SAMOA

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SCHEDULES

2001, No. 10

An Act:

(a) To foster and enhance effective and responsible economic and financial management by Government, including adherence to policy; and

(b) To provide accompanying accountability arrangements together with compliance with those arrangements; and

(c) To require the Government to produce:

(i) statements of proposed policy; and

(ii) confirmation of adherence to fiscal discipline; and

(iii) economic and fiscal statements, including economic and fiscal forecasts and updates; and

(iv) management information, including comprehensive financial statements.

[6th September 2001]

PART I
PRELIMINARY

1. Short title and commencement–(1) This Act may be cited as the Public Finance Management Act 2001.

(2) This Act shall come into force on the day nominated by the Minister.

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

"accountable officer" means the following persons, who shall be responsible to the Financial Secretary in the manner laid down in this Act -

(a) Every head of department or person appointed to act in the post of head of department; and

(b) Every person who is required to render an account under this or any other Act for any public moneys; and

(c) Every person who by any Act, regulation, Treasury Instruction or Operating Manual or by virtue of any appointment, is charged with the duty of collecting, receiving or disbursing any public money or trust money or who actually does receive or disburse any public money or trust money; and

(d) Every person who is charged with the purchase, receipt, custody or disposal of, or the accounting for, any public money or public property;

"Act" includes Ordinance:

"Audit Office" means the Office of the Controller and Chief Auditor appointed under Article 97 (Controller and Chief Auditor) of the Constitution, and includes any person for the time being authorised to exercise or perform any of the powers, duties or functions of the Controller and Chief Auditor:

"bank" means:

(a) A financial institution whose operations include the acceptance of deposits subject to withdrawal or transfer by cheque or other means of third party transfer; and

(b) Any financial institution in Samoa or overseas in which any public money is deposited or kept in accordance with the provisions of this Act, and includes for the avoidance of doubt the International Monetary Fund and the Crown Agents for Overseas Governments and Administrations of the United Kingdom:

"Cabinet" means the Cabinet of Ministers appointed in accordance with Article 32 (Cabinet) of the Constitution:

"chief executive" means the person appointed as the chief executive (however called) of a public body and includes a person appointed as the acting chief executive of a public body:

"Constitution" means the Constitution of the Independent State of Samoa:

"department" means a department or ministry of the Public Service of Samoa or Government agency and for the purposes of this Act includes any office of the Legislative Assembly:

"Deputy Financial Secretary" means a person appointed under section 11 (Deputy Financial Secretaries):

"Estimates" means the statements of the proposed public revenues and expenditure during any financial year, as presented to the Legislative Assembly:

"expenditure" means the actual payment of moneys by Government, whether requited or unrequited and whether for current or capital transactions:

"financial institution" means any person doing banking business and includes all offices and branches of any such person:

"Financial Secretary" means the Financial Secretary appointed under section 8 (The Financial Secretary):

"financial statements" means the financial statements required under Part XIV (Financial reporting) and Schedule 5 (Form and content of financial statements):

"financial year" means:

(a) In relation to the Government and Government financial statements a period of twelve months ending on 30th June; and

(b) In relation to a public body, the body's annual accounting period.

"General Revenue Fund" means the General Revenue Fund established by section 43 (The General Revenue Fund):

"generally accepted accounting principles and practice" means:

(a) Standards and practices approved by the International Federation of Accountants as applicable to Governments and public bodies; or

(b) If no standard or practice exists then accounting principles or practices which have the authoritative support of the accounting profession in Samoa or countries that maintain accounts and records and prepare financial statements similar to the Government of Samoa and its public bodies.

"GFS" means Government Finance Statistics, as defined from time to time by the International Monetary Fund for the presentation of Government financial statements:

"Government" means the executive Government of Samoa established under Part IV (The Executive) of the Constitution:

"Government agency" or "agency" means an office, entity or instrument of the Government other than a department, ministry, public body or a Minister:

"grants" means:

(a) Non-repayable receipts from other Governments and international institutions; or

(b) Non-payable payments made by the Government to other institutions or individuals.

"head of department" means the person appointed as head (however called) of a department and includes a person appointed as the acting head of a department:

"imprestee" means a person in whose hands any public money is placed for expenditure:

"internal control" means the methods adopted within Government:

(a) To safeguard its assets; and
(b) To check the accuracy and reliability of its accounting information; and
(c) To secure compliance with the prescribed requirements that apply to Government activities;

"Legislative Assembly" or "Assembly" means the Legislative Assembly established under Part V (Parliament) of the Constitution:

"Minister" means the Minister of Finance:

"moneys" includes:
(a) Negotiable instruments; and
(b) Securities of any kind for the payment of moneys.

"officer" includes an officer, a contract officer and an employee of the Public Service:

"Operating Manual" means a document setting out detailed working instructions on any matter relating to Treasury operations, issued by the Financial Secretary under section 127 (Treasury Instructions and Operating Manuals):

"outcomes" means the impacts or consequences for the community of the outputs or activities of Government or the results of the outputs produced:

"outputs" means the goods and services that are produced by a department or other person or body:

"penalty unit" means the pecuniary value of fines per unit as fixed under the Fines (Review and Amendment) Act 1998:

"person" includes a body corporate:

"personal emoluments" includes salaries, wages, fees, contract payments for the provision of personal services, and allowances, but does not include any payment in the nature of reimbursement for expenses incurred:

"public body" means an organisation (whether called a state-owned enterprise or otherwise under any other Act) that is listed in schedule 4 or is deemed to be a public body under section 91 (Application of this Part) and shall include a subsidiary of a Public Body; and

"public debt" means all liabilities of the State but does not include liability where the State is trustee for another person, or the liabilities of any public body:

"public interest" means something that is to the advantage, direct or indirect, of the people of Samoa:

"public money" means all money other than trust money received by the Government, including all revenues, grants, loans and other moneys, and all bonds, debentures, and any other securities received by, or on account of, or payable to, or belonging to, or deposited with the Government or any department by:

(a) Any officer of Government in his capacity as such; or

(b) Any person on behalf of Government.

"public property" means real or personal property that belongs to or is owned or held by the State:

"public securities" means securities representing the investment, or securing the payment, of any public money:

"records" means information recorded and kept by any means and includes all books, accounts, rolls, files, vouchers, receipts, cheques, records, registers, papers, documents, photographic plates, microfilms, photostatic negatives, prints, tapes, disks, computer reels, diskettes and hard disk, perforated rolls, and any other type of written, printed, copied, magnetic tape, electronic data record or other information whatsoever, and also includes all papers and other records relating to accounting operations and practice or information recorded and kept by any means:

"Responsible Minister" means:

(a) In relation to a department, the Minister for the time being appointed to be Minister for that department and thus responsible for the performance (financial or otherwise) of the department; and

(b) In relation to an office of the Legislative Assembly, the Speaker; and

(c) In relation to a public body, the Minister for the time being appointed to be responsible for that public body.

"revenue" means all non-repayable Government receipts;

"special purpose account" means a special purpose account established under section 56 (Establishment of special purpose accounts):

"Special Purpose Fund" means the Special Purpose Fund established under section 55 (Establishment of Special Purpose Fund):

"State" means the Independent State of Samoa, established by the Constitution:

"statutory expenditure" means:

(a) Expenditure which is not subject to the vote of the Legislative Assembly; and

(b) Expenditure charged on the Treasury Fund under the provisions of the Constitution or charged on the Treasury Fund or any other public fund or account by any other Act in which it is expressly stated to be statutory expenditure.

"sub-output" means a category, part or division of an output:

"Tenders Board" means the Government Tenders Board established by section 88 (Government Tenders Board):

"third party outputs" means grants, subsidies or other non-repayable payments to persons (other than departments) who provide outputs on behalf of Government:

"this Act" means the provisions of this Act including the Schedules, and any regulations, Treasury Instructions or Operating Manuals made thereunder:

"trading revenue" means cash receipts derived from the production of a department's outputs and received from another department or person but does not include:

(i) monetary transfers between outputs or sub-outputs of the same department; or

(ii) revenue derived from taxation, fees, licences or grants; or

(iii) income provided by appropriation;

"transactions on behalf of the State" means the categories of appropriations listed in section 25 (2) (c), (d) and (e) (Appropriation required):

"Treasury" means Treasury established under section 3 (Treasury):

"Treasury Instructions" means Treasury Instructions issued under section 127 (Treasury Instructions and Operating Manuals):

"trust account" means a trust account established under section 61 (Establishment of Trust Fund and trust accounts):

"Trust Fund" means the Trust Fund established under section 61 (Establishment of Trust Fund and trust accounts):

"unclaimed money" means unclaimed money to which Part X (Unclaimed money) applies:

"vote" means a sum of money authorised to be spent under section 25(2) (Appropriation required).

(2) Where a word or phrase is underlined, the word or phrase so underlined is a defined term under subsection (1).

(3) Where there is a cross-reference to an Article, Part, section or Schedule, the words in the brackets following that cross-reference is the title heading of the cross-referenced Article, Part, section or Schedule.

PART II
RESPONSIBILITY FOR FINANCIAL MANAGEMENT

3. Treasury – There is established a department to be called Treasury.

4. General responsibilities of the Minister–(1) The Minister is responsible to Cabinet and to the Legislative Assembly for Treasury and for:

(a) The preparation and presentation of financial and economic policy in accordance with this Act; and

(b) Ensuring adequate guidelines exist for the use of public money and public property; and

(c) The compliance by Treasury with its responsibilities under this Act.

(2) When submitting the Estimates to Cabinet the Minister shall provide:

(a) Detailed assessment of the economic and financial impact of the receipts and expenditure estimates in relation to the budget statement required under section 18 (Budget address); and

(b) Where appropriate, details of options to change the Estimates including details of possible changes in Government programme policy objectives or outputs to make them compatible with the budget address.

5. Specific responsibilities of the Minister – The Minister is responsible for:

(a) The preparation of plans for the economic development of Samoa, and for the financial management of ongoing operational activities, both annually and for such longer periods as he considers appropriate, specifying outcomes and outputs to be achieved, and taking into account the views of such committees of Cabinet, of the Public Service and the private sector of the economy as seem to him appropriate; and

(b) Coordination of the activities of all departments, public bodies, districts, villages and persons so far as they are engaged in implementing individual development projects and other aspects of economic plans approved by the Legislative Assembly; and

(c) Periodic appraisal of the efficiency with which individual projects;

(d) And other aspects of economic plans approved by the Legislative Assembly, as well as ongoing activities, are being implemented; and

(e) Publication, by whatever means he considers appropriate, of information as to economic plans and projects approved by the Legislative Assembly, and the progress made in their implementation; and

(f) The formulation of the annual Estimates and such other Estimates as may be necessary and overseeing their implementation on behalf of the Government; and

(g) The supervision of the finances, assets and liabilities of the State so as to ensure that a full accounting is made to the Legislative Assembly of all transactions involving public moneys or the disposition of public property; and

(h) The supervision of the finances of public bodies, in accordance with Part XIII (Public bodies).

6. Minister may delegate powers–(1) Subject to subsection (2), the Minister may from time to time in writing either generally or particularly, delegate to the Financial Secretary as he thinks fit all or any of the powers or duties exercisable by him under this or any other Act, including any powers delegated to him under any other Act, including this present power of delegation.

(2) The Minister shall not delegate any power or duty under subsection (1) where in this Act or any other Act or regulation, the Act, or regulation, as the case may be, prohibits the power of delegation.

7. General responsibilities of Responsible Ministers–(1) Each Responsible Minister is responsible to Cabinet and the Legislative Assembly for ensuring that the head of a department coming within the area of the Responsible Minister's assigned

responsibilities complies with his responsibilities under this Act for the efficient and cost-effective financial management of all public money under his control.

(2) Each Responsible Minister shall ensure that all estimates of receipts and expenditure provided from entities that comprise the Responsible Minister's assigned responsibilities are realistic, practicable and fully consistent with the Government's budget statement published under section 18 (Budget address).

(3) Each Responsible Minister shall ensure that the financial management of the public money and resources which are allocated to the Minister's assigned responsibilities in an Appropriation Act achieves the objectives and outputs approved for each vote.

(4) Each Responsible Minister shall ensure compliance with all reporting responsibilities coming within his assigned area of responsibility under this Act.

(5) The responsibilities of each Responsible Minister under this section shall be interpreted in accordance with the responsibility of each Responsible Minister to the Prime Minister and Cabinet under the provisions of the Constitution.

(6) Nothing in this section shall be interpreted or applied so as to make a Responsible Minister personally liable for any act or omission in the carrying out of any duty, power or obligation under this Act save for any offence provided for under this Act.

8. The Financial Secretary–(1) There shall be appointed a Financial Secretary who shall be the administrative head of Treasury, with responsibility for administration of this Act, and who shall be the principal financial adviser to the Government.

(2) The Financial Secretary shall report and is responsible to the Minister for compliance by Treasury with its obligations under this Act.

9. Specific responsibilities of the Financial Secretary – In addition to the responsibilities of heads of departments set out in section 13 (Responsibilities of heads of departments) (with the necessary modifications to paragraphs (k) and (o) in subsection (1)), the Financial Secretary is responsible for:

(a) Providing financial and economic advice and preparing the Estimates, supplementary estimates and periodic and annual financial statements for Government; and

(b) Setting accounting policies, practices and procedures for all financial management practices and information required by this Act in accordance with generally accepted accounting principles and practice; and

(c) Operating the accounting systems for Government; and

(d) Coordinating and supervising and, where appropriate, effecting the purchase, receipt, custody, distribution, use, disposal, and inter-departmental transfer of public property; and

(e) Coordinating and monitoring systems of financial management, internal control and reporting in all Government departments; and

(f) Exercising and maintaining control and direction of all matters relating to the financial management of the State in accordance with Government policy as communicated by the Minister.

10. Financial Secretary may delegate powers–(1) The Financial Secretary may from time to time in writing either generally or particularly, delegate to such officer or officers of Treasury or other departments as he thinks fit all or any of the powers or duties exercisable by him under this or any other Act, including the powers delegated to him under this or any other Act, including this present power of delegation.

(2) The Financial Secretary shall not delegate any power or duty under subsection (1) where in this Act or any other Act or regulation, the Act or regulation, as the case may be, prohibits the power of delegation.

11. Deputy Financial Secretaries–(1) There may be appointed Deputy Financial Secretaries who shall exercise such delegated powers, duties and functions as the Financial Secretary may determine.

(2) A Deputy Financial Secretary may be appointed to act in the position of Financial Secretary:

(a) By the Minister, in the case of a vacancy in the office (whether by reason of death, resignation or otherwise), for so long as any such vacancy occurs; or

(b) By the Financial Secretary, in the case of the absence of the Financial Secretary from duty or absence from Samoa for so long as such absence continues.

12. Appointment of other officers and employees – There may be appointed under the Public Service Act 1977 and within the funding provided in an Appropriation Act, such other officers of Treasury as may be necessary to achieve its designated outputs.

