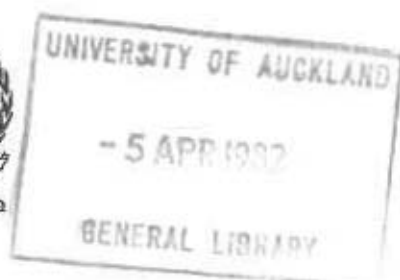




Western Samoa



Analysis

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AN ACT to establish the Monetary Board of Western Samoa, and to define its objectives, functions, and powers; and to establish a Monetary Analysis and Policy Division of the Treasury Department, and to define its functions and duties; and to provide for matters relating thereto.

[30 December 1974]

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

PART I

PRELIMINARY

1. **Short title**—This Act may be cited as the Monetary Board of Western Samoa Act 1974.

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

“Appointed member” means a member of the Board appointed under paragraph (c) of subsection (1) of section 3:

“Bank” means any person or body carrying on in Western Samoa the business of banking:

“Board” means the Monetary Board of Western Samoa established by section 3 of this Act:

“Chairman” means the Chairman of the Board:

“Financial institution” means a person or body who engages in Western Samoa in —

(a) The business of receiving funds from the public or any section or members of the public through the acceptance of repayable deposits of money; or

(b) Any similar operation through the sale or placement of bonds, certificates, rates, or other securities — and also in the use of such funds wholly or partly for advances, investments, or any other lawful operation for its own account and at its own risk:

“Minister” means the Minister of Finance:

“Monetary Division” means the Monetary Analysis and Policy Division of the Treasury Department, established by section 13:

“Secretary” means the Secretary of the Monetary Division.

PART II

THE MONETARY BOARD OF WESTERN SAMOA

3. Establishment of Board—(1) There is hereby established the Monetary Board of Western Samoa.

(2) The Board consists of the following members:

(a) The Minister, who shall be the Chairman:

(b) The Financial Secretary, who shall be the Deputy Chairman:

(c) The Secretary of the Monetary Division:

(d) The Director of the Department of Economic Development:

(e) Two other members to be appointed by the Head of State, acting on the advice of Cabinet, from persons of recognised standing and experience in business, financial, professional, or academic matters.

(3) The powers of the Board shall not be affected by any vacancy in its membership.

4. Terms of office of appointed members—(1) Every appointed member of the Board shall hold office for a period of 3 years from the date of his appointment, but may from time to time be reappointed.

(2) Subject to section 5, every appointed member shall continue to hold office (notwithstanding subsection (1)) until his successor comes into office.

5. Extraordinary vacancies—(1) An appointed member may at any time resign his office by notice in writing to the Board.

(2) The Head of State, acting on the advice of Cabinet, may remove an appointed member —

(a) For disability, neglect of duty, misconduct, or bankruptcy:

(b) If he is satisfied that the appointed member has left Western Samoa permanently:

(c) If the appointed member is absent from 3 consecutive meetings of the Board without the permission of the Board.

(3) If an appointed member dies, or resigns, or is removed from office, the vacancy occurring may be filled by an appointment made in the same manner as that of the member vacating office.

6. Remuneration of appointed members—Every appointed member shall be paid such remuneration and allowances as may from time to time be fixed by Cabinet.

7. Meetings of members—(1) Members of the Board shall be held at such times and places as the Chairman or the Board appoints.

(2) The Chairman shall call a meeting whenever required to do so in writing by any 2 members.

(3) At any meeting 4 members shall form a quorum.

(4) The Chairman shall preside at every meeting at which he is present.

(5) If the Chairman is for any reason absent from a meeting —

(a) The Deputy Chairman shall preside at that meeting if he is present; and

(b) If the Deputy Chairman is not present, the members present shall appoint one of their number to preside at that meeting.

(6) In the absence from a meeting of any member of the Board specified in paragraph (b), (c), or (d) of subsection (2) of section 3, that member may appoint any other senior officer of his Department to be his deputy at that meeting and a deputy so appointed shall while he attends the meeting be deemed for all purposes to be a member of the Board, except that he shall not preside at the meeting.

(7) At every meeting, the Chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes, he shall also have a casting vote.

(8) Every question arising at a meeting shall be decided by a majority of the votes recorded on the question.

