



SAMOA

**LEGISLATIVE ASSEMBLY POWERS AND
PRIVILEGES ORDINANCE 1960**

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**LEGISLATIVE ASSEMBLY POWERS AND
PRIVILEGES ORDINANCE 1960**

1960

No.13

AN ORDINANCE to declare and define certain powers, privileges, and immunities of the Legislative Assembly of Samoa and of the Speaker, members, and committees of such Assembly and to regulate the conduct of members and other persons in connection with the proceedings thereof.

[Assent and commencement date: 26 August 1960]

**PART 1
PRELIMINARY**

1. Short title – This Ordinance may be cited as the Legislative Assembly Powers and Privileges Ordinance 1960.

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

“the Assembly” means the Legislative Assembly of Samoa;

“Chamber”, in relation to the Legislative Assembly, means the place in which the Legislative Assembly sits in session for the transaction of business;

“Clerk” means the Clerk of the Legislative Assembly;

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“committee” means a standing, select, or other committee of the Assembly, and includes the Committee of the Whole Assembly;

“journals” means the minutes of the Assembly or the official records of the proceedings thereof;

“Member” means any person who is entitled to sit and vote in the Assembly;

“officer of the Assembly” means the Clerk or any other officer or person acting within the Chamber of the Assembly or the precincts thereof by direction of the Speaker thereof and includes any police officer on duty within the precincts of the Assembly;

“police officer” means a member of the Police Service established by the Police Service Act 2009;

“precincts of the Assembly” means the offices of the Assembly and places provided for the use or accommodation of strangers, members of the public, and representatives of the press and includes, while the Assembly is sitting and subject to any exceptions made by direction of the Speaker, the entire building in which the Chamber of the Assembly is situated and any enclosure or open space adjoining or appertaining to such building and used or provided for the purposes of the Assembly;

“Speaker” means the Speaker and Deputy Speaker of the Legislative Assembly and includes any other member of the Assembly when such other member is presiding at a sitting of the Assembly or a Committee thereof;

“Standing Orders” means the Standing Orders of the Assembly for the time being in force;

“stranger” means any person who is not a member or officer of the Assembly.

**PART 1A
PRIVILEGES AND IMMUNITIES**

3. Immunity from proceedings – No member of the Legislative Assembly is liable to any civil or criminal proceedings in respect of:

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- (a) any speech or debate in the Legislative Assembly or a committee thereof;
- (b) any words written in a report to the Assembly or any committee thereof or in any petition, bill, motion, or other matter brought or introduced by him therein.

4. Immunity from imprisonment or restraint – No member of the Legislative Assembly, unless by order or sentence of the Legislative Assembly, is liable to imprisonment during the member's attendance at the Legislative Assembly or a committee thereof and during a period not exceeding 2 days while going to and the like period while returning from any meeting of the Legislative Assembly or a committee thereof in consequence of conviction of any criminal offence, not being an offence punishable by death or imprisonment for 2 years or more, and not being a refusal to enter into a recognisance for keeping the peace.

PART 2
EVIDENCE BEFORE COMMITTEES

5. Power to order attendance of witnesses – (1) A committee of the Assembly authorised by the Standing Orders or by a resolution of the Assembly to send for persons, papers, and records may order any person to attend before it and to give evidence, and to produce any paper, book, record, or other document in the possession or under the control of such person.

(2) The rate of allowance to be paid for the expenses of any person appearing as a witness before a committee of the Assembly shall be the same as would be payable to such person if he or she were a witness attending the Supreme Court.

6. Issue and service of summons to attend – (1) An order to attend to give evidence or to produce documents before a committee of the Assembly in accordance with section 5 shall be notified to the person required to attend or produce documents by a summons under the hand of the Clerk issued by the direction of the Speaker.

(2) In a summons issued under subsection (1) there shall be stated the time when and place where the person summoned is

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required to attend and the document he or she is required to produce.

(3) Subject to subsection (4), the summons is to be served on the person mentioned therein by delivering to him or her a copy thereof.

(4) A summons issued in accordance with this section may be served by an officer of the Assembly or by a police officer:

PROVIDED THAT the Speaker may, if the Speaker is satisfied that for any reason personal service of a summons cannot be effected, order that service be effected by forwarding the same by registered post addressed to the person to whom it is directed at his or her last known place of abode or business.

7. Power to issue warrant to compel attendance – (1) If a person to whom a summons under section 6 is directed does not attend before the committee at the time and place mentioned therein, the Speaker may, upon being satisfied that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, issue a warrant to apprehend the person and bring him or her, at a time and place to be stated in the warrant, before the committee.