13. Responsibilities of heads of departments–(1) Subject to the Constitution and this Act and in so far as each head of department has the authority and legal capacity to do so each head of department is responsible to his Responsible Minister for putting systems in place designed to ensure that in relation to his department:

(a) Advice on financial management is provided to the Responsible Minister; and

(b) All accounts and records relating to the functions and operations of the department are properly maintained; and

(c) All necessary precautions are taken to safeguard the collection and custody of public moneys; and

(d) All expenditure, including salaries and other personal emoluments, is properly authorised and applied to the purposes for which it is appropriated; and

(e) There is no over-expenditure or over-commitment of funds and a review is undertaken each month to ensure that there is no such over-expenditure or over-commitment; and

(f) The collection of public moneys is according to approved plans and Estimates; and

(g) All expenditure is incurred with due regard to economy, efficiency and effectiveness and the avoidance of waste; and

(h) All necessary precautions are taken to safeguard public property; and

(i) Any tax, duty, fee or charge imposed by legislation for which the department is responsible is collected promptly and to the fullest extent; and

(j) Any tax, duty, fee or charge imposed by legislation for which the department is responsible is reviewed and reported on to the National Review Board in the format specified in Treasury Instructions at least once in each year in order to establish:

(i) whether the level of such tax, duty, fee or charge is adequate; and

(ii) whether such tax, duty, fee or charge should be varied and, if so, by what amount; and

(k) Any charge intended to be made under section 27 (Charge for supply of goods or services) is first approved by the National Revenue Board; and

(l) Information required by the Public Accounts Committee is submitted to that Committee accurately and promptly; and

(m) Estimates and forecasts in respect of collection and expenditure of public moneys are prepared in the format specified in Treasury Instructions or Operating Manuals; and

(n) After the first six months of each financial year and at such other times as required by the Financial Secretary he submits reports, as specified in Treasury Instructions, on the management of funds provided for the achievement of the Department's outputs and the collection of revenues; and

(o) An effective system of internal control is developed and maintained and, unless the Financial Secretary approves otherwise in circumstances provided for in Treasury Instructions, an effective internal audit function is developed and maintained; and

(p) All accountable officers of the department are aware of their duties and responsibilities under this Act and any other Acts for which the department is responsible.

(2) The responsibility of a head of department under subsection (1) is not derogated or reduced by reason of any delegation of functions by him to another person.

(3) Responsibilities other than those listed in subsection (1) may be conferred or imposed on a head of department by this or any other Act or by other lawful process.

(4) A head of department is liable to imposition of surcharge or levy of penalty for an offence under Part XV (Surcharge, offences and discipline).

14. Access to information and removal of authority to deal with public moneys etc.–(1) The Financial Secretary has power to obtain full and free access at all times to all accounts and records of accountable officers that relate, directly or indirectly, to:

(a) The collection, receipt, expenditure, issue or use of public money; and

(b) The receipt, custody, disposal, issue or use of public property,

and to inspect and inquire into and call for any information arising from those accounts and records; and

(2) In the exercise of his powers under this section, the Financial Secretary may appoint any person by writing under his hand to inquire into and report to him on any matter or matters specified in the instrument of appointment.

(3) (a) Where as a result of any information coming to the attention of the Financial Secretary, the Financial Secretary becomes concerned that public moneys or trust money or public property is at risk through the actions or omissions to act of an accountable officer the Financial Secretary may by notice in writing addressed to the accountable officer suspend the authority of that accountable officer to exercise any power, duty or authority under the Act pending an investigation.

(b) Where the Financial Secretary issues a notice pursuant to subsection (3)(a) the Financial Secretary shall conduct an inquiry forthwith into the actions or omissions to act of the accountable officer and where as a result of such investigation the Financial Secretary forms the view, on reasonable grounds, that public moneys or trust money or public property is at risk if the authority under this Act of the accountable officer is restored the Financial Secretary shall immediately give notice in writing to the accountable officer that his authority under the Act to deal with public moneys, trust money and public property is removed. Such notice shall provide the accountable officer with the reasons for the Financial Secretary's decision;

(c) Where as a result of an inquiry the Financial Secretary forms the view that public moneys or trust money or public property is not at risk the Financial Secretary shall immediately restore the authority under this Act of the accountable officer and shall provide the accountable officer with notice in writing to this effect;

(d) Where the Financial Secretary gives a notice and reasons to an accountable officer under subsection (3)(b) the Financial Secretary shall forward a copy of the notice and reasons to the accountable officer's head of department and to the Secretary of the Public Service Commission.

PART III
FISCAL RESPONSIBILITY

15. Principles of responsible fiscal management–(1) Subject to subsection (4), the Government shall pursue its policy objectives in accordance with the principles of responsible fiscal management specified in subsection (2).

(2) The principles of responsible fiscal management are:

(a) Managing total State debt at prudent levels so as to provide a buffer against factors that may impact adversely on the level of total State debt in the future; and

(b) Ensuring that within any borrowing programme the total overall expenditures of the State in each financial year are not more than its total overall receipts (inclusive of borrowings) in the same financial year; and

(c) Achieving and maintaining levels of the State's net worth that provide a buffer against factors that may impact adversely on the State's net worth in the future; and

(d) Managing prudently the fiscal risks facing the State; and

(e) Pursuing policies that are consistent with a reasonable degree of predictability about the level and stability of tax rates for future years; and

(f) Agreement of Government on the fiscal limits that will apply to the current and future expenditure on departments and Government projects.

(3) The Government may depart from the principles of responsible fiscal management specified in subsection (2) only in cases of exceptional circumstances, and when the Government does so:

(a) Any such departure must be temporary; and

(b) The Minister shall specify:

(i) the detailed reasons for the Government's departure from those principles including justification of those exceptional circumstances; and

(ii) the approach the Government intends to take to return to those principles; and

(iii) the period of time that the Government expects to take to return to those principles.

(4) Should any such circumstances arise which force a departure from those principles during the financial year, these must be disclosed to the Legislative Assembly forthwith if the Assembly is then in session, and, if not, at the commencement of the next ensuing session, and also included in the next ensuing economic and fiscal update.

PART IV
ECONOMIC, FINANCIAL AND FISCAL POLICY

16. Generally accepted accounting principles and practice – Financial reports, financial statements, associated information and accounting procedures required by this Act shall be in accordance with generally accepted accounting principles and practice.

17. Statement of economic strategy–(1) The Minister shall publish a statement of economic strategy no later than 31 May of the year that that statement becomes effective. The statement of economic strategy shall include the:

(a) National vision; and

(b) Short to medium term overall policy directions and objectives; and

(c) Priority areas for development; and

(d) Fiscal strategy; and

(e) Broad strategies that the Government will pursue to achieve the stated vision.

(2) The statement of economic strategy shall also:

(a) Review and assess the extent to which the policy objectives, priorities, and strategies outlined in subsection (1) are consistent with the requirement to produce a fiscally responsible budget under section 15(2)(b) (Principles of responsible financial management); and

(b) Assess the consistency of the policy objectives, priorities, and strategies outlined in subsection (1) with the policy objectives, priorities, and strategies indicated in the immediately preceding statement of economic strategy, or, if amended, the amended statement and, where these are not consistent, justify the difference.

(3) Any member of the public may, within 28 days of the statement of economic strategy being published, deliver in writing to the office of the Minister any submission that that person may have in respect of that statement.

18. Budget address–(1) The Minister shall lay before the Legislative Assembly, with the Estimates required under Article 94 (Appropriation of expenditure) of the Constitution, a written budget address.

(2) The budget address shall include:

(a) A budget statement, which shall include such supporting financial, statistical, output performance and other information, data and

recommendations as the Minister may determine are in the public interest and consistent with the principles of fiscal responsibility set out in section 15 (Principles of responsible fiscal management); and

(b) A statement, providing a projection of expenditures for each category of outputs for the ensuing financial year and the 2 years following that financial year including -

(i) the details of the estimated revenue of the Government; and

(ii) the details of the estimated expenditures for each department; and

(iii) the Government's debt management responsibilities and, where applicable, the details of a financial plan to meet those responsibilities; and

(iv) a statement that the annual budget is fiscally responsible in accordance with the principles set out in section 15 (Principles of responsible fiscal management).

19. Fiscal strategy–(1) The Minister shall submit to the Legislative Assembly, as part of the budget address a statement on the Government's fiscal strategy.

(2) The statement on the fiscal strategy shall:

(a) Include an assessment of the extent to which the budget statement is consistent with the statement of economic strategy required under section 17 (Statement of economic strategy); and

(b) Include an explanation of the reasons for any significant differences between the current economic and financial situation of the State and the information and intentions presented in the previous economic and fiscal policy statement required under section 17 (Statement of economic strategy); and

(c) Where the circumstances have changed, present an amended set of intentions; and

(d) Provide projections of movements in the variables specified in sections 21 (Economic and fiscal data) and 22 (Reporting requirements) which demonstrate intended progress towards achieving the longer-term objectives specified in the economic and fiscal policy statement most recently published and state the significant assumptions on which the projections are based.

20. Statement of economic strategy update–(1) The Minister shall, no later than half way through the period covered by a statement of economic strategy publish a report updating the statement of economic strategy for the ensuing period covered by the statement of economic strategy.

(2) The statement of economic strategy update report shall contain:

(a) A review of economic performance of the current period covered by the statement and a macroeconomic framework and forecasts for the following period covered by the statement; and

(b) A statement of the date on which the contents were finalised confirming that the data used was the most recent available.

21. Economic and fiscal data–(1) Economic reports required under this Part shall include, where available, forecasts of projected movements in Samoa of:

(a) Gross domestic product, including the major components of gross domestic product; and

(b) Consumer prices; and

(c) Employment levels; and

(d) Balance of payments; and

(e) Such other information deemed necessary by the Minister to provide a comprehensive economic forecast.

(2) Fiscal forecasts required under this Act shall include:

(a) Forecast information with respect to the statements required under section 22 (Reporting requirements); and

(b) Forecast information with respect to the current year statement of economic strategy update and comparative budgeted and actual (where available) or provisional (where not) figures for the immediately preceding financial year; and

(c) Details of fiscal risks and, where they cannot be quantified, a statement of possible impacts.

(3) Economic forecasts shall include a statement of all significant assumptions underlying them.

(4) Where information to be included in reports and statements under this section is not available the Minister shall provide in the report or statement required the reason why the information is not available.

22. Reporting requirements–(1) Any forecast or statement required under this Part shall include, where available, details of:

(a) The total trading revenues; and

(b) All other revenue; and

(c) The total grants or subsidies; and

(d) The total operating expenditures; and

(e) All other expenditures; and

(f) The difference between all expenditure and all revenue; and

(g) The level of total debt; and

(h) The level of asset values, including a statement of Government policy for the maintenance of asset values.

(2) Where information to be included in reports and statements under this section is not available the Minister shall provide in the report or statement required the reasons why the information is not available.

PART V
BUDGETS AND APPROPRIATIONS

23. Estimates–(1) The Minister shall lay before the Legislative Assembly in accordance with Article 94 (Appropriation of expenditure) of the Constitution and this Act a statement of the estimated receipts, grants, all other revenue and expenditure for the forthcoming financial year.

(2) Details of statutory expenditure, as defined in Article 94(4) (Appropriation of expenditure) of the Constitution, shall be included in the Estimates in order to present the total expenditure proposed in the Government's programmes, but shall not be submitted to the vote of the Legislative Assembly.

(3) The statement of statutory expenditure shall include a brief description of all projected statutory expenditures for the forthcoming financial year, stating the legislative authority for any payment to be made and showing comparative revised estimates figures for each item in respect of the previous appropriation period.

24. Form of the Estimates–(1) The Estimates shall include the following information in respect of each vote:

(a) The Responsible Minister responsible for the vote; and

(b) The department administering the vote; and

(c) A brief description of each output and sub-output to be delivered by the department together with an estimate of the expenditures to be made and any receipts from charges made for the delivering of that output or sub-output; and

(d) All other revenues to be collected on behalf of the State; and

(e) A brief description of any third party output together with an estimate of the expenditures to be made; and

(f) A brief description of any transaction on behalf of the State together with an estimate of the expenditures to be made; and

(g) Comparative revised estimates figures for each of the items in paragraphs (c) to (f) of this subsection for the previous appropriation period; and

(h) Any other relevant information as directed by the Minister.

(2) The Financial Secretary may issue Instructions under section 127 (Treasury Instructions and Operating Manuals) to all heads of departments responsible for the collection and expenditure of public moneys as to the form and content of the estimates prepared by them.

(3) The Estimates shall also include a statement of the Government's proposed revenue and expenditure presented in GFS format.

25. Appropriation required–(1) In accordance with Article 94 (Appropriation of expenditure) of the Constitution or by any other specific appropriation contained in the Constitution or in this or any other Act no expenditure, expense or liability will be incurred unless the expenditure in relation to such expenditure, expense or liability is capable of being charged to a category specified in subsection (2) and has been authorized by an appropriation.

(2) A separate appropriation shall be made for each of the following:

(a) Each category of output and sub-output to be delivered by a department; and

(b) Any third party outputs; and

(c) Loans; and

(d) Capital contributions; and

(e) Any other payment to be made by a department on behalf of the Government.

(3) The authority to expend cash or incur expenses or liabilities under an Appropriation Act will lapse at the end of the financial year to which that Act relates.

(4) Subject to this Part, any money appropriated under this section may be expended only in relation to that appropriation and for no other purpose.

(5) Each expenditure of public money made in respect of statutory expenditure shall be managed and accounted for in the same manner as public money is expended under an Appropriation Act.

26. Transfer between outputs and sub-outputs–(1) The Financial Secretary may, at the request of the relevant head of department, direct that an amount appropriated for a specified output or sub-output to be delivered by a department be transferred to another output or sub-output to be delivered by that department where:

(a) The amount transferred does not increase an appropriation for the financial year for an output or sub-output by more than 20 percent; and

(b) The transfer does not conflict with performance of the outputs specified in the Estimates; and

(c) The total appropriation for that financial year for that department is unaltered.

(2) Without limiting the validity of the transfers made under subsection (1) a clause recording any transfers made under subsection (1) in that financial year shall be made in an Appropriation Bill for the same or the succeeding financial year, and all such budget variations shall be noted in the financial statements for that year.

27. Charge for supply of goods or services – Subject to section 13(1)(l) (Responsibilities of heads of departments) and section 37(1)(e) (Functions of the Board)), a department may charge for the provision of goods or services provided that, if the recipient is another department, there is a prior agreement to charge the costs incurred to an output of the recipient department.

28. Use of additional revenue–(1) There may be established a Revenue Retention Fund.

(2) Where provision has been made in the Estimates for estimated trading revenue, and actual trading revenue exceeds the sum estimated for the financial year to which the Estimates relates, the additional revenue may, on the approval of the Financial Secretary, be paid into the Revenue Retention Fund.

(3) On agreement between the head of a department and the Financial Secretary, a department may, in accordance with an appropriation, expend in a financial year following the year in which the revenue was collected, the sum collected in excess of its estimated revenue (or a portion thereof) and paid into the Revenue Retention Fund.

(4) The additional revenue expended by a department under subsection (3) shall be expended on the same output that produced the additional revenue and such expenditure shall be charged against the Revenue Retention Fund.

(5) The financial statements shall include a schedule detailing the amounts transferred into the Revenue Retention Fund and the amounts drawn from the Fund, by department, by output.

29. Adjustment for unforeseen expenditure–(1) The annual Estimates presented to the Legislative Assembly shall contain a vote for Unforeseen Expenditure, with an appropriation not exceeding 1% of the total amount of the Appropriation Bill.

(2) This section shall be read subject to Article 96 of the Constitution (Unauthorized Expenditure).

