



Western Samoa

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Arrangement of Provisions

Title	
1. Short title and commencement	16. Compliance with directives
2. Interpretation	17. Civil Aviation Manager
3. Establishment of the Authority	18. Power to appoint officers and employees
4. Board of Directors	19. Delegation of powers
5. Term of office of appointed directors	20. Leasing powers of the Authority
6. Extraordinary vacancies	21. Discontinuance of an aerodrome
7. Deputies of directors	22. Liability of directors and employees
8. Meetings of Authority	23. Investment of funds
9. Minutes of meetings	24. Application of profits
10. Remuneration of appointed directors	25. Accounts, audit and annual report
11. Disclosure of conflicting interest	26. Prohibition and control of access
12. Original assets of the Authority	27. Act to bind Western Samoa
13. Functions of the Authority	28. Repeal and Amendment
14. Powers of the Authority	29. Regulations
15. Policy of Cabinet	Schedule

1984, No. 49

AN ACT to establish the Airport Authority and to prescribe its functions, powers and duties.

[20 December 1984]

BE IT ENACTED by the Legislative Assembly of Western Samoa in Parliament assembled as follows:—

1. Short title and commencement—(1) This Act may be cited as the Airport Authority Act 1984.

(2) This Act shall come into force by Order of the Head of State in the manner and on the date specified in such Order.

2. Interpretation— In this Act, unless the context otherwise requires,—

“Administrator” means the Administrator of Civil Aviation:

"aerodrome" means any defined area of land used or intended or designed to be used either wholly or partly for the landing, departure, movement or servicing of aircraft, and the embarkation and disembarkation of passengers or the loading and unloading of freight, and includes any buildings, installations and equipment on or adjacent to any such area used in connection with the aerodrome or its administration:

"Authority" means the Airport Authority established in accordance with section 3 of this Act:

"Board" means the Board of Directors of the Authority:

"Chairman" means the Chairman of the Board:

"Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on 7 December 1944 and the international standards and recommended practices and procedures adopted by the International Civil Aviation Organisation in pursuance of Article 37 of the Convention, and includes any amendment of the Convention made in accordance with the provisions of the Convention:

"Civil Aviation Manager" means the Civil Aviation Manager appointed in accordance with section 17 of this Act:

"Financial year" means the period of 12 months ending on the expiration of the 31st day of December:

"Government" means the Government of the Independent State of Western Samoa:

"Minister" means the Minister of Civil Aviation:

"Navigation installation" means any building, facility, works, apparatus, equipment or place, which is used wholly or mainly to assist air traffic control or as an aid to air navigation, and includes any land adjacent to any such building, facility, works, apparatus, equipment or place and used wholly or mainly in connection therewith.

3. Establishment of the Authority—(1) There is hereby established for the purposes of this Act, a corporation to be called the Airport Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and shall be capable of entering into contracts, of acquiring, holding, disposing of and leasing real and personal property, of suing and being sued and of doing all such other acts and things as bodies corporate may lawfully do.

4. Board of Directors—(1) There shall be a board of Directors of the Authority.

(2) The Board shall consist of a Chairman and 2 other directors who shall be appointed by the Head of State, acting on the advice of Cabinet, from amongst persons of recognised competence and experience in financial or commercial matters.

(3) No person, by reason only of being a director or employee of the Authority, shall be deemed to be employed in the "Public Service" or in the "Service of Western Samoa", within the meaning of those terms as defined in Articles 83 and 111 respectively of the Constitution of the Independent State of Western Samoa.

5. Term of office of appointed directors—(1) Except as otherwise provided by this Act, the Chairman and the other directors of the Authority shall be appointed for a term of 3 years, but may from time to time be reappointed.

(2) Every director, unless he sooner vacates his office otherwise than by effluxion of time, shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired and notwithstanding anything to the contrary elsewhere in this Act.

6. Extraordinary vacancies—(1) Any director may at any time be removed from office by the Head of State, acting on the advice of Cabinet, for disability, inefficiency, insolvency, neglect of duty, misconduct or permanent departure from Western Samoa, or may at any time resign his office by written notice addressed to the Minister.