(2) A warrant issued under this section shall be executed by a police officer.

(3) The Speaker on issuing a warrant for the arrest of any person under this section may, if the Speaker thinks fit, by endorsement on the warrant, direct that the person named in the warrant be released after arrest on his or her entering in to such a recognisance before a Judge, or Registrar of the Supreme Court for his or her appearance before the committee of the Assembly as may be required in the endorsement.

8. Witnesses may be examined on oath – (1) A committee of the Assembly if authorised by Standing Orders or resolution of the Assembly to send for persons, papers, and records, may require that any facts, matters, and things relating to the subject of the inquiry before such committee be verified or ascertained by the oral examination of witnesses and may cause any such witnesses to be examined on oath, which the Clerk attending the committee for that purpose may administer:

PROVIDED THAT where any witness conscientiously objects to taking an oath he or she may make a solemn affirmation or

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declaration.

(2) Such committee shall for the purpose of examining witnesses on oath have power of a Judge of the Supreme Court in respect of administering oaths, of hearing evidence, and conducting and maintaining order at the hearing.

9. Privilege of witnesses – A person summoned to attend to give evidence or to produce any paper, book, record, or other document before a committee of the Assembly is entitled in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record, or other document to the same privilege as before a Court.

10. Answers in committee not admissible in proceedings – An answer by a person to a question put by a committee of the Assembly shall not, except in the case of criminal proceedings for an offence against section 139 of the Crimes Act 2013 or an offence against this Ordinance, be in any proceedings, civil or criminal, admissible in evidence against him or her.

11. False evidence – A person who before a committee of the Assembly knowingly gives a false answer to any question material to the subject of the inquiry of the committee which may be put to him or her during the course of the person's examination is:

- (a) if the answer was given on oath, deemed to have committed an offence against section 139 of the Crimes Act 2013 and is liable on conviction to the punishment prescribed therefor by that Act or any rules or regulations made thereunder;
- (b) if the answer was given otherwise than on oath deemed to have committed an offence and is liable on conviction to a fine not exceeding 1 penalty unit or to imprisonment for a term not exceeding 6 months, or both.

12. Refusal to answer or failure to attend – A person who fails to attend before a committee when so required by an order made under the provisions of section 5, or who refuses to be sworn or to answer any lawful question put by a committee, or to

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produce any paper, book, record, or other document in his or her possession or under his or her control, commits an offence and is liable on conviction to a fine not exceeding 5 penalty units or to imprisonment for a term not exceeding 6 months, or both.

13. Fabricating evidence – A person who presents to a committee of the Assembly any false, untrue, fabricated, or falsified document with intent to deceive the committee commits an offence and is liable on conviction to a fine not exceeding 5 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**PART 3
CONDUCT OF STRANGERS**

14. Entry to Chamber or precincts of Assembly – No stranger in respect of the Assembly is entitled to enter or remain within the Chamber or precincts of the Chamber without the authority of the Speaker.

15. Offences relating to admittance to the Chamber or precincts – A person who being a stranger enters the Chamber or precincts of the Assembly without permission duly granted under the authority of the Speaker contrary to the provisions of section 14 or being therein without such permission refuses to leave at the order of the Speaker, or upon being admitted to the Chamber or the precincts of the Chamber as a stranger contravenes any rule or order made by the Speaker under the Standing Orders of the Assembly relating to the admission of strangers, or attends any sitting of the Assembly as representative of any journal or newspaper after a general permission granted under the Standing Orders of the Assembly to the representative or representatives has been revoked, commits an offence and is liable on conviction to a fine not exceeding 2 penalty units.

16. Obstructing members or officers and creating disturbances – A stranger in respect of the Assembly who:

- (a) hinders or obstructs any member of the Assembly coming to, going from, or being within the Chamber or the precincts thereof; or

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- (b) interferes with, resists, or obstructs any officer of the Assembly while in the execution of his or her duty; or
 - (c) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly while it is sitting; or
 - (d) sits or votes in the Assembly, –
- commits an offence and is liable on conviction to a fine not exceeding 5 penalty units or to imprisonment for a term not exceeding 6 months, or both.

17. Power of arrest – An officer of the Assembly may, without an order from a Judge of the Supreme Court and without a warrant, arrest any person who commits any offence contrary to section 15 or 16 in his or her presence or whom the officer reasonably suspects of having committed an offence contrary to either of those sections.

18. Strangers may be removed on order of Speaker – The Speaker may at any time order any stranger in respect of the Assembly to withdraw from the Chamber and precincts of the Chamber, and if any such person shall fail to obey such order he may be forcibly removed from the Chamber and precincts of the Chamber, by any officer of the Assembly and no proceedings shall lie in any Court against the Speaker or such officer in respect of such removal.