(3) Where the Minister considers that expenditure from the Treasury Fund in any financial year in excess of, or without, appropriation by the Legislative Assembly should be approved, he may, with the approval of Cabinet, transfer to one or more nominated votes from the Unforeseen Expenditure vote such sum or sums as he considers necessary up to but not exceeding the amount of the balance from time to time available in the Unforeseen Expenditure vote.

(4) No expenditure in excess of, or without, appropriation other than is provided in this section, is permitted.

(5) This section does not apply to statutory expenditure, other than payments under guarantees given under any other Act.

(6) Without affecting the validity of any transfers approved under subsection (3), the financial statements for the financial year in which any such transfer occurs shall disclose details of all transfers made under this section.

30. Emergency expenditure of public moneys–(1) Where any state of national emergency or state of civil defence emergency is declared under Article 105 (Proclamation of emergency) of the Constitution the Minister may approve such expenditure from the Treasury Fund to meet such emergency, whether or not there is an appropriation by the Legislative Assembly available for the purpose, and thereupon, notwithstanding section 25 (Appropriation required) of this Act, such moneys may be expended accordingly.

(2) When any public money is expended pursuant to any such emergency declared under subsection (1) a notice to that effect shall be published in *Savali* and in a newspaper circulating widely in Samoa as soon as practicable.

(3) Without affecting the validity of any expenditure of public moneys under this section, a statement of expenditure incurred under this section in any financial year shall be:

(a) Laid before the Legislative Assembly at the earliest opportunity; and

(b) Included in:

(i) the annual Financial Statements; and

(ii) an Appropriation Bill for the same or the succeeding financial year.

31. Warrant of Head of State and Payments from Bank accounts–(1) Before any warrant such as is referred to in Article 93 of the Constitution is submitted for the signature of the Head of State the Treasury shall forward it to the Audit Office and the Audit Office shall certify thereon that the amount thereof may be lawfully issued.

(2) Any such warrant and certificate may be sent by telegraphic or electronic message and any such message may be acted on and the money named therein may be issued accordingly.

(3)(a) The Treasury shall from time to time prepare a payment listing comprising a statement of:

(i) such of the vouchers as are proposed to be paid out of the General Revenue Fund, funds subject to Part VII or Part VIII or Part X of this Act, and such other funds and accounts as the Financial Secretary may from time to time direct; and

(ii) the vote and fund or account to be charged.

(b) The payment listing and the vouchers shall be sent to the Audit Office together with the unissued cheques relating to those vouchers.

(4) On being reasonably satisfied that the vouchers comprised in the payment listing appear to be within the limits of each of the votes and funds or accounts specified in the payment listing, and that there is, or will be during the financial year, sufficient money in each fund or account to meet the charges named in the vouchers, the Audit Office shall forthwith countersign the payment listing and return it to the Treasury together with the vouchers and unissued cheques.

(5) The payment listing when so countersigned by the Audit Office shall be sufficient authority for the Financial Secretary to release the unissued cheques to the payees named therein.

(6) Notwithstanding anything to the contrary in this section, if the Audit Office is of the opinion that any voucher included in a payment listing is in any respect not in accordance with the law the Audit Office may endorse its countersignature with details of the voucher and withhold the unissued cheque relating to the voucher from the Treasury after first notifying the Financial Secretary in writing of its intention to do so, and in any such case the Audit Office shall have the question of legality of the voucher determined in accordance with the provisions of regulation 7 of the Audit Regulations 1976.

(7) Notwithstanding anything to the contrary in this section, the Audit Office may elect to exempt from the requirements of this section any voucher or class of voucher supporting a payment out of the General Revenue Fund or funds subject to Part VII or Part VIII or Part X of this Act, and the exercise of such election shall be communicated in writing to the Financial Secretary.

32. Expenditure in anticipation of appropriation–(1) In accordance with Article 95 (Expenditure in anticipation of appropriation) of the Constitution, if an Appropriation Bill has not become law by the first day of the financial year to which it relates, the Minister may, with the prior approval of Cabinet, authorise such expenditure (not otherwise authorised by Act) as he may consider essential for the continuance of any works or services, until an Appropriation Bill becomes law.

PROVIDED THAT the expenditure so authorised shall not exceed an amount equal to one-fourth of the relevant vote for the preceding year.

(2) All expenditure in any financial year authorised under subsection (1):

(a) Shall as far as possible accord with the estimates for that year; and

(b) Shall be set off against the amount provided for the service on which it has been spent in an Appropriation Act for that financial year when that Act comes into force.

PART VI
NATIONAL REVENUE BOARD

33. Interpretation – In this Part unless the context otherwise requires:

"Board" means the National Revenue Board established under section 34 (Establishment of the Board):

"Chairperson" means the Chairperson of the Board:

"discretion" includes an authority to approve or to refuse:

"member" means a member of the Board and includes the Chairperson:

"Revenue Acts" means the Acts specified in Schedule 1 (Revenue Acts) and includes any amendments made to such Acts from time to time:

"Revenue Department" means a department administered either by the Commissioner of Inland Revenue or the Comptroller of Customs:

"Secretary" means the person appointed under section 35(1) (Secretary for the Board).

34. Establishment of the Board–(1) There is established for the purposes of this Part, a National Revenue Board.

(2) The Board shall consist of :

(a) The Financial Secretary who shall be the Chairperson; and

(b) The Attorney-General; and

(c) The Commissioner of Inland Revenue; and

(d) The Comptroller of Customs; and

(e) The Secretary, Department of Trade, Commerce and Industry.

(3) The Board may co-opt the head of any department for consideration of any revenue matter that is the responsibility of that department. A co-opted member shall be deemed to be a member of the Board in relation to such matters.

(4) In the absence from any meeting of any member of the Board, that member may authorize the Deputy Head or Assistant Director/Secretary from his department to attend the meeting in his stead. Any person attending any meeting under this subsection shall be deemed for all purposes to be a member of the Board.

35. Secretary for the Board–(1) A senior Treasury officer shall be appointed by the Financial Secretary to be Secretary for the Board.

(2) The Secretary shall be responsible for monitoring execution of the policies of the Board and for the control and management of its day-to-day business and any functions delegated to him.

36. Meetings of the Board–(1) The Board shall meet as often as necessary for the discharge of its functions, but in any event not less than once in each quarter of a financial year.

(2) Everything authorised or required to be done by the Board shall be decided by a simple majority of the members present and voting.

(3) At any meeting of the Board:

(a) Four members shall form a quorum; and

(b) Each member shall have one vote on the matter in question and, in the event of an equality of votes, the Chairperson of the meeting shall have a casting vote; and

(c) A co-opted member shall have one vote on any matter in question affecting his department; and

(d) If the Chairperson, or in his absence the authorised deputy of the Chairperson, is for any reason absent from a meeting, the members present shall elect one of their number to be Chairperson for that meeting.

(4) Subject to the provisions of this section, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

37. Functions of the Board–(1) Subject to the Income Tax Administration Act 1974 the Board shall:

(a) Advise the Minister on all matters pertaining to revenue policy and the legislative or other measures to be taken for the preparation and implementation of that policy in Samoa; and

(b) Conduct regular reviews of legislation and proposed legislation relevant to the revenues of Samoa and make recommendations to the Minister on any legislative requirements arising from such reviews; and

(c) Coordinate activities between the Revenue Departments and Treasury; and

(d) Be responsible for the overall monitoring of all taxes, duties, fees and charges imposed by the Revenue Acts and other Acts; and

(e) Consider, and where appropriate approve, all proposals submitted to the Board under the provisions of section 13(1)(k) and (l) (Responsibilities of heads of departments) to vary the amount of any tax, duty, fee or charge collected, or proposed, by any department and make recommendations to the Minister; and

(f) Provide such available information as may be required by the Minister or the Financial Secretary for the purposes of preparation and review of annual or periodical revenue budgetary projections and the economic and fiscal forecasts required by this Act; and

(g) Recommend any such measures as may be necessary to be adopted by the Revenue Departments, Treasury or other departments to improve the effectiveness of the Revenue Departments, Treasury or other departments and to maximise overall revenue collection in Samoa; and

(h) Determine the steps to be taken by the Revenue Departments, Treasury or other departments, to counteract tax evasion, fraud and other forms of fiscal evasion.

(2) In the discharge of its functions under this Act, the Board shall act in accordance with such policy directions as the Minister may give to it in writing.

38. Powers of the Board–(1) In the discharge of its functions under this Act, the Board may:

(a) Delegate any of its powers to the Secretary or to any of its members other than this power of delegation; and

(b) Give directions of a general character as it thinks fit to the Secretary, or any member of the Board, or any head of department for due performance of the functions under this Act or any Revenue Act including for the expeditious handling of any matter involving fraud or other form of fiscal evasion; and

(c) Summon any person to supply any information or answer any question on oath relating to any tax, duty, fee or charge imposed by the Revenue Acts or other Acts; and

(d) Notwithstanding any other enactment, use any information or document acquired by it in connection with any tax, duty, fee or charge imposed by the Revenue Acts or other Acts for any purpose connected with any other tax, duty, fee or charge imposed by those Acts.

(2) Where the Board has reasonable grounds for believing that an offence has been, is being, or is likely to be, committed under any of the Revenue Acts, it may direct the Financial Secretary, the Commissioner of Inland Revenue, or the Comptroller of Customs as the case may be, to inquire into the matter and submit a report to the Board on the findings with appropriate recommendations.

(3) A person who has been ordered to appear before or furnish any information or produce any document to the Board or to appear before the Board under the provisions of subsection (1) shall, notwithstanding any other enactment, comply with the order.

(4) Every witness sworn and examined under this section shall have the same privileges and immunities of a witness sworn and examined in the Supreme Court.

(5) Notwithstanding section 8 (Members to maintain secrecy) of the Income Tax Administration Act 1974 and subject to section 40 (Secrecy) the Commissioner, or an officer of the Inland Revenue Department may make any relevant information available to the Board.

(6) No member of the Board while acting in that capacity shall have any civil liability for any act done in good faith under this Part.

39. Annual Report of the Board – A report on the administration and activities of the Board shall be included in the annual report of Treasury.

40. Secrecy – Every person acting under this Part shall maintain and assist in maintaining the secrecy of all matters relating to this Act or to the Revenue Acts which come to his knowledge and shall not communicate any such matters to any other person, except for the purposes of carrying into effect this Part or the Revenue Acts or any other enactment imposing taxes, duties, fees or charges payable to the Government.

41. Offences–(1) Every person commits an offence under this Part who:

(a) Without lawful excuse or justification, fails to comply with an order or summons made under this Part; or

(b) Furnishes any information or produces any document which is false or misleading in a material particular; or

(c) Obstructs any officer in the performance of his functions under this Part; or

(d) Wilfully contravenes the provisions of section 40 (Secrecy); or

(e) Otherwise contravenes this Part or any regulations made or Treasury Instructions or Operating Manuals issued under it.

(2) A person who commits an offence under this Part shall, on conviction, be liable to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 12 months or to both.

42. Amendments to Revenue Acts–(1) Each of the following Acts:

(a) The Income Tax Administration Act 1974; and

(b) Value Added Goods and Services Act 1992;

(c) The Business Licences Ordinance 1960; and

(d) The Customs Act 1977; and

(e) The Customs Tariff Act 1975; and
(f) The Excise Tax (Domestic Administration) Act 1984; and
(g) The Liquor Act 1971; and
(h) The Petroleum Act 1984,

is amended by inserting in section 2 of each such Act in its proper alphabetical position the following definition:

‘ "Revenue Board" means the National Revenue Board established under the National Revenue Board Act 1990, and continued by the Public Finance Management Act 2001.’

(2) Subject to subsection (3), wherever in any Revenue Act or in any Act imposing any tax, duty, fee or charge or in regulations made under any such Act there is a discretion given to a Minister concerning the imposition of a tax, duty, fee or charge any such discretion shall be exercised by that Minister only after he has consulted with the National Revenue Board, and the Revenue Acts and regulations shall be construed accordingly.

(3) Subsection (2) shall not apply to:

(a) Sections 8 (Delegation of powers), 26 (Other ports of entry), 30 (Customs airports), 31 (Examination stations at Customs airports), 32 (Examining places), 33 (Customs container bases), 34 (Duties of controlling authorities), 36 (Security in respect of wharves and examining places), 38 (Aircraft to land at Customs airport only), 59 (Vessels or aircraft imported otherwise than as cargo), 79 (Departure to be from port of entry or Customs airport only), 114 (Government warehouses) and 190 (Customs warrants) of the Customs Act 1977; and
(b) Section 5 (Minister may import liquor) of the Liquor Act 1971.

PART VII
PUBLIC MONEY AND THE GENERAL REVENUE FUND

43. The General Revenue Fund-(1) The General Revenue Fund shall consist of :

(a) The Treasury Fund; and
(b) The Insurance Fund; and
(c) The National Loans Sinking Fund; and
(d) Such other funds as may be declared by the Financial Secretary to be part of the General Revenue Fund; and
(e) Every separate fund, account or subsidiary account established under any other Act to form part of the General Revenue Fund.

(2) The General Revenue Fund and this Act shall be subject to the provisions of Part VIII of the Constitution.

44. Dealing with public money–(1) Public money is the property of the State.

(2) Public money shall, except as otherwise provided in this Act, be paid into bank accounts designated by the Financial Secretary for that purpose and such accounts shall form part of the General Revenue Fund.

(3) Money paid into any designated bank account is public money, and shall not be removed except as provided by the Constitution or this Act.

(4) Notwithstanding any other enactment to the contrary and except as permitted in subsection (5), no bank account shall be opened or operated or continue to be operated for the deposit and/or withdrawal of public money without the express authority of and on such conditions as the Financial Secretary determines.

(5) No department shall continue to operate after one month from the commencement of this Act, any bank account other than in accordance with subsection (4).

(6) The Financial Secretary may make demand on the manager of a bank operating in Samoa for disclosure of the records of the accounts current or otherwise operated by a department or public body and on receiving such demand, the manager shall comply with the demand accordingly.

45. Banking business of the Government–(1) The Financial Secretary may agree with any bank upon terms and conditions for the conduct of the banking business of Government, including arrangements for deposits to be made under the authority of this or any other Act and for interest to be payable by the bank on balances held.

(2) The General Revenue Fund shall be kept at such bank or banks as the Financial Secretary may from time to time direct, and the Financial Secretary may transfer money within the General Revenue Fund from one bank to another or others.

(3) The Financial Secretary may make arrangements with any bank for the receipt, custody, payment and transmission of public money within or outside Samoa.

46. Banks to furnish statements–(1) Every bank at which any Government account of any nature is kept, shall send to Treasury or to the Audit Office, statements of such accounts as the Financial Secretary or the Audit Office may require.

(2) All such statements shall show such particulars of the accounts concerned as the Financial Secretary or the Audit Office may direct.

47. Overseas imprest and other accounts–(1) The Financial Secretary may direct that any public money received outside Samoa shall be paid into a bank for the credit of such imprest account or other account as he may determine.

(2) Any such bank account may be operated by any persons appointed for that purpose by the Financial Secretary, who may cancel the authority of any person to operate any bank account, and may remove the money in any account, or such amount as he thinks fit, from any bank to any other bank.

(3) No money shall be withdrawn from any such bank account except in the manner provided by this Act.

(4) Subject to the provisions of Part V (Budgets and appropriations), any money in an overseas account may be utilised for expenditure approved under the provisions of the Constitution or this or any other Act and shall be deemed to have been issued by way of imprest under section 51 (Imprests) and the provisions of that section shall, with the necessary modification, apply accordingly.