(9) Subject to the other provisions of this Act, the Board may regulate its procedure in such manner as it thinks fit.

8. Disclosure of conflicting interest—(1) Any member who otherwise than as a member, is directly or indirectly interested in any business of the Board 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 Board and, except as otherwise provided by a resolution of the Board, the member shall not take part after the disclosure in any deliberation or decisions relating to the

business, but shall be counted as present for the purpose of forming a quorum of the Board for any such deliberation or decision.

PART III

OBJECTIVE AND FUNCTIONS OF THE MONETARY BOARD

9. Objectives of Board—The Board shall have the following general objectives:

- (a) To control and regulate the issue, supply, and availability of money in Western Samoa;
- (b) To promote and foster the internal and external monetary stability of Western Samoa;
- (c) To promote and foster a sound banking and financial structure for Western Samoa;
- (d) To promote and foster credit and exchange conditions that are conducive to the orderly and balanced economic development of Western Samoa.

10. Functions of Board—In pursuance of its objectives, the Board shall have the following general functions:

- (a) From time to time to formulate appropriate monetary and banking policies for Western Samoa, and to keep under review and, where necessary, modify or change such policies;
- (b) To license banking and financial institutions in Western Samoa.

11. Powers of Board—(1) The Board shall have all the powers that are reasonably necessary or expedient to enable it to achieve its objectives and perform its functions.

(2) Without limiting the generality of subsection (1), the Board may from time to time give to any banking or financial institution such directions or instructions, as are reasonably necessary to enable the Board to implement its policies.

12. Board to follow directions of Cabinet—In pursuing its objectives and performing its functions, the Board shall have due regard to the economic, monetary, and financial policy of Cabinet, and shall give effect to such policy as communicated to the Board from time to time in writing by the Minister.

PART IV**THE MONETARY ANALYSIS AND POLICY DIVISION OF
THE TREASURY DEPARTMENT**

13. Establishment of Monetary Division—There is hereby established, as a Division of the Treasury Department established by section 4 of the Public Monies Act 1964, the Monetary Analysis and Policy Division.

14. Functions of Monetary Division—The functions of the Monetary Division shall be to assist the Board in the pursuance of the Board's objectives and the performance of the Board's functions.

15. Secretary and staff of Monetary Division—(1) There shall from time to time be appointed as an officer of the Treasury Department a Secretary of the Monetary Division.

(2) The Secretary shall be the officer in charge of the Monetary Division and shall be responsible to the Financial Secretary for the conduct of the work of the Monetary Division.

(3) There shall from time to time be appointed as officers and employes of the Treasury Department, and assigned to the Monetary Division, such other persons as may be necessary for the proper performance of its functions and duties.

16. Duties of Monetary Division—(1) In pursuance of section 14 of this Act, the Monetary Division shall —

- (a) Undertake continuing studies of the economic, monetary, and financial situation in Western Samoa, with special reference to developments in the monetary and banking fields, for submission through the Financial Secretary to the Chairman;
- (b) Keep under review the legislation relating to or affecting banking and other financial institutions in Western Samoa to examine whether or not such legislation is appropriate or effective for the needs of the economy;
- (c) Keep under review the implementation by banking and financial institutions of legislation that applies to them;

- (d) Formulate recommendations for submission through the Financial Secretary to the Chairman for any changes in existing Government policies in the monetary and banking fields, or for the abandonment of any such policies, or for the adoption of any new policies:
 - (e) Make any necessary recommendations for submission through the Financial Secretary to the Chairman in matters relating to the issuance of licences to new banks or financial institutions, or for the renewal, suspension, or revocation of any licences:
 - (f) Perform any other duties assigned to it by the Chairman or by the Financial Secretary.
- (2) The Monetary Division shall also —
- (a) Keep under review all aspects of the following matters, and make appropriate recommendations through the Financial Secretary to the Chairman whenever necessary, on such matters:
 - (i) The overall money supply and bank credit, especially with respect to the appropriateness of their levels consistent with the needs of the economy;
 - (ii) Western Samoa's balance of payments, and foreign loans, grants, and investments;
 - (iii) The appropriate level and composition of Western Samoa's foreign exchange reserves; and
 - (iv) The operation of all existing legislation relating to exchange control, and the need for any changes in such legislation; and
 - (b) To keep under review and supervise, in accordance with the provisions of any international monetary agreements to which Western Samoa is a party or has adhered, the implementation by Government departments or agencies, and banks and financial institutions, the obligations undertaken by the Government of Western Samoa under such agreements, and through the Financial Secretary to keep the Chairman informed of and make recommendations to him on such matters.

