



SAMOA

WORLD BANK LOANS ACT 1974

Arrangement of Provisions

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WORLD BANK LOANS ACT 1974

1974

No.4

AN ACT to provide for the raising of loans and credits from the international bank for reconstruction and development and the international development association and for related matters.

[Assent and commencement date: 28 August 1974]

1. Short title – This Act may be cited as the World Bank Loans Act 1974.

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

“Association” means the International Development Association;

“Bank” means the International Development for Reconstruction and Development;

“enactment” includes an Act, Ordinance, Order, Proclamation, notice, rule, and regulation in force in Samoa, whether enacted or made in Samoa or in New Zealand, and a provision thereof;

“Government” means the Government of Samoa;
“Minister” means the Minister responsible for Finance;
“Legislative Assembly” means the Legislative Assembly of Samoa.

3. Authority to borrow from the Bank and the Association

– (1) Despite anything contained in the Public Finance Management Act 2001, or in any other enactment, Samoa may in such manner and on such terms and subject to such conditions as may be agreed between the Government and the Bank, or between the Government and the Association, borrow from the Bank or the Association such sums as may be required by Samoa.

(2) Any sums borrowed by Samoa under the powers conferred by subsection (1) for the requirements of Samoa are to be paid into such special fund as may be designated by the Minister, and expended only for the purposes for which they are borrowed as specified in the relevant agreement concluded between Samoa and the Bank or between Samoa and the Association, and all such expenditures are to be charged on and be made from the fund designated by the Minister and are statutory expenditure.

(3) An agreement between Samoa and the Bank or Samoa and the Association in respect of any sums borrowed under the powers conferred by subsection (1) is to be made in the name of Samoa and may be signed on behalf of Samoa by the Minister or by a person authorised in writing by the Minister for the purpose.

(4) The Minister shall submit to the Legislative Assembly a report on each loan or development credit as soon as possible after the relevant agreement has been signed on behalf of Samoa.

(5) Nothing in this section affects or derogates from any other power to borrow money possessed by the Government.

4. Power to issue instruments, including bonds – (1)

Despite anything contained in any enactment, the Government may issue bonds, promissory notes, or other instruments, on such terms and conditions as may be necessary, for the purpose of giving effect to the terms of an agreement which may be entered into by Samoa with the Bank for a borrowing authorised by section 3(1).

(2) The bond, promissory note, or other instrument may be signed on behalf of the Government by the Minister or by any other person authorised in writing for the purpose by the Minister.

(3) Despite the Public Finance Management Act 2001, it is not necessary to issue or register stock for a loan from the bank, nor to set aside or pay an amount in any half year during the currency of such loan as a contribution to the National Loans Sinking Fund.

5. Repayment of principal and payment of interest – All principal, interest, and other money or charges repayable or payable in respect of sums borrowed by Samoa from the Bank or from the Association are declared to be a charge on the public revenues of Samoa, and on the Treasury Fund, or on such other fund or account as the Minister may decide, and to be statutory expenditure, and to be payable out of any such fund or account at the time or times provided for in any agreement concluded with the Bank or the Association in respect of the sums so borrowed.

6. Implementation of obligations under agreements – (1) Despite anything contained in any other enactment, an agreement concluded between Samoa and the Bank or between Samoa and the Association in respect of sums borrowed by Samoa from the Bank or from the Association, and a bond, promissory note, or other instrument issued under any such agreement, shall be valid and enforceable and have full force and effect in Samoa in accordance with its terms.

(2) Without prejudice to subsection (1):

- (a) no stamp duty or tax or duty is payable on such agreement or on a bond, promissory note, or other instrument issued under any such agreement;
- (b) the principal of the loan or development credit obtained and the bonds issued hereunder is repayable and the interest and other money and charges thereon is payable without deduction for and free from liability for income tax or any other tax, and free from any currency or exchange control restrictions.

(3) The Public Finance Management Act 2001 does not apply to a borrowing by Samoa from the Bank or from the Association under this Act.

(4) The Government shall not, except as may be otherwise agreed between the Minister and the Bank or between the Minister and the Association, create a lien on any of the assets of Samoa as security for an external debt unless it is expressly provided that such lien will ipso facto equally and rateably, and at no cost to the

Bank secure the payment of the principal, interest, and other money and charges on a loan made by the Bank or on any bonds, promissory notes, or instruments issued pursuant to any such loan by the Government:

PROVIDED THAT:

- (a) any lien created on property at the time of purchase thereof, solely as security for the payment of the purchase price of such property; and
- (b) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than 1 year after its date,—

is excluded from this subsection.

(5) In subsection (4), “lien” includes mortgages, pledges, charges, privileges, and priorities of any kind; and “external debt” means a debt payable in a medium other than currency that at the time in question is legal tender for the payment of a private or public debt in Samoa, whether such debt is payable absolutely or at the option of the creditor in such other medium.

7. Arbitration – If a dispute between the Bank or the Association on the one part and Samoa on the other part arises under an agreement concluded in the exercise of the powers conferred by this Act or under a bond, promissory note, or instrument issued under any such agreement, it is to be determined by arbitration in the manner provided for in the General Conditions applicable to the Loan Agreement or Development Credit Agreement that is the subject of the dispute, despite any other law to the contrary.

REVISION NOTES 2008 – 2020/3 March 2021

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

This Act 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) Amendments have been made to up-date references to offices, officers and statutes. (e.g. Reference to *Financial Powers Act 1964* replaced

with reference to *Public Finance Management Act 2001* and reference to the Minister generalised by making reference to the Minister responsible for Finance.)

- (c) Insertion of the commencement date
- (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”
 - “hereby” and “from time to time” removed
 - (iii) Removal/replacement of obsolete and archaic terms with plain language
 - “notwithstanding” changed to “despite”
 - “pursuant to” and “in accordance with” changed to “under”
 - (iv) Removal of superfluous terms: “the provisions of” and “the generality of”

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

*This Act is administered
by the Ministry of Finance.*