19. Influencing members – A person who offers to the Speaker or to any member or officer of the Assembly any bribe, fee, compensation, reward, or benefit of any kind in order to influence him or her in his or her conduct as such member or officer, or for or in respect of the promotion of or opposition to any bill, motion, matter, or thing submitted or intended to be submitted for the consideration of the Assembly commits an offence and is liable on conviction to imprisonment for a term not exceeding 2 years.

PART 4
CONDUCT OF MEMBERS

20. Acceptance of bribes by members – A member of the Assembly who accepts or agrees to accept or obtains or attempts to obtain for himself or herself, or for any other person, any bribe, fee, compensation, reward, or benefit of any kind for speaking, voting, or acting as such member or for refraining from so speaking, voting, or acting or on account of his or her having so spoken, voted, or acted or having so refrained commits an offence and is liable on conviction to imprisonment for a term not exceeding 2 years.

21. Contempt by member of Assembly – (1) A member of the Assembly commits contempt of the Assembly who:

- (a) being a member or a committee of the Assembly, publishes to any person not being a member of such committee any evidence taken by the Committee before it has been reported to the Assembly; or
- (b) assaults or obstructs a member of the Assembly within the Chamber or precincts of the Chamber; or
- (c) assaults or obstructs any officer of the Assembly while in the execution of his or her duty; or
- (d) is convicted of any offence under this Ordinance.

(1A) In this section, “Privileges and Ethics Committee” means the Privileges and Ethics Committee of the Assembly appointed under the Standing Orders, by whatever title it be known.

(2) If it appears that any member commits contempt, the Assembly may refer the matter to the Privileges and Ethics Committee to investigate the matter; or refer the matter to the Prime Minister with a view to instituting civil or criminal proceedings against such member.

(3) If on the report of the Privileges and Ethics Committee under subsection (2) the Assembly is satisfied that such member is guilty of contempt, the Assembly may punish the member as provided in subsection (4), or refer the matter to the Prime Minister with a view to instituting civil or criminal proceedings against such member.

(4) Where any member is guilty of contempt of the Assembly, the Assembly may, by resolution, reprimand such member or

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suspend him from the service of the Assembly for such period as it may determine.

(5) No salary or allowance payable to a member of the Assembly for the member's service as such shall be paid in respect of any period during which the member is suspended from the service of the Assembly under the provisions of this section.

22. Suspended member excluded from Chamber and precincts – A member of the Assembly who has been suspended from the service of the Assembly shall not enter or remain within the Chamber or precincts of the Assembly while such suspension remains in force and if any such member is found within the Chamber or the precincts of the Chamber in contravention of this section, the member may be forcibly removed therefrom by any officer of the Assembly and no proceedings shall lie in any Court against such officer in respect of such removal.

23. No member to vote if he or she has direct pecuniary interest – (1) A member shall not in or before the Assembly or any committee thereof take part in the discussion of any matter in which the member has a direct pecuniary interest without disclosing the extent of that interest.

(2) A member who acts in contravention of this section may be adjudged guilty of contempt by the Assembly and is liable to the penalties provided in section 21 for such contempt.

PART 5
EVIDENCE OF PROCEEDINGS

24. Restriction on evidence as to certain matters – No evidence relating to any of the following matters, that is to say:

- (a) debates or other proceedings in the Assembly;
- (b) the contents of the minutes of evidence taken or any documents laid before a committee of the Assembly or any proceedings or examinations held before any such committee, –

by any member or officer of the Assembly or any stenographer employed to take minutes of any such evidence or proceedings or in respect of any of the matters specified in paragraph (b) by any person who was a witness before the committee shall be admissible

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in any proceedings before a Court or person authorised by law to take evidence unless the Court or such last-mentioned person is satisfied that permission has been given by the Speaker or the Chairperson of the committee (as the case may require) for such evidence to be given.