17. Statistical information—(1) The Monetary Board may from time to time by notice in writing require any bank or financial institution to deliver to the Monetary Division within a time to be specified in the notice any statistical or order

information specified in the notice that is necessary to enable the Monetary Division to perform its functions and duties under this Act.

(2) No information delivered to the Monetary Division under this section shall be disclosed to any person who is not either a member of the Board or an officer or employee of the Treasury Department for the time being assigned to the Monetary Division, except insofar as the disclosure is necessary to carry this Act into effect.

(3) Any person who discloses to any other person any information that has been delivered to the Monetary Division under this section shall be guilty of an offence and be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$2,000, or to both, unless he proves —

- (a) That the disclosure was made pursuant to subsection (2) or was necessary to carry this Act into effect; or
- (b) That the bank or financial institution by whom the information was delivered consented or does consent to the disclosure.

PART V

ISSUE OF CURRENCY

18. **Monetary Board to control issue of currency**—The Monetary Board shall, subject to section 12, be the ultimate authority for the issue of currency notes and coins in Western Samoa.

19. **Issue of currency**—The Bank of Western Samoa shall continue to issue currency notes in accordance with the Bank of Western Samoa Ordinance 1959 and the Minister shall continue to perform and exercise his functions and powers relating to the making and issuing of coins under the Decimal Currency Act 1966; but in the performance and exercise of their respective functions under that Ordinance and that Act they shall comply with any directions given by the Board relating to the manufacture and characteristics of currency, the amount and composition of the assets to cover the currency liability, the issuing and re-issuing of currency, and the recovery of lost, stolen, mutilated or otherwise damaged currency.

PART VI

EXTERNAL RESERVES AND EXCHANGE CONTROL

20. Control of external reserves—The Board shall, subject to section 12, be the ultimate authority for the maintenance of the external reserves of Western Samoa, and shall use its best endeavours to ensure that those external reserves are maintained at a level that is adequate for the international transactions of Western Samoa; and for that purpose the Board may from time to time —

- (a) Give directions to any banks or financial institutions administering the external reserves of Western Samoa or impose any requirements on any such banks or financial institutions, as to —
 - (i) The administration of such reserves;
 - (ii) The conditions on which they may invest such reserves in foreign countries; or
 - (iii) The conditions on which they may engage in operations in gold or foreign exchange; or
- (b) Determine the rates at which such banks and financial institutions may buy, sell, or otherwise deal in gold and foreign currencies.

21. Revaluation reserve accounts—(1) Every bank or financial institution administering any external reserves of Western Samoa shall establish and maintain a Revaluation Reserve Account to which it shall credit or debit, as the case may be, every gain or loss arising from any change in the valuation of the foreign assets or liabilities held by it, as a result of —

- (a) Any alteration of the parity of the tālā; or
- (b) Any change in relation to the tālā, in the value, parity, or exchange rate of gold or of any foreign currency in which such assets or liabilities are denominated.

(2) Subject to subsection (1), the Board may from time to time specify any conditions on which operations or transactions in respect of the Revaluation Reserve Account of any bank or financial institution may take place.

22. Exchange control—(1) The Board may from time to time require any person (including a bank or financial institution) to surrender all foreign currency held by that person to the Bank of Western Samoa, and every other bank

or financial institution specified by the Board, to be converted into the equivalent amount of Western Samoa currency.

(2) The Bank of Western Samoa, and every other bank or financial institution designated by the Board under subsection (1) shall administer the foreign currency surrendered to them under that subsection in accordance with any conditions that the Board may from time to time impose.

PART VII

BANKS AND FINANCIAL INSTITUTIONS

23. Banks and financial institutions to be licenced—(1) No bank or financial institution shall carry on business as such in Western Samoa otherwise than in accordance with a licence issued by the Board under section 24 of this Act.

