to both.

(2) In this section, “methylated spirit” means any spirit mixed with methyl-alcohol or wood spirit, or to which any other substance has been added that has the same effect as methyl-alcohol or wood spirit in rendering spirit unsuitable for human consumption, and includes any spirit from which methyl-alcohol, wood spirit or such other substance has been unlawfully removed.

(3) No person shall without the consent in writing of the Minister responsible for Customs or otherwise than in accordance with the terms of such consent import into Samoa methylated spirit or similar preparations other than mineralised methylated spirit required for domestic purposes.

(4) A person who acts in contravention of subsection (3) commits an offence and is liable to imprisonment for a term not exceeding 3 months or to a fine of 1 penalty unit.

23. *(Repealed by s177 of the Criminal Procedure Act 1972, No.14)*

24. Repeal and savings – (1) The enactments specified in the Schedule to this Ordinance are repealed.

(2) As from the date this enactment comes into force, the Samoa Vagrancy Order 1931 (N.Z.) shall no longer form part of the law of Samoa.

(3) All proclamations, regulations, orders, declarations, appointments, proceedings, exemptions, and generally all acts of authority which originated under any enactment repealed by subsection (1) or under the Samoa Vagrancy Order 1931 (N.Z.) and are subsisting or in force on the coming into operation of this Ordinance shall ensure for the purposes of this Ordinance as fully and effectually as if they had originated under the corresponding provisions of this Ordinance, and accordingly shall, where necessary, be deemed to have so originated.

25. Persons armed – (1) A person who is armed with an offensive or dangerous weapon, instrument or thing and who cannot prove (the onus being on him or her) that he or she was so armed for a lawful purpose commits an offence and is liable to imprisonment for a term not exceeding 1 year.

(2) Every such weapon, instrument or thing is, by the conviction of the offender, forfeited to the State.

26. Throwing a stone at a person – (1) A person who throws or discharges a stone or other thing at or to the danger of a person, whether or not the stone or thing actually hits a person, commits an offence and is liable to imprisonment for a term not exceeding 1 year.

(2) Every such thing is, by the conviction of the offender, forfeited to the State.

27. – 33. *(Repealed by s177 of the Criminal Procedure Act 1972, No. 14.)*

SCHEDULE

ENACTMENTS REPEALED

1931 - No.3:	The General Laws Ordinance 1931.
1955 - No.16:	The Ordinances Amendment Ordinance 1955 sections 4 and 5.
1934 - No.3:	The Ordinances Amendment Ordinance 1934 section 2.
1959 - No.3:	The Status Disabilities Removal Ordinance 1959, sections 5 and 6.
1948 - No.6:	The Law Reform Ordinance 1948: section 8.
1936 - No.4:	The Ordinances Amendment Ordinance 1936 section 2.
1942 - No.2:	The General Laws Amendment Ordinance 1942: section 2.

REVISION NOTES 2008–2020/3 March 2021

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

This Ordinance 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) Insertion of the commencement date;
- (c) References to the male gender have been made gender neutral;
- (d) 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”;
 - “shall have” changed to “has”;
 - “hereby” removed;
 - (iii) Offence provisions : “shall be guilty” changed to “commits”;
 - (iv) Use of plain language – “for the purposes of” changed to “in”;
 - (v) Numbers in words changed to figures;
 - (vi) Removal of superfluous terms:
 - “the provisions of”;
 - (vii) Formal alterations made to officers of the Samoa Police Service;
 - (viii) Section 9 paragraphed;

- (ix) Part numbering changed to decimal;
- (x) Notation inserted-
 - in section 4(e), that this section has been repealed by section 6 of the *Fish Dynamiting Act 1972, No.16* (this Act has been repealed by the Fisheries Act 1988);
 - in section 23, that this section has been repealed by section 177 of the Criminal Procedure Act 1972, No.14;
 - in sections 27 to 33, that these sections have been repealed by section 177 of the Criminal Procedure Act 1972, No. 14.

Since the *Consolidated and Revised Statutes of Samoa 2007* this Ordinance has been amended–

By the *Police Offences Amendment Act 2008*:

Section 7 - The words “a fine not exceeding 2 penalty units” were deleted and substituted “a fine not exceeding 20 penalty units or a term of imprisonment not exceeding six (6).

By the *Police Offences Amendment Act 2014, No.14*

Section 18 repealed.

By the *National Prosecution Office Act 2015, No 34 which commences on 1 January 2016*:

Section 9(b) omit “Attorney General” and substitute “Director of Public Prosecutions”.

By the *Constitution Amendment Act (No. 1) 2017, No 8*:

Section 9(b) omit “Director of Public Prosecutions” and substitute “Attorney General”.

*This Ordinance is administered by
the Ministry of Justice and Courts Administration.*