48. Balances may be invested–(1) The Financial Secretary may invest any balances of the General Revenue Fund, or any part thereof, at call or for such period and on such terms as he thinks fit at any bank and in such other securities as the Minister may declare to be securities consistent with the financial policies of Government.

(2) Subject to section 54(5) (Insurance Fund), interest earned on investments shall be credited to the General Revenue Fund and may be used only in accordance with an Appropriation Act.

(3) The Financial Secretary may sell and convert into money any such securities, and that money shall be paid into the General Revenue Fund to the credit of the proper fund to which it belongs.

49. Temporary transfers from one fund to another–(1) Subject to any other provision of this Act, the Financial Secretary may transfer any balances or any part of any balances of any fund or account within the General Revenue Fund to another fund or account within the General Revenue Fund for such periods and on such terms as he thinks fit.

(2) The money so transferred shall be deemed to have been borrowed by the fund or account into which the transfer has been made, and shall be paid out and restored to the fund or account from which the transfer was made, together with any interest thereon, before the end of the financial year in which the transfer was made.

(3) Particulars of every such transfer made in any financial year shall be reported in the financial statements for that year.

(4) For the avoidance of doubt, no transfer shall be made from or between trust and special purpose accounts.

50. Hypothecation of securities–(1) The Minister may, without further authority than this section, borrow by way of hypothecation over any securities in which any balances of the General Revenue Fund are invested.

(2) All money so borrowed shall be paid into the appropriate fund in respect of which the investments are held.

(3) All interest payable on the money so borrowed shall be statutory expenditure and shall be paid out of the relative fund.

(4) The repayment of any money borrowed under this section shall be statutory expenditure and shall be paid out of the relative fund as soon as practicable, but in any case, no later than the end of the current financial year.

(5) All money borrowed and repaid under this section shall be reported in the financial statements for that year.

51. Imprests–(1) Money may be issued by way of imprest in the name of the Government from the General Revenue Fund for the purpose of effecting payment of amounts payable by the Government to such persons or to such accounts within or outside Samoa.

(2) The Financial Secretary in such cases as he thinks fit may authorise an imprest account to be opened at a bank and such account shall be identified as a Government of Samoa account.

(3) Except in special circumstances approved in writing by the Financial Secretary, all withdrawals from an imprest account shall be made by the imprestee and another designated officer.

(4) Money required to be issued by way of imprest shall as far as practicable be charged against the vote or other authority for the service for which the imprest is required, but the Financial Secretary may charge money by way of general imprest against the relative fund or account instead of a vote or other authority, and in any such case the amount so charged shall be issued accordingly. Expenditure against money so issued to general imprest shall in due course be transferred to the several votes or authorities for the purposes of which the money is expended:

PROVIDED THAT money issued by way of general imprest shall not at any time exceed 10 percent of the total amount of all sums appropriated by all Appropriation Acts for the current financial year.

52. Passing of payments without receipts–(1) The Financial Secretary, on production of proof to his satisfaction that any receipts or other requisite papers have been lost or destroyed or that it is not possible to obtain or replace them, may order that any payment of public money of up to the delegated limit determined by Cabinet be allowed.

(2) Cabinet may approve a payment above the limit referred to in subsection (1) under the provisions of this section.

53. Refunds and corrections–(1) Within 6 years of any sum being paid into the General Revenue Fund, the Financial Secretary may refund as statutory expenditure all or so much of such sum as was not properly payable to the Government, whether or not application has been made for a refund.

(2) The Financial Secretary shall record the payment of the amount against the appropriate vote or other authority and fund or account.

(3) Where any person has become indebted to Government and it is subsequently discovered that there is an error in the amount of the debt or the identity of the debtor, the Financial Secretary on being satisfied as to the facts may amend the records to reflect the true position.

54. Insurance Fund–(1) There is established an Insurance Fund which shall include all Government insurance funds established prior to the commencement of this Act.

(2) The Financial Secretary shall pay into the Insurance Fund such amounts as are appropriated for premiums to insure against:

(a) Damage or loss incurred in the transport of public property or the effects of persons in the service of the Government, imported into or exported from Samoa or carried between places in Samoa or elsewhere as the Financial Secretary may from time to time direct; and

(b) Damage or loss to public property from fire, earthquake or other perils of any nature whatsoever; and

(c) Death or bodily injury (temporary or permanent) or loss of money or loss of baggage; and

(d) Third-party claims against Government or persons acting in the service of Government; and

(e) Any other risks as may be approved by the Financial Secretary.

(3) The amounts payable under subsection (2) shall be charged to such accounts as the Financial Secretary may determine.

(4) Premiums on the effects of any person shall be borne between the person concerned and the Government in such proportions as the Public Service Commission may direct.

(5) All money in the Insurance Fund, except such amounts as may be required for immediate use, may be invested by and at the discretion of the Financial Secretary in the same manner as provided in section 48 (Balances may be invested) and any interest earned shall be credited to the Insurance Fund.

(6) The Financial Secretary may authorise payments from the Insurance Fund to meet approved expenditure including payment of premiums and such payments shall be statutory expenditure.

(7) There may, without further appropriation than this section, be transferred from the Insurance Fund to the Treasury Fund, to form part of the public revenues of Samoa, such sum or sums as the Financial Secretary may direct.

PART VIII
SPECIAL PURPOSE FUND

55. Establishment of Special Purpose Fund–(1) There is established a Special Purpose Fund for the administration of special purpose accounts and special purpose account money.

(2) Special purpose account money is money designated for a specific purpose and credited to a special purpose account.

(3) Money credited to a special purpose account shall only be used in accordance with the provisions of this Part.

56. Establishment of special purpose accounts–(1) Special purpose accounts may be established by the Financial Secretary under the provisions of this or any other Act and all special purpose account money shall be paid into the Special Purpose Fund.

(2) (a) For each special purpose account established or to be established within the Special Purpose Fund there shall be prepared by the head of department or the appropriate officer of the organisation responsible for the account, an instrument signed by that person, setting out -

(i) a request for the establishment of the account; and

(ii) the name of the account; and

(iii) the name of the department or organisation operating the account; and

(iv) any legal requirement, citing Act and section; and

(v) the names and designations of not less than two authorised signatories; and

(vi) the purpose of the account; and

(vii) the source or sources of funds to be deposited in the account; and

(viii) the approved categories of expenditure to be paid from the account; and

(ix) any particular conditions; and

(x) instructions for the disposal of funds on the completion of the purpose or the closure of the account; and

(b) The Financial Secretary shall endorse approval or disapproval of the request on the face of the instrument; and

(c) In the case of an approval, the instrument shall constitute an agreement for the operation of the relevant account which shall be established forthwith.

57. Operation of special purpose accounts–(1)

(a) Money paid into or held in a special purpose account is or shall be for the purposes of this Act public money, but that money or so much thereof as becomes payable to or on behalf of any person shall be statutory expenditure and shall be issued and paid to or on behalf of that person in such amounts, in such manner and at such times as may be set forth in any agreement;

(b) The Government shall not be liable to any such person for any money so payable into the special purpose account, except for money actually received under any such agreement.

(2) Money may be paid out of a special purpose account only:

(a) For the purposes of the account as set out in section 56(2)(a)(vi), (viii) and (x) (Establishment of special purpose accounts) or as authorised by law; and

(b) If sufficient credit is available in the account.

(3) Money standing to the credit of a special purpose account at the end of a financial year shall not lapse at the end of that financial year.

58. Investment of special purpose moneys–(1) The Financial Secretary may invest the balance of any special purpose account or any part thereof at call or for such periods and on such terms as he thinks fit at any bank and in such other securities as the Minister may declare to be securities consistent with the financial policies of Government.

(2) Interest earned on investments shall be credited to the General Revenue Fund and may be used only in accordance with an Appropriation Act unless otherwise specified in an agreement recorded under section 56(2)(a) (Establishment of special purpose accounts).

59. Power to accept money on deposit–(1) Where money is received from a foreign Government or international agency under an agreement or convention to which Samoa is a signatory, or in accordance with an Act designating Samoa as a depository, the Financial Secretary may accept money on deposit at such rate of interest and on such terms and conditions as he may determine.

(2) The Financial Secretary may accept money on deposit from a public body or bank at such rate of interest and on such terms and conditions as the Financial Secretary may determine.

(3) The rate of interest and terms and conditions determined by the Financial Secretary under subsection (2) shall be no more favourable than those of banks conducting business in Samoa.

(4) Money received under subsections (1) and (2) shall be paid into the Special Purpose Fund.

(5) Interest payable on money in a special purpose account shall be paid out of the General Revenue Fund without further appropriation than this subsection.

(6) Money received under subsections (1) and (2) shall not constitute a borrowing by the Government or a loan to the Government but such money shall constitute a liability which shall be disclosed in the financial statements to the extent of the amount of the deposit and the interest payable, if any.

PART IX
TRUST FUND

60. Trust money–(1) For the purposes of this Part trust money means:

(a) Money that is deposited with the State pending the completion of a transaction or dispute and which may become repayable to the depositor; or payable to the State or any other person; and

(b) Money that is paid into Court for possible repayment to the payer or a third party, by virtue of any Act, rule, judicial direction or other authority; and

(c) Unclaimed money that is due to or belongs to any person and is deposited with the State; and

(d) Money that is paid to the State in trust for any purpose as approved by the Financial Secretary; and

(e) Money that belongs to or is due to any person and is collected by the State under any agreement between the State and that person.

(2) Trust money shall be held and accounted for separately from public money.

(3) Trust money shall be used only in accordance with the provisions of this Part.

61. Establishment of Trust Fund and trust accounts–(1) Trust accounts may be established by the Financial Secretary under this or any other Act to receive trust moneys and all such moneys shall be paid into trust accounts constituting the Trust Fund established for that purpose.

(2) (a) For each trust account established or to be established within the Trust Fund there shall be prepared by the head of department or the appropriate officer of the organisation responsible for the account an instrument, signed by that person, setting out -

(i) a request for the establishment of the account; and

(ii) the name of the account; and

(iii) the name of the department or organisation operating the account; and

(iv) any legal requirement, citing Act and section; and

(v) the names and designations of not less than two authorised signatories; and

(vi) the purpose of the account; and

(vii) the source or sources of funds to be deposited in the account; and

(viii) the approved categories of expenditure to be paid from the account; and

(ix) any particular conditions; and

(x) instructions for the disposal of funds on the completion of the purpose or the closure of the account; and

(b) The Financial Secretary shall endorse approval or disapproval of the request on the face of the instrument, provided however that the Financial Secretary shall not disapprove the request where the money has already and unavoidably been received by the department and is trust money as defined by section 60 (Trust money); and

(c) In the case of an approval, the instrument shall constitute an agreement for the operation of the relevant account which shall be established forthwith.

62. Operation of trust accounts–(1)

(a) There shall be paid to the credit of a trust account all moneys paid by any person for the purposes of the account and there shall be issued and paid to or on behalf of that person such amounts, in such manner and at such times as may be set forth in any agreement;

(b) The Government shall not be liable to any such person for any money so payable into the Trust Fund except for money actually received under any such agreement.

(2) Moneys may be paid out of a trust account only:

(a) For the purposes of the account or as authorised by law; and

(b) If sufficient credit is available in the account; and

(c) In accordance with Treasury Instructions and/or Operating Manuals, or, if no Treasury Instructions or Operating Manuals exist, then in accordance with the rules and procedures prescribed for the payment of public moneys.

(3) The Financial Secretary may appoint an agent to manage some or all trust moneys on such terms and conditions as he may determine subject to the requirements of this section, and to the requirement that the agent is a recognised professional institution of a kind and with experience in the handling of trust moneys.

63. Investment of trust account money–(1) The Financial Secretary or any agent appointed under section 62(3) (Operation of trust accounts) may invest any trust account money for such periods, and on such terms and conditions as are consistent with accepted trust investment practice.

(2) No person shall have any right of action against the Financial Secretary or against the Government in respect of the investment or non-investment of any such trust money.

(3) Subject to subsection (4), when any such sum becomes payable or repayable to the depositor or other person entitled thereto, there shall be added any amount of interest certified by the Financial Secretary to have been earned thereon.

(4) When any such sum becomes payable or repayable to the depositor or any other person entitled thereto under subsection (3), a reasonable charge may be deducted for the Financial Secretary's service.

(5) The provisions of subsections (2), (3) and (4) shall apply to an agent appointed under section 62(3) (Operation of trust accounts) in the same manner as if the agent were the Financial Secretary.

PART X
UNCLAIMED MONEY

64. Interpretation – In this Part, unless the context otherwise requires:

"holder" includes:

(a) Every bank and offshore bank (including any savings bank) carrying on business in Samoa; and

(b) The Public Trustee; and

(c) Every person, partnership, company and corporation carrying on business in Samoa; and

(d) The Financial Secretary, in respect of money to which Part IX (Trust Fund) applies.

"owner" means the person entitled to any unclaimed money, and includes his executors, administrators or assigns, or his or their lawful attorney or agent:

"unclaimed money" means, subject to sections 65 (Periods after which certain money becomes unclaimed money) and 69 (Unclaimed trust money), all principal and interest money, and all unclaimed dividends, bonuses, profits and other sums of money whatsoever owing to any owner which, on the coming into force of the Unclaimed Money Act 1964 (repealed) or at any time thereafter, have been in the possession of any holder for a period of 6 years or more after the time when the same became payable, and in respect of which no claim has been made by the owner against the holder.

65. Periods after which certain money becomes unclaimed money – The following money deposited in any bank (including any savings bank) shall become unclaimed money within the meaning of this Act at the following times (whether or not it has at any prior time become payable), namely:

(a) Money deposited so as to bear interest for a fixed term, at the expiration of 6 years from the date when such fixed term expired; and

(b) Money deposited so as to bear interest without any limitation of time, at the expiration of 25 years from the date when the account was last operated on by the customer; and

(c) Money deposited on current account or otherwise and not bearing interest, at the expiration of 6 years from the date when the account was last operated on by the customer in the case of a bank other than a savings bank, and at the expiration of 25 years in the case of a savings bank.

66. Register to be kept–(1) It shall be the duty of every holder, on the first working day of July in each year, to enter in a register to be kept by such holder at his principal office in Samoa, in the form in Schedule 2 (Register of unclaimed

money) or to the like effect, and with the particulars therein specified in the form provided in Schedule 2 (Register of unclaimed money), all unclaimed money in Samoa then held by the holder.

(2) From and after 8th July in each year, each such register shall be open to the inspection of all persons at such office during ordinary business hours on payment of a fee from time to time determined by the Financial Secretary.

(3) On ceasing to carry on business in Samoa, a holder shall deposit his register in the custody of the Financial Secretary and pay all unclaimed money to the credit of the General Revenue Fund:

PROVIDED THAT any holder may at any time so deposit his register or any part of it, if no entry has been made in it for a period of not less than 6 years immediately preceding the date of such deposit.

67. Holder to notify Financial Secretary and owner of entry in register – Not later than 15th July in each year, or such later date as the Financial Secretary approves in writing, every holder shall:

(a) Furnish to the Financial Secretary a copy of every entry made on the first working day of that month in the register kept by him under section 66 (Register to be kept); and

(b) Send to every person in respect of whom any such entry was made as the owner of unclaimed money a notice in writing specifying the amount of money that is held as unclaimed money.

