

2) LAWS ON MARINE FISHERIES

a) Fisheries Protection Act 1972

THE FISHERIES PROTECTION ACT 1972

1972, No. 2

An Act to protect the fishery resources of Western Samoa by restricting foreign fishing vessels from fishing in Western Samoan waters.

(21 March 1972)

Short  
title

1. This Act may be cited as the Fisheries Protection Act 1972.

For the powers of the Director of Agriculture, Forests and Fisheries to maintain the standard of primary produce exported, see the produce Export Ordinance 1961.

Interpre-  
tation

2. In this Act, if not inconsistent with the context, -

"Court" means any Court of competent jurisdiction in Western Samoa;

"Fish" means any marine animal and includes molluscs, crustaceans and all other forms of marine animal life;

"Fishing" means taking, hunting, pursuing, catching, killing or possessing any fish, and "to fish" has a corresponding meaning;

"Fisheries officer" means any fisheries officer employed in the Fisheries Division of the Department of Agriculture, Forests and Fisheries, and includes the Director, Deputy director, and Chief Fisheries Officer;

"Foreign fishing vessel" means any fishing vessel owned or controlled by a person or persons not ordinarily resident in Western Samoa;

"Marine officer" means any officer employed in the Marine Department;

"Minister" means the Minister of Agriculture, Forests and Fisheries, or such other Minister as may from time to time be charged with the administration of this Act;

"Police officer" means a commissioned officer of Police, and includes any sergeant, corporal and constable acting with the authority of a commissioned officer of Police;

"Western Samoan waters" comprise the territorial sea of Western Samoa and any other waters in which Western Samoa for the time being has the right to control

WES 7

fishing [excluding the waters of the exclusive economic zone of Western Samoa (as defined in the Exclusive Economic Zone Act 1977)].

"Police Officer": See s.3(3) of the Police Service Act 1977.

"Western Samoan waters": The words in square brackets were added by s.20 (1) of the Exclusive Economic Zone Act 1977; see s.1(2) of that Act.

Section of Act to exclusive economic zone

[2A. Nothing in this Act shall be construed -

- (a) To permit the Minister to grant exemptions to a foreign fishing vessel for the purpose of fishing within the exclusive economic zone of Western Samoa; or
- (b) To authorise the making of any regulations in derogation of the provisions of the Exclusive Economic Zone Act 1977, or of any regulations made under that Act, relating to fishing; or
- (c) To authorise the boarding, search, taking of possession, detention, or forfeiture under this Act of any foreign fishing vessel, or of any tackle, engines, nets, gear, apparatus, cargo and stores or fish on board the vessel, or the arrest of any crew member of such vessel, in respect of any offence relating to fishing in the exclusive economic zone.]

Section 2A was inserted by s.20(1) of the Exclusive Economic Zone Act 1977; see s.1(2) of that Act.

Administra-  
tion

3. The general administration of this Act shall be under the control and direction of the Minister, who may delegate, either generally or particularly, all or any of the powers conferred on him under this Act.

Prohibition  
against  
foreign  
fishing  
vessels

4. It shall be an offence for the master or any crew member of a foreign fishing vessel to engage in fishing or to possess any fish or to engage in activities in support of a foreign fishery fleet within Western Samoan waters except as expressly provided in an agreement or convention to which Western Samoa is a party;

Provided that the Minister may grant exemptions from this prohibition in special cases if he considers such exemption is desirable for purposes of fishery research or is otherwise in the national interest.

Penalty and  
forfeiture

5. (1) Any person committing an offence against this Act shall be liable on conviction to a fine not exceeding \$100,000, or imprisonment for a term not exceeding 5 years, or both.

WES 8

(2) When any person is convicted of an offence under this Act every vessel employed in any manner in connection with the offence, together with its tackle, engines, nets, gear, apparatus, cargo and stores, and all fish taken or possessed contrary to this Act or the monetary value thereof or the net proceeds of sale thereof may be ordered by the convicting Court to be forfeited to the Government of Western Samoa and all things so forfeited shall be disposed of as the Minister thinks fit with the net proceeds of realisation thereof to be paid into the Public Account.

Apprehension  
of  
offenders

6. (1) Any Fisheries officer, Police officer, or Marine officer shall have the power -
- (a) With or without a warrant, to arrest any person committing in his sight or presence an offence against this Act;
  - (b) With or without a warrant, to board and search any vessel and, if as a result of such search he has reasonable cause to believe that any person on board has committed an offence against this Act, then to arrest such person;
  - (c) To seize any vessel, together with its tackle, engines, nets, gear, apparatus, cargo and stores, used or employed in breach of the provisions of this Act or which it reasonably appears to have been so used or employed;
  - (d) To seize all fish taken or possessed in breach of this Act, and if adequate facilities are not available to preserve such fish pending the determination of the Court proceedings in respect of the taking or possessing of such fish, then to take all necessary steps for the sale of such fish at its reasonable market value, the net proceeds of such sale to be paid to the Registrar of the Court pending the making of a final order by the Court in respect of the forfeiture or otherwise of that fund.
- (2) All persons, if called upon to assist any officer in the execution of any power vested in him by the preceding subsection, are hereby authorised and required to render such assistance.

In subs. (1), as to Police Officer, see s.3(3) of the Police Service Act 1977.

Discharge  
of seized  
fish on  
security

7. Notwithstanding anything herein contained, the Minister may discharge any fish seized under this Act on receiving suitable and adequate security for the equivalent value of the fish, by way of bond, guarantee

WES 9

or other stipulation, conditioned for payment of such equivalent value in the event that such amount shall be adjudged by the Court to be forfeited to the Government of Western Samoa.

Reward  
to  
informers  
and others

8. The Minister may direct and the Financial Secretary is hereby empowered to pay -

- (a) To any person, other than an officer mentioned in section 6 of this Act, who submits to any such officer original information concerning the commission of any offence against this Act, leading to any penalty or forfeiture incurred in respect of such offence; and
- (b) To any person or the dependants of any person who renders assistance to any officer pursuant to subsection (2) of section 6 hereof, and who in so doing suffers personal injury or death, a reward of not more than \$5,000, and in no case exceeding one half of the amount of such penalty or forfeiture.

Regulations

9. The Head of State, acting on the advice of Cabinet, may from time to time make regulations for any purpose for which regulations are required or contemplated by this Act and for giving full effect to the provisions of this Act.

The Fisheries Protection Act 1972 is administered in the Department of Agriculture, Forests and Fisheries.