(2) If any director dies or resigns, or is removed from office, his office shall become vacant and the vacancy shall be filled in the manner in which appointment to the vacant office was made.

(3) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue on the term for which the vacating member was appointed.

(4) The power of the Authority shall not be affected by the fact that at any time there may be less than 3 directors in office.

7. Deputies of directors—(1) If any director of the Authority is temporarily incapacitated by illness, absence, or other sufficient cause from attending any meeting of the Authority, any person nominated for the purpose by the Minister may attend that meeting as the deputy of such director.

(2) No deputy shall act as chairman of the Authority.

(3) Any deputy shall, while he acts as such, be deemed to be a member of the Authority.

(4) No appointment of any deputy, and no act done by him as such, and no act done by the Authority while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

8. Meetings of Authority—(1) Every meeting of the Authority shall be presided over by the Chairman. In the absence of the Chairman, the directors present shall appoint one of their number to be the Chairman of that meeting.

(2) The first meeting of the Authority shall be held on a day to be appointed by the Chairman.

(3) Subsequent meetings shall be held on such dates and at such times and places as the Authority from time to time determine.

(4) The Chairman may at any time convene a special meeting of the Authority and shall, on the requisition in writing of any 2 directors stating the business to be transacted, forthwith proceed to convene a special meeting.

(5) At all meetings of the Authority, the quorum necessary for the transaction of business shall be 2 directors.

(6) Every question before a meeting of the Authority shall be determined by a majority of the valid votes of the directors present.

(7) The Chairman at any meeting shall have a deliberative vote and in the case of an equality of votes, shall also have a casting vote.

(8) Subject to the provisions of this Act and of any regulations made hereunder, the Authority may regulate its proceedings in such manner as it thinks fit.

9. Minutes of meetings—(1) The Authority shall cause minutes to be kept, in a book provided for the purpose, of all resolutions and proceedings of its meetings.

(2) The minutes shall be signed by the Chairman of the next meeting subsequent to the passing thereof.

(3) A copy of the minutes of every meeting shall be furnished to every director.

10. Remuneration of appointed Directors— Every director shall be paid out of the funds of the Authority, such remuneration and such travelling expenses and other allowances, as may from time to time be fixed by Cabinet.

11. Disclosure of conflicting interest—(1) Any director who, otherwise than as a director, is directly or indirectly interested in any arrangement or agreement entered into, or proposed to be entered into, by the Authority shall as soon as possible after the relevant facts have come to his notice, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under this section shall be recorded in the minutes of the meeting of the Board and the director shall not take part after the disclosure in any deliberation or decisions relating to the arrangement or agreement, but shall be counted as present for the purpose of forming a quorum of the Board for any such deliberation or decision.

12. Original assets of the Authority—(1) The original assets of the Authority shall consist of:—

- (a) all buildings, installations and improvements, including navigation installations, located on or adjacent to or in the vicinity of the land described in the Schedule to this Act, which are in use by the Government at the date this Act comes into force for the maintenance and operation of aerodromes or in connection with the operation of aircraft engaged in civil aviation; and
- (b) all vehicles, plant, machinery, equipment, stores, furniture and apparatus which are in use by the Government at the date this Act comes into force for the maintenance and operation of aerodromes or in connection with the operation of aircraft engaged in civil aviation.

(2) The assets referred to in subsection (1) of this section are hereby vested in the Authority.

(3) The Government shall cause the land described in the Schedule to this Act to be transferred to the Authority forthwith upon this Act coming into force.

(4) If any question arises as to whether any asset has become or is the property or responsibility of the Authority, that question shall be decided by Cabinet.

13. Functions of the Authority— The functions of the Authority are to establish, improve, maintain, operate and manage aerodromes and services and facilities in connection with the operation of any aerodrome or with the operation of aircraft engaged in civil aviation.

14. Powers of the Authority—(1) Subject to this Act and any regulations made hereunder, the Authority shall have all the powers and authorities necessary for the effective performance of its functions as set out in this Act, including the power to borrow from the Government or any bank or lending institution, whether local or overseas.