68. Payment of unclaimed money to the General Revenue Fund–(1) All unclaimed money that has not been paid by a holder to the owner within 3 months after the posting to the owner of the notice prescribed by section 67 (Holder to notify Financial Secretary and owner of entry in register) shall be paid by the holder to the credit of the General Revenue Fund, and the holder shall thereupon be relieved from all further liability in respect of the money so paid.

(2) All money payable to the credit of the General Revenue Fund in accordance with this section shall be recoverable in any court of competent jurisdiction as a debt due to the State.

69. Unclaimed trust money–(1) Any trust money that is unclaimed for a period of 3 years after having become repayable to the depositor or payable to any other person entitled thereto, and after due inquiry and notice by publication, shall, together with interest (if any) added in accordance with section 63(3) (Investment of trust account money) be deemed to be public money and shall, subject to section 63(4) (Investment of trust account money) be transferred to the General Revenue Fund.

(2) Where any trust money is claimed within 6 years of being deposited under subsection (1) and the Financial Secretary is satisfied that the trust money is payable to the claimant then that money shall be paid to the claimant together with any interest thereon in accordance with section 63(3) (Investment of trust account money) but subject to section 63(4) (Investment of trust account money).

70. Offences – If any default is made in complying with sections 66 (Register to be kept), 67 (Holder to notify Financial Secretary and owner of entry in register) or 68 (Payment of unclaimed money to the General Revenue Fund), the holder, and every director, manager, secretary, and other officer of the holder who knowingly and wilfully authorises and permits the default, shall be liable to a fine of one penalty unit for every day during which the default continues.

71. Examination of accounts–(1) The Financial Secretary may at any time examine any register kept by a holder under section 66 (Register to be kept) and any accounts of the holder relating to unclaimed money, and may for that purpose require the production before him or any of his officers of any records relating to such money.

(2) The Financial Secretary or any officer authorised by him shall at all times have full and free access to all records and have the right to make copies.

(3) Every person shall as required by the Financial Secretary furnish in writing any information which may be in his knowledge, or produce any records in his possession or control that relates to money which is or may be unclaimed money.

(4) If any error is found in any such register or accounts or notice sent to the owner, or copy of any such document, the Financial Secretary may require it to be amended.

(5) The Financial Secretary and every officer authorised by him shall maintain and assist in maintaining the secrecy of all matters which come to his knowledge in the course of any inspection under this section, and shall not communicate any such matter to any person, except for the purpose of carrying this Part into effect.

(6) Every person who fails to comply with any of the requirements of this section commits an offence, and is liable to a fine of 2 penalty units.

72. Financial Secretary may make payment to claimant – If any claimant makes any demand on the Financial Secretary for any money within 6 years of its having been paid to the General Revenue Fund under this Part, the Financial Secretary on being satisfied that the claimant is the owner of the money demanded by him shall order and direct payment of the money to be made to him and the same shall be statutory expenditure.

73. Responsibility to second claimant – Where any unclaimed money paid to a claimant is afterwards claimed by another person, the Financial Secretary shall not be responsible for the payment of the amount, but that person may have recourse against the claimant to whom the Financial Secretary has paid the unclaimed money.

PART XI
BORROWING, LOANS, AND GUARANTEES

74. Interpretation – In this Part, unless the context otherwise requires:

"authorising Act" means an Act other than this Act authorising the borrowing of money by the Government:

"Central Bank" means the Central Bank of Samoa established by the Central Bank of Samoa Act 1984:

"National Loans Sinking Fund" means the National Loan Sinking Fund established by section 3 of the Loan Authorisation Act 1963 and renamed by section 2 of the Financial Powers Act 1964:

"term loan" means Treasury Bills and any loan that is not intended to be repaid within the same financial year as it is raised:

"revenue" means all revenue derived by the Government except revenue derived from loans, grants or other forms of economic assistance:

"subsidiary loan agreement" is an agreement between the Government and another body under which the Government makes available to that other body as implementing agency on agreed terms as to borrowing, repayment and payment of interest, the proceeds of the Government's borrowing from a foreign government or an international agency.

75. Government not to borrow except under Act – Except as provided by this or any other Act, it shall not be lawful for the Government to borrow, or for any bank or other person to lend any money to the Government either by way of overdraft or term loan.

76. Entitlement of loan agreement – Every loan under this Part shall be in the name of the Independent State of Samoa and every document required to be signed evidencing the terms of the loan shall be executed by the Minister or by any other person authorised in writing by the Minister.

77. Borrowing on overdraft–(1) Subject to the provisions of this section, the Minister may from time to time borrow money from any bank by way of overdraft in anticipation of revenue payable into the General Revenue Fund.

(2) The amount owing on overdraft at any time during the financial year shall not exceed one-quarter of the total revenue received into the General Revenue Fund in the preceding financial year.

(3) All amounts borrowed under this section shall be repaid, together with any interest thereon, not later than the end of the current financial year.

78. Minister may borrow when authorised–(1) Subject to this Part, the Minister is empowered to borrow by way of term loan within Samoa or elsewhere, as the Legislative Assembly shall determine by an authorising Act, not more than such sums of money as that Act authorises.

(2) Prior to raising a loan the Minister shall first:

(a) Ensure that it is in the public interest to do so; and

(b) Ensure that it is fiscally responsible in accordance with section 15 (Principles of responsible fiscal management); and

(c) Ensure it is consistent with Government policy; and

(d) Satisfy himself that the Government has or is likely to have on current projections the financial ability to meet all the obligations under the loan including future loan payments; and

(e) Consult with the Attorney-General and obtain in writing from the Attorney-General, or a solicitor approved by the Attorney-General, approval of the legal aspects of the loan agreement.

79. Loans from foreign governments and international agencies–(1) In the case of a term loan raised from a foreign government or an international agency, the amount of the loan within the limit set by the authorising Act, the rate of interest, the date or dates upon which the money is to be repaid, and the other terms and conditions of the loan, shall be as determined between the Government and the lender in the loan agreement.

(2) The loan agreement shall be signed on behalf of the State by the Minister or by any other person authorised in writing by the Minister.

(3) All money received by the Government under the loan agreement shall be paid into such special purpose account as may be agreed between the Government and the lender and such money shall only be expended for the purposes for which it was borrowed and shall be charged to that account and shall be statutory expenditure.

(4) All principal, interest and other money payable under the loan agreement shall be a charge on the public revenues of Samoa and on the General Revenue Fund or such other fund or account as the Minister determines, and shall be statutory expenditure payable at the time or times provided in the loan agreement.

(5) Unless otherwise directed by the Government, it shall not be necessary in respect of any loan entered into under this section, to:

(a) Issue or register stock; and

(b) Set aside or pay any amount during the currency of the loan as a contribution to the National Loans Sinking Fund.

80. Subsidiary loan agreements – The Government may on-lend to another body under a subsidiary loan agreement, for the purposes specified in the relative loan agreement entered into under section 79 (Loans from foreign governments and international agencies), such amounts of money on such terms and conditions as are specified in the subsidiary loan agreement.

81. Provisions for general borrowing – When an Act authorising the borrowing of money other than from a foreign government or an international agency becomes law and the Minister decides to raise a loan accordingly, the provisions of Schedule 3 (Provisions for general borrowing) shall apply.

82. Liability of the State–(1) Subject to subsection (2), the Government shall not be liable to contribute towards the payment of any debt or liabilities of the State.

(2) Subsection (1) will not apply in relation to:

(a) Any sum the State is liable to contribute under any Act; or

(b) Any sum the State is liable to contribute under any guarantee or indemnity given by the State under section 83 (Power to give guarantees and indemnities); or

(c) Any sum the State is liable to pay to any creditor of the State.

83. Power to give guarantees and indemnities–(1) Notwithstanding any provision in any other Act and subject to subsection (2), the Minister on behalf of the State may, if it appears to the Minister to be in the public interest and necessary to do so, give in writing a guarantee or indemnity upon such terms and conditions as the Minister thinks fit, in respect of the performance of any person, organisation or public body, but may only do so:

(a) With the prior approval of Cabinet; and

(b) Where such guarantee or indemnity is consistent with section 15 (Principles of responsible fiscal management).

(2) The Minister shall report the giving of the guarantee or indemnity within 7 days to the Assembly if the Assembly is then in session, and if not, at the commencement of the next ensuing

session, and give reasons as to why it was in the public interest and necessary to give the guarantee or indemnity and provide an assessment of the risks associated with the guarantee or indemnity.

(3) Any money paid by the State under a guarantee or indemnity given under this section will constitute a debt due to the State from the person, organisation or public body in respect of whom the guarantee or indemnity was given, and may be recoverable in any Court.

(4) In relation to every agreement entered into under subsection (1), the person, organisation or public body for whose benefit the agreement is made shall pay the following fees to the Government:

(a) A fee of 3% of the total amount of the guarantee or indemnity, at or before the time of signing the agreement or giving the indemnity; and

(b) A fee for each year that the guarantee or indemnity is in force of 1% of the outstanding amount of the guarantee or indemnity, at the start of each 12-month period.

(5) The fee payable under subsection (4)(b) shall apply to all agreements whether entered into before or after the commencement of this Act.

(6) Any amount owed under subsection (4)(b) may be recovered by the Government as a debt owed to it, after the expiration of 30 days from the date that it falls due.

(7) The Government may require that any person, organisation or public body for whose benefit such an agreement is made, provide any security that it determines for the payment of the annual fee, and in such an instance the Government may take any such action as is required to enforce that security as and when the amount due becomes payable, from time to time.

84. Taking and release of securities to the State–(1) Wherever security is taken in respect of an advance of public money, unless the Act authorising the advance provides otherwise, the security shall be given to and taken in the name of the Independent State of Samoa.

(2) Where any security is for the time being vested in the State, whether it has become so vested before or after the

commencement of this Act, the Minister may on behalf of the Government exercise any powers, functions and rights (including any power of disposal), and undertake and perform any liabilities in respect of or in connection with the security which could be exercised, undertaken, or performed by the State.

(3) A document purporting to be executed by the Minister under this section shall be deemed to have been duly executed on behalf of and shall bind the State.

85. Expenditure for protection of public securities–(1) Subject to Part V (Budgets and appropriations) and to the provisions of this section, money may be expended out of any fund or account in the General Revenue Fund for the protection, preservation and improvement of any real or personal property on the security of which any money in that fund or account has been lawfully invested, whether before or after the commencement of this Act. The authority conferred by this section may be exercised notwithstanding the prior exercise in respect of the mortgaged property of any power of sale or entry into possession.

(2) No amount shall be expended under this section in respect of any property without the specific approval of the Minister on the recommendation of the Responsible Minister, if that amount, together with all other amounts advanced or expended in respect of that property and still outstanding, would exceed the amount of the valuation of the property.

(3) This section is in addition to and not in substitution for any powers or authorities conferred otherwise than by or under this section.

86. **Power to lend money–**(1) Subject to section 25 (Appropriation required) and on terms and conditions approved by Cabinet, the Minister may on behalf of the State, so long as it is in the public interest to do so, lend money to any organisation whether within or outside Samoa.

(2) The Minister shall make full disclosure of the details of any loan approved under subsection (1) to the Legislative Assembly prior to the money for the loan being appropriated.

PART XII
PROCUREMENT AND CONTRACTS

87. Requirement to follow tenders and quotation procedures – For the purposes of this Part, when entering into a contract for the acquisition, disposal or management of goods, services and construction works the Minister, Responsible Minister, head of department or any other person authorised to do so on behalf of Government, shall comply with the procedures and processes prescribed by this Act.

88. Government Tenders Board–(1) There is established a Government Tenders Board.

(2) The members of the Board shall be:

(i) the Minister of Finance who shall be the Chairperson; and

(ii) the Minister of Works who shall be the Deputy Chairperson; and

(iii) the Financial Secretary; and

(iv) the Director of Works; and

(v) the Attorney General; and

(vi) one representative from the private sector nominated by the Minister and approved by Cabinet; and

(vii) two other members appointed by the Minister acting on the advice of Cabinet, one of whom shall be an officer of a department other than Treasury.

(3) The Board when considering a contract for the acquisition, disposal or management of goods, services or construction works may co-opt a representative of the department responsible for that activity who has detailed knowledge of the requirements of the department in relation to the proposed contract. The person so co-opted shall attend in an advisory capacity only and shall not be entitled to vote at the meeting.

(4) The Board may co-opt such additional member or members as the Board may decide for the consideration of a particular tender or tenders. The person or persons so co-opted shall attend in an advisory capacity only and shall not be entitled to vote at the meeting.

(5) In the absence from any meeting of a member of the Board, in the case of a Government member that member may

authorise an alternate member who must be a person with skill and experience in the tender process and be a senior member of the absent Board member's department. In the case of the private sector Board member that member's alternate shall be nominated by the Minister and approved by Cabinet.

(6) A secretary, provided to the Board by the Financial Secretary, shall attend all meetings, keep detailed minutes and undertake such other tasks as may be assigned to him.

(7) If a member of the Board stands to gain financially or has a conflict of interest he shall declare his interest and shall not continue to be a member of the Board considering tenders for that contract.

89. Functions of the Board - The functions of the Board are:

(a) To call for and consider tenders for the purchase by Government of real and personal property, goods and services and construction works; and

(b) Within the prescribed limits, and subject to the prescribed procedures, to award contracts, as the Board considers will be in the best interests of the Government; and

(c) To recommend to Cabinet for acceptance such tenders as the Board considers will be in the best interests of the Government and exceed the prescribed limits of the Board's authority to accept tenders; and

(d) To consider appropriate methods of disposal of public property surplus to the requirements of the Government and where appropriate to call for and consider tenders for the purchase of such public property and to accept or reject, or recommend to Cabinet the acceptance or rejection of any such tender; and

(e) To examine, review and make recommendations to Cabinet on the composition, procedures, functions and powers of the Board.

90. Powers of the Board – In the exercise of its functions, the Board shall have such powers as are prescribed by regulation, Treasury Instructions or Operating Manuals.

PART XIII
PUBLIC BODIES

91. Application of this Part–(1) This Part applies to all public bodies.

(2) Notwithstanding that it is not listed in Schedule 4 (Public bodies) a corporation shall be deemed to be a public body if the Government:

(a) Controls the composition of the board of directors of the corporation; or

(b) Controls more than 50% of the voting power of the corporation; or

(c) Holds more than 50% of the issued share capital of the corporation either directly or through other public bodies (excluding any part of it that carries no right to participate beyond a specific amount in a distribution of either profits or capital).

(3) A corporation complying with any of the conditions of subsection (2) shall be deemed for the purposes of this Act to have been listed in Schedule 4 (Public bodies) as a public body from the date of so complying.

(4) A corporation ceasing to comply with any of the conditions of subsection (2) shall cease to be a public body.

(5) In this Part, "a subsidiary" means a subsidiary of a public body, which shall itself be a public body and be included in Schedule 4 (Public bodies).

(6) The Minister may by written instrument, published in *Savali* and a newspaper circulating widely in Samoa, add to or delete from Schedule 4 (Public bodies) a public body or public bodies, as the case may be.

92. Performance and management plan and budget-(1) The chief executive of each public body shall within 3 months before the end of its financial year submit to the Financial Secretary a performance and management plan for the following financial year.