**PART 6
PUBLICATION AND REPORTS**

25. Publication of certain statements and writings an offence – A person commits an offence and is liable on conviction to a fine not exceeding 5 penalty units or to imprisonment for a term not exceeding 6 months, or both who:

- (a) publishes any statement, whether in writing or otherwise, which falsely or scandalously defames the Assembly or any committee thereof; or
- (b) publishes any writing reflecting on the character of the Speaker or the Chairperson of a committee of the Assembly in the conduct of his or her duty as such Speaker or Chairperson; or
- (c) publishes any writing containing a gross, wilful, or scandalous misrepresentation of the proceedings of the Assembly or committee thereof or of the speech of any member in the proceedings of the Assembly or a committee thereof; or
- (d) publishes any false or scandalous libel on any member touching his or her conduct as a member; or
- (e) publishes any report of a committee of the Assembly or of any evidence given or any documents presented to such committee or extracts from such documents, before such committee has presented its report to the Assembly; or
- (f) publishes any report or statement purporting to be a report of the proceedings of the Assembly or a committee thereof in any case—
 - (i) where such proceedings have been conducted after exclusion by order of the Assembly or a committee thereof of the public; or

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- (ii) where such publication has been expressly prohibited by order of the Assembly or a committee thereof; or
- (iii) when such report or statement constitutes or contains a wilful misrepresentation of the proceedings of the Assembly or a committee thereof or of the speech of any member thereof or is otherwise not made or published in good faith.

26. Printing false copies of laws or proceedings – Any person who shall print or cause to be printed a copy of any Ordinance or law now or hereafter in force, or a copy of any report, paper, minutes, or votes and proceedings of the Assembly as purporting to have been printed by the Government Printer or by or under the authority of the Assembly or by the Speaker, and the same is not so printed, or shall tender in evidence any such copy as purporting to be so printed having reasonable cause to know that it is not so printed, commits an offence and is liable on conviction to a fine not exceeding 5 penalty units or to imprisonment for a term not exceeding 6 months, or both.

27. Protection of persons responsible for publication authorised by Assembly – A person, being a defendant in any civil or criminal proceedings instituted for or on account of or in respect of the publication by such person or by his or her servant, by order or under the authority of the Assembly, of any reports, papers, minutes, or votes and proceedings may, on giving to the plaintiff or prosecutor, as the case may be, 24 hours written notice of his or her intention, bring before the Court in which such civil or criminal proceedings are being held a certificate under the hand of the Speaker stating that the reports, papers, minutes, or votes and proceedings in respect of which such civil or criminal proceedings have been instituted were published by such person or his servant by order or under the authority of the Assembly together with an affidavit verifying such certificate; and such Court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be deemed to have been finally determined.

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28. Publication of extracts of proceedings without malice

– In any civil or criminal proceedings for printing any extract from or an abstract of any report, paper, minutes, or votes and proceedings published by or under the authority of the Assembly, if the Court is satisfied that such extract or abstract was published bona fide and without malice, a judgment or verdict, as the case may be, shall be entered for the defendant or accused.

**PART 7
MISCELLANEOUS**

29. Powers of Speaker to be supplementary – The powers of the Speaker conferred by this Ordinance shall be supplementary to any powers conferred on him or her by the Samoa Amendment Act 1957 (NZ), or by Standing Orders.

30. Speaker to act notwithstanding dissolution or prorogation of Assembly – For the purposes of this Ordinance, the person who fills the office of Speaker at the time of prorogation or dissolution of the Assembly is taken to be the Speaker until the Assembly is again summoned or until another person has been appointed.

31. Court not to exercise jurisdiction over acts of Speaker or officers – Neither the Speaker of the Assembly nor any officer shall be subject to the jurisdiction of any Court in respect of the exercise of any power conferred on or vested in him or her by or under this Ordinance or the Standing Orders of the Assembly or the Samoa Amendment Act 1957 (NZ).

32. Civil process not to be served in Chamber or precincts – Despite anything in any law, no process issued by any Court in Samoa in the exercise of its civil jurisdiction shall be served or executed within the Chamber or precincts of the Assembly while the Assembly is sitting or through the Speaker or any officer of the Assembly.

33. Journals of Assembly admissible as evidence – Upon any inquiry touching the privileges, immunities, and powers of the Assembly or of any member, any copy of the Journals printed or purporting to be printed by the Government Printer or by or

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under the authority of the Assembly shall be admitted as evidence of such Journals in all Courts and places without any proof being given that such copy was so printed.

34. Repeal and savings – (1) The Legislative Assembly Privileges Ordinance 1950 is repealed.

(2) The repeal or revocation of any provision by this Ordinance does not affect any document made or anything whatsoever done under the provision so repealed or revoked or under any corresponding former provision and every such document or thing so far as it is subsisting or in force at the time of the repeal or revocation and could have been made or done under this Ordinance, shall continue and have effect as if it had been made or done under the corresponding provision of this Ordinance as if that provision had been in force when the document was made or the thing was done.

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 – 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

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- (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”
- (xii) Section 11 revised to change references to “ section 36 of the Crimes Ordinance 1961” to “section 139 of the Crimes Act 2013”
- (xiii) Part numbering changed to decimal.

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

*This Ordinance is administered by
the Office of the Clerk of the Legislative Assembly.*