(2) Without limiting the provisions of subsection (1) of this section, the Authority shall have the following powers:—

- (a) to establish, improve, maintain and operate navigation installations, air traffic services, security services, and such other services and facilities as the Authority considers necessary for the purposes of providing for the safe and efficient operation of aircraft engaged in civil aviation or of giving effect to the provisions of the Chicago Convention;
- (b) to add to, alter or reconstruct any aerodrome or any part of an aerodrome or any navigation installation or any part of a navigation installation;
- (c) to operate or manage any aerodrome as a commercial undertaking and for that purpose to establish, operate or manage, or cause to be established, operated or managed areas for the parking of vehicles, terminal buildings, buildings and installations for the storage of baggage and cargo, restaurants, refreshment rooms, bookstalls, booking offices, travel agencies, accommodation facilities and such other services and facilities as may be considered desirable;
- (d) to make use of any land vested in it or leased to it for agricultural, horticultural or pastoral purposes, provided that any such use will not interfere with the safe and efficient operation of any aerodrome, and to sell or otherwise make use of the produce and livestock therefrom; and
- (e) to enter into and carry out any arrangement or agreement necessary for the exercise of any power or function conferred upon the Authority by this Act.

15. Policy of Cabinet— In the exercise of its functions and powers the Authority shall have regard to the general policy of Cabinet relating thereto.

16. Compliance with directives— The Authority shall comply with any written direction of the Minister concerning any matter relating to the safe and efficient operation of aircraft engaged in civil aviation at any aerodrome maintained or operated by the Authority or giving effect to the provisions of the Chicago Convention.

17. Civil Aviation Manager—(1) The Minister, acting on the advice of Cabinet, shall from time to time appoint a Civil Aviation Manager who shall be a person of recognised standing and experience in air transport or the operation of aerodromes, who has been nominated in writing by the Administrator and approved in writing by the Board.

(2) The Civil Aviation Manager shall:—

- (a) serve as Chief Executive Office of the Authority;
- (b) be responsible to the Authority for the control and management of the operations of the Authority; and
- (c) in carrying out his duties, follow any general or special directions given to him by the Board.

(3) The Civil Aviation Manager shall be appointed for such period not exceeding 3 years and on such other terms and conditions as may be specified in his appointment.

(4) The Civil Aviation Manager may from time to time be reappointed.

(5) The Civil Aviation Manager shall devote the whole of his professional services to the Authority and shall not hold any other office, whether remunerated or not.

(6) No person may be appointed under subsection (1) of this section to be the Civil Aviation Manager while he is an officer or employee of the Public Service of Western Samoa.

18. Power to appoint officers and employees— The Board may appoint and employ at such remuneration and on such terms and conditions as it may determine, such officers and employees as the Board may consider necessary for the due performance of the functions of the Authority.

19. Delegation of powers.—(1) The Authority may from time to time, either generally or for any particular transaction or class of transactions or for any particular act of administration, control, or management, delegate any power conferred on it by this Act or by any regulation made under this Act on any of its directors, or a committee thereof, or to the Civil Aviation Manager.

(2) The Civil Aviation Manager may from time to time, with the written consent of the Authority, either generally or for any particular transaction or class of transactions or for any particular act of administration, control, or management, delegate any power conferred on him by this Act or by any regulation made hereunder or by delegation from the Authority to any officer or employee, or to officers or employees of a specified class, or the holder or holders for the time being of a specified office or class of office.

(3) No such delegation shall prevent the exercise by the Authority or the Civil Aviation Manager, as the case may be, of any of the powers conferred on it or him by this Act or by any such regulation or by delegation.

(4) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding any change in the membership of the Authority or of any committee or in the holder of any office.

20. Leasing powers of the Authority—(1) The Authority may grant a lease of all or any part of any land, premises, or installations vested in it for any purpose that will not interfere with the safe and efficient operation of any aerodrome.