(2) Where a public body seeks Government assistance by way of grant, subsidy, guarantee or otherwise, the Financial Secretary may require the chief executive of that public body to submit as part of its justification the performance and

management plan of the public body for the following financial year at such a time as he considers necessary to enable the request for such assistance to be considered in the preparation of Estimates.

(3) A public body that seeks assistance under subsection (2) shall not later than 3 months before the end of the Government's financial year submit to the Financial Secretary estimates of its receipts, expenditure and cash flows for the ensuing Government financial year, in such form as the Financial Secretary approves.

93. Financial activities–(1) The chief executive shall advise the Minister and the Responsible Minister by notice in writing immediately upon becoming aware of any information or any event which may materially affect the financial position of the public body.

(2) The notice shall specify the nature of the information or event and shall quantify when practicable the possible and likely effects of the information or event on the public body and what steps have been taken, or are being taken or proposed, to rectify any adverse effects.

94. Bank accounts–(1) A public body shall at all times maintain at least one bank account.

(2) Subject to section 100 (Investment), a public body shall pay all its moneys into an account referred to in subsection (1).

95. Moneys payable to public bodies – Where money is appropriated by the Legislative Assembly for the purposes of a public body such money shall be payable at such times and in such amounts as the Financial Secretary determines.

96. Loans by the State – The Government may, on behalf of the State, make loans to public bodies in accordance with the provisions of section 86 (Power to lend money).

97. On-lending by the State–(1) Subject to the terms of the relative loan agreement entered into by the State under section 79 (Loans from foreign governments and international agencies), the State may on-lend to a public body for the

purposes specified in the relative loan agreement, such amounts of money on such terms and conditions as are specified in the subsidiary loan agreement (as defined in section 74 (Interpretation)).

(2) All subsidiary loan agreements made under this section shall be laid before the Legislative Assembly by the Minister within 7 days of the date of the making thereof if the Assembly is then in session, and if not, at the commencement of the next ensuing session.

98. Private treaty loans–(1) A public body may, with the consent of the Minister, borrow money for its purposes, on such terms as are agreed between the public body and the lender.

(2) The public body shall repay a loan made under subsection (1) in accordance with the terms on which it was made.

(3) Where a public body raises a loan under subsection (1) there shall be no liability attached to the State or Government by virtue of the Minister's consent.

99. Borrowing on overdraft–(1) A public body may borrow for its purposes, by overdraft, within such limits as its Board approves.

(2) Where a public body borrows by overdraft under subsection (1) there shall be no liability attached to the State or Government.

100. Investment–(1) Moneys of a public body that are not immediately required may be invested:

(a) In any securities of, or guaranteed by, the State; or

(b) In any manner in which a trustee may, under any law, invest trust moneys; or

(c) On deposit with a bank; or

(d) In an account established under section 59(2) (Power to accept money on deposit); or

(e) In any other manner approved by the Minister.

(2) The Financial Secretary may issue investment guidelines and reporting requirements as a Treasury Instruction.

101. Application of moneys – The moneys of a public body may be applied only in payment or discharge of expenses, obligations and liabilities of the public body arising under this Act, its empowering Act or an Act that specifically provides for the operation and management of all public bodies.

102. Contracts for works, supplies and services–(1) A public body shall enter into contracts for the acquisition, disposal or management of goods, services and construction works in accordance with the provisions of its empowering Act or rules approved by its board of directors or other governing body.

(2) In the absence of rules provided for in subsection (1), the public body shall enter into such contracts in accordance with the provisions of this Act.

103. Accounts and records–(1) A public body or a subsidiary shall keep proper accounts and records of its transactions and financial position, and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and shall maintain adequate control over its assets, or assets in its custody, and over the incurring of liabilities by it.

(2) A public body or subsidiary shall keep the accounts and records referred to in subsection (1) in such a way as to facilitate the preparation of financial statements required by section 104 (Reports and financial statements) and enable them to be conveniently and properly audited.

(3) The accounts and records required by subsection (1) shall be kept in accordance with generally accepted accounting principles and practice and with other relevant legislative requirements.

(4) A public body or subsidiary must retain all the accounts and records referred to in subsection (1) for 7 years after the completion of the transactions to which they relate.

(5) Notwithstanding the provisions of any other Act every public body shall within 3 years of the coming into force of this Act adopt an accounting period ending 30th June.

104. Reports and financial statements–(1) Notwithstanding the provisions of any other Act, a public body shall prepare and furnish to the Minister and the Responsible Minister, within four months of the end of the public body's financial year, a performance and management report of its operations for that financial year, together with financial statements.

(2) Before furnishing financial statements to the Minister and the Responsible Minister, a public body shall submit them to the Controller and Chief Auditor who shall report on the extent to which they present fairly the public body's financial transactions and position and comply with its performance and management plan.

(3) On receipt, the Minister, or the Responsible Minister if so required by any other Act, shall cause the report and financial statements, together with the report of the Controller and Chief Auditor, to be laid before the Legislative Assembly forthwith if it is in session, and if not, at the commencement of the next ensuing session.

(4) When the report or financial statement of a public body is reproduced for publication or for other purposes, the report of the Controller and Chief Auditor shall be included in the reproduction.

105. Powers of inspection of the Financial Secretary– (1) Where the Financial Secretary considers it appropriate or has reason to believe that a public body has or may have failed to implement the performance and management plan as submitted under section 92 (Performance and management plan and budget), the Financial Secretary may carry out a performance review or initiate an investigation into, or inspection of, the records of that public body.

(2) Where an investigation into, or inspection of, the records of a public body is being carried out, the Financial Secretary has power to obtain full and free access at all times to all accounts and records of such public body and any subsidiary that relate, directly or indirectly to:

(a) The collection, receipt, expenditure and issue of moneys of the public body and any subsidiary; or

(b) The receipt, custody, disposal, issue or use of stores or other property of, or property in the custody of the public body and any subsidiary; or

(c) The incurring of any liabilities by the public body or any subsidiary.

(3) The Financial Secretary may, by written instrument, delegate to a person specified in the instrument, all or any of his powers under this section (other than this power of delegation) in respect of all public bodies or of specified public bodies or of a specified public body.

(4) Other than the performance of the duties, functions and powers under this Part any delegate appointed under this section shall not disclose to any person information that shall come to his attention and all such information shall remain confidential.

106. Investments in corporations other than public bodies – Details of investments in corporations in which the Government owns a shareholding but which are not public bodies in terms of section 91 (Application of this Part) shall be disclosed in the financial statements in accordance with section 107 (Financial statements).

PART XIV
FINANCIAL REPORTING

107. Financial statements–(1) The Financial Secretary shall, as soon as practicable, but not later than 4 months after the end of the financial year, prepare and send to the Audit Office the financial statements for that year in the form specified in Schedule 5 (Form and content of financial statements), including statements of any such funds and accounts as are by this or any other Act required to be included in the financial statements.

(2) (a) The Controller and Chief Auditor shall examine the financial statements and provide a written report to be attached to the financial statements for presentation to the Legislative Assembly. The report shall state whether, in the opinion of the Controller and Chief Auditor, the financial statements -

(i) have been prepared in accordance with this Act and any other relevant Acts; and

(ii) present fairly the matters required by this Act and those Acts; and

(b) If the Controller and Chief Auditor is not able to report in those terms, he shall state the reasons; and

(c) If the Controller and Chief Auditor is of the opinion that he did not obtain all necessary information and explanations, he shall give particulars of the shortcomings; and

(d) The financial statements together with the report of the Controller and Chief Auditor shall be returned to the Financial Secretary not later than 6 months from the end of the financial year to which they relate, and the Minister shall lay them before the Legislative Assembly forthwith if the Assembly is then in session and if not, at the commencement of the next ensuing session; and

(e) The financial statements, in such summarised form as may be authorised by the Minister, shall be published in *Savali* and in a newspaper circulating widely in Samoa.

(3) For the purpose of removal of doubt all funds, moneys, expenditure, liabilities, investments, appropriations and statutory expenditure under Parts V to XII of this Act shall be subject to examination and reporting by the Audit Office under the provisions of this Part.

108. Quarterly summaries – The Financial Secretary shall within one month of the end of each quarter except the last quarter of every financial year, prepare and publish in Savali and in a newspaper circulating widely in Samoa a summary of the receipts and payments of the Treasury Fund from the beginning of the financial year to the end of that quarter and shall forward the summary to the Audit Office.

109. Receipts and payments to be included in financial statements–(1) All financial statements required under section 107 (Financial statements) shall include all receipts and payments brought to charge by Treasury during the period to which the financial statements or summary relates.

(2) Imprests unaccounted for at the end of any quarter shall not be included in the payments but shall be shown as balances in hand.

110. Departmental reports – Annual reports required under any Act to be submitted by a department shall include relevant information relating to that department taken from the statement of receipts and payments required by Schedule 5 (Form and content of financial statements). The Financial Secretary shall certify the information contained in the statement as being a true extract from the financial statements.

PART XV
SURCHARGE, OFFENCES AND DISCIPLINE

111. Imposition of surcharge–(1) A person is liable to surcharge under subsection (2) where it is established that that person has intentionally or recklessly:

(a) By any act or omission failed to collect or receive any moneys for the collection or receipt of which he was responsible; or

(b) Failed to account for any moneys; or

(c) Been responsible for any improper payment of public moneys or for any payment of public moneys that was not vouched or authorised; or

(d) Authorised or permitted a breach of procedures relating to the calling, considering or awarding of tenders; or

(e) Been responsible for any deficiency in or for the loss or destruction of or damage to any public moneys or public property; or

(f) Overcommitted funds under his control or failed to comply with any of the provisions of this Act; or

(g) Approved requisitions for the expenditure of public moneys without observing the provisions of this Act; or

(h) Failed to deposit forthwith in accordance with the provisions of this Act the money collected by him into the appropriate fund or account.

(2) Where a person is in breach of subsection (1) the Financial Secretary may, subject to section 112 (Procedure for imposition of surcharge) surcharge him with a sum that does not exceed:

(a) Any amount not collected, received or accounted for; or

(b) Any amount improperly paid, not vouched or not authorized; or
(c) The amount of any deficiency; or
(d) The value of any property lost or destroyed; or
(e) The value of any property damaged or, in the discretion of the Financial Secretary, the cost of repairs; or
(f) In a case to which paragraph (f) of subsection (1) relates, the amount of any improper payment or other loss of public moneys.

112. Procedure for imposition of surcharge–(1) Before imposing a surcharge under section 111 (Imposition of surcharge) the Financial Secretary shall:

(a) Forward to the person against whom it is proposed to make the surcharge a notice providing the reasons for the proposed surcharge; and
(b) Consider any submissions made by that person within 14 days of his receipt of the notice or such longer period specified in the notice.

(2) In the light of those submissions the Financial Secretary may decide:

(a) To impose a surcharge for an amount no greater than is specified in the notice or a lesser amount; or
(b) Not to impose a surcharge.

(3) Where the Financial Secretary imposes a surcharge, he shall forward to the person surcharged a notice specifying the Financial Secretary's decision and the reasons for the decision together with a statement of the person's right of appeal.

(4) Where the Financial Secretary forwards a notice under subsection (1) to a person and later decides not to impose a surcharge, he shall notify the person accordingly.

113. Appeal against surcharge–(1) A person on whom a surcharge has been imposed may appeal to the appellant authority within 21 days after he has been notified of the surcharge.

(2) The appellant authority shall be the Chief Justice or a judicial officer nominated by the Chief Justice who shall be entitled to determine his own procedures.

(3) After such investigation as it thinks proper, the appellant authority may make such order as it thinks proper, confirming the surcharge or annulling it in whole or in part.

114. Recovery of amount of surcharge–(1) The amount of surcharge may be recovered as a debt from the person on whom it was imposed.

(2) Notwithstanding any other law, the Financial Secretary may direct that the amount of a surcharge imposed on any person employed by the Government be deducted from any moneys payable to that person by the Government arising out of his employment by the Government.

115. Offences–(1) A person commits an offence who:

(a) In connection with an inspection or inquiry under this Act refuses or wilfully neglects to attend at a time and place required of him by the Financial Secretary; or

(b) Refuses or wilfully neglects to produce any records in his possession when required to do so under this Act; or

(c) Refuses or wilfully neglects to pay any public money or trust money into the account or fund into which it is payable; or

(d) Refuses or wilfully neglects to provide reports under section 13 (Responsibilities of heads of departments); or

(e) Intentionally or recklessly overcommits or over-spends funds under his control; or

(f) Makes any statement or declaration or gives any certificate required to be made or given by or under this Act, knowing it to be false; or

(g) Does any act for the purpose of procuring for that person or for any other person or organisation:

(i) the improper payment of public money or trust money; or

(ii) the improper use of public property.

(h) Wilfully fails to carry out any duty or obligation imposed on that person under this Act.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding 10 penalty units and where the person is a body corporate to a fine not exceeding 50 penalty units.

(3) Where any body corporate commits an offence against this Act, every director, chief executive, secretary, manager or other officer of the body corporate and every person purporting to act in any such capacity shall also be guilty of an offence unless that person satisfies the Court that either:

(a) The offence was committed without that person's knowledge or consent or not through that person's gross negligence; or

(b) That person took all reasonable steps to prevent the commission of the offence.

(4) A penalty under subsection (2) may be imposed in addition to any surcharge under section 111 (Imposition of surcharge) and any penalty under the Public Service Act 1977.

116. Obligation to report–(1) A person who has knowledge of any circumstances which may cause him to consider that an offence under section 115 (Offences) may have occurred shall report those circumstances to the Minister or Financial Secretary or both.

(2) A person who in good faith alleges a breach of this Act to the Minister or Financial Secretary shall be immune from civil suit and shall not be penalized in any way (whether the allegation is proved or not) because of his actions in reporting the matter.

117. Disciplining of heads of departments and chief executives in certain circumstances–(1) For the purposes of this section, "appointing authority" means the authority by whom, under the Constitution or any Act, a head of department or chief executive is appointed.

(2) Where it is established that a head of department or chief executive intentionally or recklessly has authorized expenditure or commitment of funds in excess of the approved limit for the department or public body the appointing authority may dismiss the head of department or the chief executive, as the case may be.

(3) Where the appointing authority proposes to dismiss a head of department or chief executive under subsection (2) the appointing authority shall:

(i) give to the head of department or chief executive, as the case may be, notice in writing of the reasons for the proposed dismissal and details of the evidence which the appointing authority has relied upon in forming the view that the head of department or chief executive, as the case may be, may have intentionally or recklessly authorized expenditure or commitment of funds in excess of the Approval limit for the department or public body; and

(ii) give to the head of department or chief executive, as the case may be, notice in writing that the person has 14 days (or longer as specified in the notice) to provide the appointing authority with a written response to the allegations made under subsection (3)(i) and that a failure to respond to the allegations may result in the appointing authority dismissing the head of department of chief executive, as the case may be, together with a notice in writing as to the person's rights of appeal under this Part.

(4) Upon expiry of the period specified in subsection (3)(ii) the appointing authority shall:

(i) in the case where the appointing authority has received a notice from the person denying any allegation and requesting an opportunity to appear before the appointing authority, the appointing authority shall provide the person with an opportunity to appear before the appointing authority to challenge the evidence and make a submission to the appointing authority and the appointing authority shall then consider the material before it before deciding whether the person should or should not be dismissed; or

(ii) in the case where the appointing authority has not received any notice from the person or has received an admission of liability the appointing authority may proceed to determine whether to dismiss the person.