(2) This section shall not apply to any bank or institution established by an Act or Ordinance of the Legislative Assembly.

(3) This section shall not apply until the 1st day of January 1976 to any bank or institution that at the commencement of this Act is carrying on business as such in Western Samoa.

(4) No bank or financial institution that is for the time being licensed under section 24 shall require a licence under the Business Licences Ordinance 1960 in respect of the business to which the licence issued under section 24 of this Act relates.

24. Issue of licences—(1) On an application being made in the prescribed form to the Board, and on payment of such fee (if any) as is prescribed, the Board may issue a licence to any bank or financial institution to carry on business as such in Western Samoa, if the Board is satisfied that the issue of the licence to the applicant will be to the economic advantage of Western Samoa.

(2) Every licence shall expire with the 31st day of December in the calendar year in which it is issued; and shall be subject to such other conditions as the Board may specify in the licence.

25. Cancellation of licences—The Board may at any time after allowing the licensee the opportunity to be heard cancel a licence issued under section 24 or suspend the licence

for such period as the Board shall specify, if it is proved that the licensee has —

- (a) Committed an offence against this Act; or
- (b) Failed to comply with the conditions of its licence.

26. Appeals against cancellation—(1) Every bank or financial institution whose licence is cancelled or suspended under section 25 may appeal against the decision of the Board to the Supreme Court.

(2) On hearing the appeal, the Supreme Court may confirm or reverse or vary the decision of the Board.

27. Audits—(1) The Board may require any bank or financial institution to have its accounts audited comprehensively at least once each year by a competent auditor approved for the purpose by the Board.

(2) The Board may require any bank or financial institution to submit to the Board the report of the auditor under subsection (1) in respect of the bank or financial institution.

PART VIII

GENERAL PROVISIONS

28. Reports to Cabinet and Parliament—(1) The Board shall prepare and submit to Cabinet —

- (a) Four reports each year, relating to the periods ending with 31 March, 30 June, 30 September, and 31 December respectively in that year, and dealing with the Board's operations and the economic, monetary and financial situation prevailing in Western Samoa in each of those periods respectively; and
- (b) A report, for every year ending with 31 December, dealing with the Board's operations and the economic, monetary, and financial situation prevailing in Western Samoa for that year.

(2) The reports referred to in subsection (1) shall be submitted to Cabinet within 28 days after the end of the periods to which they respectively relate.

(3) The Minister of Finance shall lay copies of the reports referred to in subsection (1) before the Legislative Assembly within 28 days after they have been respectively submitted to Cabinet, if the Legislative Assembly is then in session, or if it is not, then within 28 days after the commencement of the next ensuing session.

(4) Whenever Cabinet instructs the Board to do so, or whenever the Board itself considers it desirable to do so, the Board shall prepare and submit to Cabinet a report on any other matter within the ambit of the Board's operations.

29. Regulations—The Head of State, acting on the advice of Cabinet, may from time to time make regulations for all or any of the following purposes:

- (a) Prescribing forms to be used for the purposes of this Act;
- (b) Prescribing fees payable for the issue of licences under this Act, and providing for the disposal of fees so received;
- (c) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

30. Offences—(1) Every person (including a bank or financial institution) commits an offence against this Act who contravenes or fails to comply with any direction or instruction given to him or it, or with any requirement or condition imposed on or in relation to him or it, by the Monetary Board pursuant to the provisions of this Act.

(2) Every bank or financial institution that —

- (a) Carries on business as such in contravention of section 23, or while its licence is suspended under section 25 or
- (b) Being the holder of a licence issued under section 24 of this Act, contravenes or fails to comply with the conditions (if any) specified in the licence commits an offence against this Act.

(3) Every person who commits an offence against this Act, for which no other penalty is provided by this Act, is liable on conviction to imprisonment for a term not exceeding 6 months; or to a fine not exceeding \$5,000 and if the offence is a continuing one to a further fine not exceeding \$500 for each day on which the offence has continued.

31. Mode of exercise of Board's powers—(1) Without limiting any other way by which the Board may exercise its powers under this Act, the Board may give a direction or instruction to any person (including a bank or financial institution), or impose a requirement or condition on or in relation any such person —