(2) Lease under subsection (1) of this section may be granted by private contract or otherwise to any person for such consideration and on such terms and conditions as the Authority may determine:

Provided that no lessee shall erect or make structural alterations to any building or other installation without first obtaining the approval in writing of the Authority and in no case shall the Authority give its approval if the erection or structural alteration of a building or installation will interfere with the use and enjoyment of the land as an aerodrome.

(3) If at any time during the term of any such lease the property demised or any part thereof is required by the Authority for the purposes of the aerodrome, the Authority may terminate the lease as to the whole of the demised property or as to so much thereof as is required as aforesaid.

(4) No action shall lie in any Court for the payment of damages or compensation in respect of the termination of any lease under subsection (3) of this section except an action for the payment of compensation provide for in the lease in accordance with this section.

(5) Any lease under the provisions of this section may contain a provision requiring the Authority to pay to the lessee on the termination of the lease under subsection (3) of this section compensation for improvements effected by the lessee during the term of the lease.

(6) Compensation for improvements effected by the lessee shall be such amount as may be agreed upon between the parties or, failing agreement, be such amount as may be determined by arbitration under the Arbitration Act 1976 and this subsection shall be deemed to be a submission within the meaning of that Act.

(7) In the exercise of any of the powers conferred by this section, the Authority shall ensure that the granting of any lease, or the erection, alteration, or removal of any building, installation, equipment, or appurtenances under any lease, or the construction of any road or access-way shall not effect the safe and efficient operation of aircraft on or over the aerodrome and, in this respect, shall consult with and have regard to the directions of the Minister.

(8) The Authority shall not grant a lease for any term exceeding 5 years.

(9) For the purposes of this section "lease" includes any form of tenancy and a licence to occupy or use any land, premises, or installation.

21. Discontinuance of an aerodrome—(1) If in the opinion of the Authority, it is desirable that an aerodrome be permanently closed, it shall submit a report to the Minister.

(2) The Authority shall act in accordance with any directions given to it by Cabinet in relation to the closing of any aerodrome.

22. Liability of directors and employees— No director or officer or employee of the Authority shall be personally liable for any act done or omitted to be done in good faith in the exercise or performance of the functions, powers and duties of the Authority or for any debt or other liability lawfully incurred by the Authority.

23. Investment of funds— Any funds not immediately required for expenditure by the Authority may be invested on fixed deposit in any bank carrying on business in Western Samoa or in public securities.

24. Application of profits— As soon as reasonably practical after the close of each financial year, the Authority, having set aside such sums from profits as may be necessary or expedient to offset past losses or for the expansion or development or replacement of its assets or to create or increase reserves, shall transfer the balance of such profits to the Treasury for the benefit of the public revenue.

25. Accounts, audit, and annual report—(1) The Authority shall keep proper accounts and other records in relation to its business, and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Authority shall include separate trading and profit and loss accounts, and a balance sheet.

(3) The accounts of the Authority shall be audited by the Controller and Chief Auditor of the Government, who may engage or commission the services of another auditor to assist him or act on his behalf.

(4) The Authority shall prepare annual reports dealing with the operations of the Authority during the preceding year.

(5) Audited copies of the annual accounts and a copy of the report of the Authority shall be laid before the Legislative Assembly by the Minister within 28 days after the receipt of a copy by him if the Assembly is then in session, but, if not, within 28 days after the commencement of the next ensuing session.

26. Prohibition and control of access—(1) No person shall enter or remain within the precincts of any aerodrome or navigation installation in circumstances in which the safety of any aircraft or its passengers or crew or any member of the public is likely to be imperilled or the proper functioning of the aerodrome or navigation installation impeded.

(2) Every person who commits an offence under subsection (1) of this section shall be liable on conviction to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$2,000, or to both.

(3) No person shall trespass on any part of an aerodrome beyond the areas set aside for public use.

(4) No person shall trespass in any building or area in which are operated technical facilities or services for civil aviation.

(5) Any authorised person or member of the Police Service shall have the right to prohibit or control access to any aerodrome or to any portion thereof, or to any building or area used for providing technical facilities or services for civil aviation.

(6) Every person who commits an offence under subsections (3) or (4) of this section shall be liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$400, or both.