(5) Where the appointing authority makes a decision under this section it shall forward to the person a notice in writing specifying the appointing authority's decision and the reasons for the decision.

(6) The appointing authority may not dismiss the person unless the appointing authority is convinced of the matters before the appointing authority on the balance of probabilities.

(7) (i) a person who is dismissed under this section may appeal to the Appellant Body with 21 days after he has been notified of the dismissal;

(ii) the Appellant Body shall be the Chief Justice or a judicial officer nominated by the Chief Justice who shall be entitled to determine his own procedures;

(iii) after such hearing as it thinks proper the Appellant Body may make such order as it thinks proper, confirming the dismissal or annulling it.

(8) A dismissal under this section shall not be effective until 21 days after the person has been sent a notice from the appointing authority under subsection (5) or the person's right of appeal under subsection (7) has been exhausted whichever is the later date.

(9) Subject to subsections (10) and (11) this section shall not apply to the Controller and Chief Auditor or the Attorney General or the Clerk of the Legislative Assembly who are constitutional officers under the Constitution.

(10) Where it is established that the Controller and Chief Auditor or the Attorney General or the Clerk of the Legislative Assembly, as the case may be, has intentionally or recklessly authorized expenditure or commitment of funds in excess of the approved limit for the department or public body the Financial Secretary shall forward a report to the Prime Minister in the case of the Controller and the Chief Auditor and the Attorney General and to the Speaker in the case of the Clerk of the Legislative Assembly.

(11) Where the Prime Minister or the Speaker receives a report as provided for under subsection (10) he, as the case may be, shall take all necessary action.

PART XVI
MISCELLANEOUS PROVISIONS

118. Advances for official overseas travel–(1) Subject to subsection (2), the Financial Secretary may make out of the General Revenue Fund to or on behalf of any Minister, other member of the Legislative Assembly, officer or other person in the service of the Government about to travel overseas on behalf of the Government:

(a) An advance of salary not exceeding any amount of salary already accrued due at the date of advance plus the amount which will accrue due in respect of his expected period of absence overseas; and

(b) An advance for travelling allowances and expenses not exceeding the estimated amount which the Government will ultimately be liable to pay or bear,

and all advances made under this section shall be charged against the relevant output or outputs.

(2) The total amount advanced under subsection (1) (a) shall not exceed 12 weeks' remuneration for each person.

119. Ex gratia payments–(1) Where, in the opinion of the Minister it is appropriate to do so, an *ex gratia* payment not exceeding $2,000 may be made to a person.

(2) Where, in the opinion of the Financial Secretary it is appropriate to do so, an *ex gratia* payment not exceeding $1,000 may be made to a person.

(3) On the recommendation of the Minister, Cabinet may approve an *ex gratia* payment exceeding $2,000.

(4) All amounts paid under this section shall be charged against the Unforeseen Expenditure vote.

(5) *Ex gratia* payments shall be reported in the financial statements.

120. Write-off of losses–(1) An accountable officer shall report promptly, in the prescribed form, to the Financial Secretary, through his head of department, any :

(a) Losses or deficiencies of public moneys; and

(b) Irrecoverable amounts of revenue; and

(c) Irrecoverable debts and overpayments; and

(d) The value of lost, deficient, condemned, unserviceable or obsolete public property; and

(e) Investments written off.

(2) The Financial Secretary may, following any investigation that he thinks necessary in a particular case:

(a) Approve the write-off of an amount not exceeding $5,000; or

(b) Refer to the Minister any case in which the amount exceeds $5,000; and

(c) Take such action under Part XV (Surcharge, offences and discipline) as he considers appropriate.

(3) In any case referred by the Financial Secretary to the Minister, the Minister may:

(a) Approve the write-off of an amount, not exceeding $10,000; or

(b) In a case in which the amount exceeds $10,000, refer the matter to Cabinet for decision.

(4) All amounts approved for write-off by the Financial Secretary, the Minister or Cabinet respectively shall be reported in the financial statements.

121. Set-off of debts – The Government shall have a right of set-off against any person to whom it owes money in the amount of any sum owed by that person to Government.

122. Abolished departments and functions – The Financial Secretary may issue a Treasury Instruction detailing action to be taken in the event of the abolition of a department or any function of a department, to ensure full accountability for all assets and liabilities and the transfer or closure of all relevant activities.

123. Guarantee policies in addition to or instead of bond–(1) Wherever by any Act any person is required to give security to the Government by bond, the Financial Secretary or other officer whose duty it is to approve of the security tendered, may accept instead of or in addition to any bond the guarantee or policy of any company, society or association approved by him, established and carrying on business inside or outside Samoa.

(2) Nothing in this section shall apply to any bond, recognisance or security which is required from any plaintiff, defendant, petitioner, complainant, executor, administrator, curator, receiver, guardian or other person in the course of any proceedings in any Court.

124. Payments without probate–(1) On the death of any person to whom any sum of money may be payable by the Government, the Financial Secretary, on being satisfied of the expediency of dispensing with probate or letters of administration, may authorise the payment of that sum, but not exceeding $3,000, to any person or persons whom the Financial Secretary may consider to be entitled to it without requiring the production of probate or letters of administration.

(2) Any payment made under this section shall be valid against all persons whatsoever, and all persons acting under its provision shall be discharged from all liability in respect of any money duly paid or applied by them under this section.

125. Transfer of responsibilities of accountable officer – On the death, resignation or removal of any accountable officer the balances remaining at the credit of his public or official account in any bank shall on the appointment of his successor vest in and be transferred to the public or official account of his successor at the said bank, or otherwise dealt with as the Financial Secretary may direct; and on the death, bankruptcy or insolvency of any such accountable officer those balances shall not constitute assets of his estate or be in any manner subject to the control of his legal representative, assignee or trustee.

126. Regulations–(1) The Head of State, acting on the advice of Cabinet, may make such regulations as are deemed necessary or expedient for the purpose of giving full effect to this Act and for the due administration of it and in general for the better control and management of public moneys and public property and public debts.

(2) Where in this Act authority is given to make regulations for any purpose, that authority shall be deemed to include an authority to prescribe offences in respect of the contravention of, or non-compliance with any provisions of this Act or such

regulations or any requirement or direction made or given pursuant to this Act and such regulations and authority to prescribe penalties not exceeding 100 penalty units [$10,000] or imprisonment for 12 months, or both.

(3) All regulations made under this section shall be laid before the Legislative Assembly by the Minister within 14 days of the date of the making thereof if the Assembly is then in session, and if not, at the commencement of the next ensuing session.

127. Treasury Instructions and Operating Manuals–(1) The Financial Secretary may issue Treasury Instructions and Operating Manuals setting out detailed procedures and requirements not inconsistent with this Act as to any matter prescribed by this Act to be so provided for, or that are necessary or desirable for carrying out or giving effect to this Act and in general for the better control and management of public moneys, public property, and public debts.

(2) The Treasury Instructions and Operating Manuals referred to in subsection (1) may be issued and distributed in printed, electronic or other form.

(3) Treasury Instructions shall:

(a) Be headed "Treasury Instruction" with an identifying number, and contain an explanatory headnote; and

(b) State a commencement date; and

(c) Make reference to the enabling section of the authorising Act and to any other statutory provision or regulation to which the content relates; and

(d) State whether the Treasury Instruction is new, adds to or replaces a previous Instruction and refer to the previous Instruction being added to or replaced; and

(e) Be signed by the Financial Secretary.

(4) Operating Manuals shall:

(a) Be headed "Operating Manual" and contain an explanatory headnote; and

(b) State a commencement date; and

(c) Make reference to the enabling section of the authorising Act and to any other statutory provision or regulation or Treasury Instruction to which the content relates; and

(d) State whether the Operating Manual is new, adds to or replaces a previous manual and refer to the previous manual being added to or replaced; and

(e) Be signed by the Financial Secretary.

128. Transitional provisions–(1) No person in the preparation of financial statements, budgets or forecasts, unless it is shown that that person acted intentionally, shall be convicted of any offence under section 115 (Offences) for any act or failure to act by that person in respect of the reporting provisions in Parts IV (Economic, financial and fiscal policy) and XIV (Financial reporting) during the period of 12 months from the coming into force of this Act.

(2) Where, during the period of 12 months from the coming into force of this Act, any report, statement or update required by this Act is not provided by the due date in accordance with this Act, the Minister shall report the circumstances to the Assembly forthwith, and if the Assembly is not in session, at the commencement of the next ensuing session.

(3) Every act, matter or thing done in the name of the Minister, Financial Secretary or Treasury before the commencement of this Act will if validly done continue to have effect as if done in the name of the Minister, Financial Secretary or Treasury after the commencement of this Act and every act, matter or thing in progress before the commencement of this Act and which is affected by this Act may continue in progress after the commencement of, but subject to, this Act.

129. This Act to prevail – Where any provision of this Act conflicts with a provision of any enactment other than the Constitution, the provision of this Act will prevail.

130. Savings – All subordinate legislation made under any of the enactments repealed by this Act and in force immediately before the coming into force of this Act, shall so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act.

131. Amendments and repeals–(1) The enactments in Schedule 6 (Amendments) are amended in the manner specified therein.

(2) The enactments in Schedule 7 (Repeals) are repealed.

Section 33 (Interpretation)

SCHEDULE 1

Revenue Acts

(1) Administered by the Commissioner of Inland Revenue

The Income Tax Act 1974.
The Income Tax Administration Act 1974
The Income Tax Rate Act 1974
The Value Added Goods & Services Tax Act 1992/1993
The Business Licences Ordinance 1960

(2) Administered by the Comptroller of Customs

The Customs Act 1977
The Customs Tariff Act 1975
The Excise Tax (Domestic Administration) Act 1984
The Excise Tax (Import Administration Act) 1984
The Excise Tax Rate Act 1984
The Liquor Act 1971

(3) Administered by the Financial Secretary

The Stamp Duty Ordinance 1932
The Petroleum Act 1984

Section 66 (Register to be kept)

SCHEDULE 2

Register of unclaimed money
Register of Unclaimed Money held by
(insert name of holder)

Name, occupation and last known address of Owner	Total amount due to Owner	Description of Unclaimed	Date of Last Claim Money

Section 81 (Provision for general borrowing)

SCHEDULE 3
Provisions for general borrowing

PART I
PRELIMINARY

1. Interpretation – In this Schedule, unless the context otherwise requires:

"holder" means any person registered as the holder of any stock:

"prescribed" means prescribed by the Minister:

"registrar" means the Registrar in whose register any stock issued under the provisions of this Schedule is for the time being registered:

"stock" means Samoa Government stock.

PART II
TERMS AND CONDITIONS OF LOANS

2. Cabinet to determine certain matters – When an Act authorises the borrowing of money and the Minister decides to raise a loan accordingly, Cabinet shall determine the following matters:

(a) The price of the stock; and

(b) The date or dates on which the money is to be repaid; and

(c) Whether the Government will reserve the right to repay the loan before maturity, and if so on what notice; and

(d) The rate or rates of interest to be paid on the amount borrowed; and

(e) The date or dates from which interest is to be computed and the dates on which interest is to be paid; and

(f) The amount of the loan within the limit set by the authorising Act; and

(g) Whether or not the Minister may accept subscriptions in excess of the amount of the loan within the limit set by the authorising Act; and

(h) The amount percent of the sum actually borrowed that shall be set aside each half-year during the currency of the loan as a contribution to the National Loans Sinking Fund; and

(i) Any other special conditions which shall apply to money borrowed in terms of that Act.

3. Receipt and expenditure of loan money – All money borrowed under the authority of such an authorising Act shall be received into the Treasury Fund or into such other fund or account as the authorising Act empowers or directs and may be expended from that fund or account only in accordance with an Appropriation Act or as statutory expenditure for which provision is made in this Schedule or the authorising Act.

4. Issue of stock – Stock shall be issued and registered for all amounts borrowed under the provisions of this Schedule, and shall be known as Samoa Government stock.

5. Stock not to be free of income tax – No stock shall be issued with the condition that the interest derived therefrom shall be exempt from income tax.

6. Loans to be a charge on public revenue – All principal and interest payable under any stock are declared to be a charge upon the public revenues of Samoa and to be payable as statutory expenditure out of the Treasury Fund or such other fund or account as the Minister thinks fit.

7. Security for lenders – All money borrowed and all stock issued or converted under this Schedule and an authorising Act shall, so far as concerns the lender or holder, be deemed to have been lawfully borrowed, issued or converted within the powers conferred by this Schedule and that authorising Act and no such lender or holder shall be concerned to inquire whether or to what extent authority has been given or occasion has arisen for the exercise of any such powers.

8. Prior securities not affected – Neither the authority to borrow any money given by any authorising Act nor the exercise of any such authority under this Schedule and that Act shall alter or affect or vary any stock theretofore issued.

9. Saving of existing claims – Nothing in this Schedule and nothing done under this Schedule, except by agreement, shall take away, abridge, or prejudicially affect any right or interest, by way of priority or otherwise, of any person in or against the Treasury Fund, or the public revenues of Samoa, or any of them, or any remedy which any person would have had or might have exercised in respect of any such right or interest if this Act had not been passed.

10. Authorised investment for trust funds – Stock issued under this Act is declared to be an authorised investment for trust funds and the relevant provisions of the Trustee Act 1975 shall apply in respect of such stock accordingly.

11. Sinking fund–(1) On each half-yearly date on which interest is payable on any loan, the Financial Secretary shall transfer from the Treasury Fund to the National Loans Sinking Fund a sum calculated in accordance with the terms of the Cabinet decision made pursuant to paragraph (h) of section 2 of this Schedule.

(2) All money in the National Loans Sinking Fund shall, unless used in accordance with the provisions of subsection (4) be invested in the same manner as provided in section 48 (Balances may be invested) of this Act. All interest received on such investments shall be likewise invested in such securities, unless used in accordance with the provisions of subsection (4).

(3) Money in the National Loans Sinking Fund may be applied at the maturity date of the loan towards the repayment of the principal money.

(4) The Minister may authorise the use of money in the National Loans Sinking Fund to purchase and redeem any stock before the maturity date provided such purchases are made at or under the nominal value of the stock (excluding any accrued interest).

(5) If on the maturity date of any stock the balance held in the National Loans Sinking Fund is not sufficient to repay the stock in full, the Minister may authorise payment of any deficiency out of the Treasury Fund.

(6) All payments and transfers authorised by this section shall be statutory expenditure.

12. Repayment of loan before due date – The Minister may repay the whole or part of any loan before the due date, on such terms as he shall think fit, if in his opinion undue hardship would result to any person by not so repaying.

13. Agreement with Registrar as to stock–(1) The Minister, acting on the advice of Cabinet, may from time to time enter into an agreement with any Registrar in or outside Samoa providing for all or any of the following things:

(a) For registering any stock in a register kept by the Registrar at his principal place of business, and for issuing certificates of title relating to any such stock; and

(b) For managing the creation, registration, and issue of stock; and

(c) For receiving any money borrowed under this section; and

(d) For paying such money into the Treasury Fund, or into such other fund or account as is duly appointed for that purpose; and

(e) For issuing scrip for deposits on loans; and

(f) For managing transfer of stock; and

(g) For paying interest on stock; and

(h) For reissuing, or re-registering stock, and reissuing certificates of title; and

(i) For redeeming stock; and

(j) For generally conducting all business connected with stock; and

(k) For the protection and remuneration of the Registrar under and in respect of any such agreement.