(7) Every person who commits an offence under this section and after having been warned that he commits the offence, persists in its commission, may be detained by an authorised person and in that case he shall as soon as may be practicable be delivered to a member of the Police Service.

(8) A member of the Police Service shall accept delivery of a person whom an authorised person seeks to deliver to him under this section if he has reasonable grounds to suspect that person of having committed an offence under this section.

(9) For the purposes of this section, "authorised person" means any person authorised in writing by the Authority to perform any functions or exercise any powers specified in this Act or in any regulation made thereunder.

27. Act to bind Western Samoa— This Act binds the Government.

28. Repeal and amendment—(1) Sections 43, 44 and 46 of the Civil Aviation Act 1963* are revoked.

(2) The Civil Aviation Act 1963* is amended by inserting after section 5 the following section:—

5A. "Administrator of Civil Aviation—(1) There shall from time to time be appointed under the Public Service Act 1977 an officer of the Public Service to be called the Administrator of Civil Aviation.

(2) The Administrator shall have and may exercise any of the powers, of the Minister which the Minister delegates to him under section 7 of this Act."

29. Regulations—(1) The Head of State, acting on the advice of Cabinet, may make such regulations as may be necessary or expedient for giving full effect to this Act and for the due administration thereof.

(2) Without limiting the general power conferred by subsection (1) of this section, regulations may be made for any of the following purposes:—

- (a) Protecting persons using an aerodrome from injury;
- (b) Protecting any property on or used in connection with an aerodrome from damage or injury;
- (c) Prohibiting or controlling access to an aerodrome, or any part thereof;
- (d) Regulating passenger and baggage screening, including, where necessary, the search of passengers, baggage, cargo, aircraft, aerodromes and navigation installations;
- (e) Regulating traffic, whether pedestrian or vehicular, and the provision and use of parking places for vehicles at the airport;
- (f) Prescribing charges for the use of parking spaces for vehicles;

- (g) Prescribing charges in respect of the commercial use of any part of an aerodrome, including charges for the delivery of goods to or from an aerodrome or the storage of goods or the provision of services and facilities at an aerodrome, in respect of which no charge is prescribed under the Civil Aviation Act 1963; and
- (h) Generally for the administration of any aerodrome, or for the control of trading activities thereon or for the management of any business ancillary thereto that may be carried on pursuant to this Act.

(3) Any regulations under this section may provide for the imposition of penalties not exceeding imprisonment for a term of 1 year or a fine of \$400, or both.

SCHEDULE

Section 12

Faleolo Airport

All that piece or parcel of land containing an area of eight acres three roods and five perches (8a. 3r. 05p.) more or less, situated at Faleolo in the District of Aana described as Parcel 408/97 Flur XV Upolu and being part of the land registered in Volume 10 Folio 34 of the Land Register of Western Samoa as the same is more particularly delineated on Plan 2691L deposited in the office of the Director of Lands, Apia.

All that piece or parcel of land containing an area of one hundred and eighty six acres (186a. Or. 00p.) more or less, situated at Faleolo in the District of Aana described as Parcel 407/97 Flur XV Upolu and being part of the Land registered in Volume 10 Folio 34 of the Land Register of Western Samoa as the same is more particularly delineated on Plan 2691L deposited in the office of the Director of Lands, Apia.

All that piece or parcel of land containing an area of one hundred and seventy nine acres and twenty seven perches (179a. Or. 27p.) more or less, situated at Faleolo in the District of Aana described as Parcel 538 Flur XV Upolu and being part of the Land registered in Volume 10 Folio 34 of the Land Register of Western Samoa as the same is more particularly delineated on Plan 3550L deposited in the office of the Director of Lands, Apia.

Asau Airport

All that or parcel of land containing an area of thirteen acres two roods and twenty perches (13a. 2r. 20p.) more or less, situated at Asau in the District of Vaisigano being Reclaimed Land described as Parcel 14 Flur IX Savaii as the same is more particularly delineated on Plan 3721L deposited in the office of the Director of Lands, Apia.