(2) Every agreement made with any Registrar under this section shall be as valid and effectual as if the terms thereof had been set forth and enacted in this Act, and all remuneration payable under any such agreement to any Registrar shall be statutory expenditure and be charged upon and be paid out of the Treasury Fund or such other fund or account as the Minister thinks fit.

14. Register of stock – Each Registrar shall keep a register of stock in which shall be entered with respect of every holder of stock registered therein, the following particulars:

(a) The full name and address of the holder; and

(b) The amount of stock held by him; and
(c) The rate of interest payable in respect of that stock; and
(d) The date or dates in each year on which the interest is payable; and
(e) The due date for repayment of the principal; and
(f) Such other special conditions as apply to that stock.

15. Application for stock – Any person who desires to lend to the Minister any money on the security of stock under this Schedule may apply to the appropriate Registrar in the prescribed form, and that Registrar may, on payment of the price of the stock and subject to the provisions of this Schedule, register the name of that person in the register kept by him as the holder of the stock accordingly.

16. No notice of trust to be received or registered – No notice of any trust in respect of any stock or certificate of title shall be entered in any register or be receivable by any Registrar; and no liability shall attach to the Government or to any Registrar, by reason of any express, implied or constructive notice of any trust affecting any such stock or certificate of title.

17. Registered holder of stock – Every person whose name is for the time being on any register as the holder of any stock shall be deemed to be the holder of that stock for that amount standing to his credit in the register, with the right, subject to the provisions of this Schedule, to receive the interest thereon.

18. Certificates of title to stock–(1) Each Registrar shall, on application in writing in the prescribed form by the registered holder of any stock registered in his or her register, issue to him a certificate of title in the prescribed form certifying that the applicant is the registered holder of the stock referred to in it (being the whole or any part of the amount of stock of which he is the registered holder).

(2) Any such certificate of title shall be conclusive evidence of the ownership of the stock to which it relates by the person named in it as the holder.

(3) Where the Registrar is satisfied that any such certificate of title has been lost or destroyed, the Registrar may, on such terms and subject to such conditions as may be prescribed, issue a substitute certificate of title with the word "Substituted" stamped or written on it, and shall record the issue of it in the register accordingly.

(4) Every such substituted certificate of title shall have the same effect to all intents and purposes as the original certificate of title for which it is substituted.

(5) The Registrar shall enter in the register full particulars of the issue of certificates of title under this section.

(6) The transfer, whether by delivery or otherwise, of any such certificate of title shall not operate as a transfer of the legal or equitable interest of the holder in the stock to which it relates. No dealing with any stock to which any such certificate of title relates shall be recorded by the Registrar unless and until the certificate of title has been produced to and cancelled by the Registrar.

19. Infants may be registered as holders of stock – Any infant of the age of 10 years or upwards may be registered as the holder of any stock under this Schedule, and may apply for the issue of certificates of title in relation to stock, or may execute a memorandum of transfer of any stock, as effectually in all respects as if he were of the age of 21 years.

20. Transfer of stock–(1) The registered holder of any stock under this Schedule may, by memorandum of transfer in the prescribed form, transfer to any other person the whole of the stock or any part thereof, being an amount of $10 or a multiple of $10, or such other amount as the Registrar may in any particular case agree to.

(2) On application to the Registrar, either by the registered holder or by the transferee, and on production to the Registrar of a duly executed memorandum of transfer of stock and any outstanding certificate of title to that stock, the Registrar shall enter in the register the name of the transferee as the registered holder of the stock to which the memorandum of transfer relates.

(3) Every such entry shall operate as a transfer of the stock to which it relates and shall vest that stock in the transferee.

(4) No transfer of stock shall be made under this section while any certificate of title is outstanding in respect of the stock, unless the amount of the stock proposed to be transferred is not more than the amount standing on the register and unaffected by the outstanding certificate.

21. Acquisition of stock by operation of law – When the right to any stock under this Schedule is acquired by any person on the death or bankruptcy of the registered holder, or under a writ of execution, or in any manner other than by way of a transfer under section 20 of this Schedule, the Registrar, on application by or on behalf of the person entitled, and on being satisfied that he is legally entitled to be registered as the holder of the stock, shall enter his name in the register as the holder of the stock accordingly.

22. Vesting of stock of deceased holder without requiring probate or letters of administration–(1) Where the registered holder of any stock under this Schedule has died, and the total nominal amount of the stock does not exceed $400, the Registrar shall have a discretion, without requiring the production of probate or letters of administration, to register as the holder of the stock any person who proves to the satisfaction of the Registrar:

(a) That he is entitled to the stock under the will or on the intestacy of the deceased stockholder; or

(b) That he is entitled to obtain probate of the will of the deceased stockholder, or letters of administration of his estate; and

(c) That in neither case has any grant been made of any such probate or letters of administration.

(2) Notice of any exercise of the powers conferred by this section shall within 14 days thereafter be given by the Registrar to the Commissioner of Inland Revenue.

23. Payment of interest–(1) The Registrar shall from time to time according to the terms of the loan issue cheques for the payment of interest on any stock registered in his register.

(2) Every such cheque shall be drawn in favour of the registered holder of the stock to which it relates, or in the case of stock held jointly or otherwise by two or more persons may be in the name of the stockholder first named in the register.

(3) Nothing in this section shall preclude the Registrar from paying interest otherwise than by cheque if he thinks fit, or from accepting a direction from a stockholder or stockholders, as the case may be, for payment to be made to an agent.

(4) All payments authorised by this section shall be statutory expenditure.

24. Closing of register–(1) The Registrar shall, for a period of 14 days before each payment of interest on any stock registered in his register, close the register of that stock as regards transfers.

(2) The persons who on the day of such closing are registered as stockholders shall, as between them and their transferees, be entitled to the interest then next payable on the stock.

25. Power of attorney–(1) Any person may, by power of attorney in the prescribed form, appoint any other person to be his attorney for any purpose in relation to stock under this Schedule.

(2) Every power of attorney under this section shall be deposited in the office of the Registrar.

(3) Every such power of attorney that is so deposited shall be valid and effectual for all the purposes mentioned in it until notice in writing of its revocation, or of the death, disability, bankruptcy, winding up or dissolution of the principal has been received in the office of the Registrar.

26.Redemption, conversion or renewal of stock–(1) Cabinet may authorise the Minister to issue, in Samoa or elsewhere, on such terms as he thinks fit, new stock for such amount as may be necessary for the purpose of redeeming or converting any stock; and may from time to time, by agreement with the holders, renew any stock by extending the currency of it for such period as he thinks fit.

(2) Cabinet may authorise the Minister to pay to the holder of any stock being converted such amount by way of premium or bonus as may be necessary to effect the conversion. Every such premium or bonus shall be deemed to be part of the costs, charges, and expenses of the conversion.

(3) In every case where money is borrowed under this section it shall not be applied other than in redeeming or converting the stock for which it was borrowed and defraying the costs, charges, and expenses incurred in connection with the borrowing and the redemption or conversion:

PROVIDED THAT nothing in this subsection shall be construed to prevent the temporary investment of any such money pending its application to the purpose aforesaid.

(4) Trustees and other persons acting in a fiduciary capacity are expressly authorised to convert under this section any stock held by them, and shall not be liable for any loss resulting from any such conversion.

27. Interest on stock sold to redeem outstanding stock – In every case where stock is disposed of in order to provide money to redeem outstanding stock, interest may be paid on the stock so disposed of notwithstanding that interest is still payable under the outstanding stock.

28. Audit Office to be notified – The Financial Secretary shall notify the Controller and Chief Auditor of all issues, renewals, conversions and redemptions of stock under this Schedule.

29. Costs, charges and expenses – The costs, charges and expenses incurred in connection with raising any loan under this Schedule or converting, redeeming or renewing any stock shall be statutory expenditure and may, at the discretion of the Minister, be charged upon and be paid out of the Treasury Fund, or such other fund or account as the Minister thinks fit.

PART III
LOANS RAISED IN SAMOA

30. Subscriptions from non-Samoans or non-residents – The Minister is empowered on borrowing in Samoa under the authority of this Schedule and an authorising Act, to accept subscriptions to the loan from persons who are not Samoan citizens, or from persons who are not for the time being residents of Samoa, but no stock issued for such subscription

shall provide for the payment of interest, or the repayment of principal, in any currency other than that of Samoa. The transfer from Samoa of any interest or principal will be subject to any regulations in this respect then in force.

31. Registrar of stock – The Central Bank of Samoa shall be the Registrar of stock under this Part of this Schedule.

32. Statements by Registrar – The Registrar shall from time to time furnish to the Financial Secretary certified statements as to the amount of stock registered under this Part of this Schedule, with such other particulars relating to it as the Financial Secretary may require, and the Controller and Chief Auditor may for all purposes accept any such certified statements as correct.

33. Exemption from stamp duty – Notwithstanding the provisions of the Stamp Duty Ordinance 1932, no stamp duty shall be payable on the transfer of any stock registered under this Part of this Schedule, or on any power of attorney given under section 25 (Power of attorney) of this Schedule and relating exclusively to any such stock.

34. Supreme Court may prohibit dealings with stock– (1) The Supreme Court, on the application of an interested person made either *ex parte* or on notice to any other person as the Court may direct, may make an order prohibiting, for the time and subject to the conditions specified in the order, any dealings with any stock specified in the order, and may discharge any such order, with or without costs, and generally act in the premises in such manner as in the opinion of the Court the justice of the case requires.

(2) The Registrar, without being made a party to the proceedings, shall, on being served with any such order, obey it, and make an entry of the order in the register.

(3) No liability shall attach to the Government or to the Registrar for any entry made or anything done by the Registrar pursuant to an order made under this section.

35. Evidence of contents of register – Any extract from the register, certified as correct by the Registrar, shall, for all purposes and in all Courts, be conclusive evidence of the entry in the register to which the extract relates at the date when the extract was so certified.

PART IV
LOANS RAISED OUTSIDE SAMOA

36. Determination of certain terms for borrowing outside Samoa – Each Act authorising the Minister to borrow money outside Samoa shall state the following matters:

(a) The country in which the money is to be borrowed and the stock issued and registered for all amounts so borrowed; and

(b) The place for the payment of interest and the repayment of principal respectively; and

(c) The currency in which the money is to be borrowed; and

(d) The currency or money of account in which the stock is to be issued and in which the interest, principal and any other money thereby secured is expressed to be measured or to be payable or repayable in, whether that of Samoa or of any other country or whether or not that in which the money thereby secured was originally borrowed.

37. Agreements relating to loans raised outside Samoa– (1) The Minister, acting on the advice of the Cabinet, may enter into any agreement with the Government or a Government agency of a country other than Samoa which he thinks would facilitate the raising of a loan on reasonable terms in that country by the Government of Samoa.

(2) Without restricting the generality of subsection (1) any such agreement may provide for the giving of consideration to obtain a guarantee of the loan, and for the ultimate protection of the guarantor.

(3) A copy of any agreement entered into by the Minister under this section shall be laid before the Legislative Assembly within 14 days after the date of the execution of the agreement if the Assembly is then in session, and if not, at the commencement of the next ensuing session.

38. Appointment of Registrars – The Minister, acting on the advice of Cabinet, may from time to time appoint in a country other than Samoa a Registrar of stock to be issued and registered in that country.

39. Loan agents for raising loans outside Samoa – If any loan authorised to be raised, or any stock authorised to be issued, under this Schedule is to be raised or issued outside Samoa, the Minister may by warrant under his hand, appoint any two or more persons as joint loan agents for raising the loan or issuing the stock and may also in like manner confer upon them all such powers as he thinks necessary in order to carry into effect the purposes of this Schedule and any authorising Act, and notice of such appointment shall be published.

40. Removal of loan agents – The Minister may remove or accept the resignation of any loan agent; and in any such case, or if any loan agent dies, the Minister may appoint another person in his stead.

41. Minister's powers not limited – The authority of the Minister to raise the whole or any part of the loans authorised to be raised, and generally to exercise all the powers conferred on him by this Act, shall be in no way limited or affected by the fact that he has made any appointment as aforesaid.

42. Cost of stamp duty on transfers of certain stock–(1) The cost of composition of any stamp duty payable in a country other than Samoa in respect of transfers of any stock issued upon the raising of any loan or upon the conversion of any securities shall be deemed, for the purposes of this Schedule, to be part of the costs, charges and expenses of raising the loan or issuing the stock.

(2) In any case where any stamp duty in respect of such transfers is not compounded the Minister may estimate the amount required for the payment of the stamp duty during the first 12 months after the raising of the loan or the issuing of the stock, and the amount so estimated shall be deemed, for the purposes of this Schedule, to be part of the costs, charges and expenses of raising the loan or issuing the stock.

(3) All sums paid as stamp duty on transfers in excess of the amount estimated under subsection (2) of this section, and all other sums so paid in cases where no estimate is made, shall be deemed, for the purposes of this Schedule, to be part of the costs, charges and expenses of raising the loan or issuing the stock.

43. Transfer of stock from overseas to Samoa–(1) Subject to such conditions and on payment of such fees as may from time to time be prescribed, the holder of any stock repayable in a country other than Samoa may transfer the stock from the register kept in that country to the register kept in Samoa.

(2) After the registration in Samoa of any such stock so transferred, the stock shall at maturity be redeemable in Samoa, and all interest falling due thereon after the date of that registration shall be payable in Samoa, notwithstanding anything to the contrary printed on any certificate of title or contained in a prospectus issued in connection with the raising of the loan.

(3) Any stock so transferred to the register kept in Samoa shall not at any later date be transferred to any register kept outside Samoa.

PART V
TREASURY BILLS

44. Interpretation – In this Part of this Schedule, unless the context otherwise requires:

"redemption date" means the date for the redemption of Treasury Bills determined by the Minister under section 47(b)(Value and form of Treasury Bills):

"Treasury Bill" means a Treasury Bill issued under this Part of this Schedule and includes any coupon in connection with it.

45. Issue of Treasury Bills–(1) The Minister may, on behalf of the Government, borrow by the issue of Treasury Bills in Samoa such amounts as he may think necessary.

(2) The amount of Treasury Bills outstanding at any time shall not exceed one-quarter of the total revenue received into the General Revenue Fund in the preceding financial year.

46. Part II not to apply to Treasury Bills – The provisions of Part II of this Schedule shall not apply to Treasury Bills.

47. Value and form of Treasury Bills – Every Treasury Bill shall:

(a) Be for a sum of $5,000 or a multiple thereof; and

(b) Be repayable at par at such time or times as the Minister shall, before the issue of the Treasury Bill, determine, being not later than one year from the date of issue of the Treasury Bill; and

(c) Be in such form as the Minister may determine; and

(d) Be issued by such method as the Minister may determine.

48. Treasury Bills to be a charge on public revenue – The par value of Treasury Bills is hereby declared to be secured by way of charge upon the public revenues of Samoa and shall be payable as statutory expenditure.

49. Appointment of agent – The Central Bank shall be the agent of the Government for the purposes of the issue and redemption of Treasury Bills.

50. Audit Office to be notified – The Central Bank shall upon request notify the Controller and Chief Auditor of the par value of Treasury Bills outstanding at the time of notification.

51. Cancellation, redemption and discounting of Treasury Bills–(1) Upon the redemption date Treasury Bills shall be delivered to the Central Bank for cancellation and the par value shall be paid.

(2) The Central Bank may at its discretion purchase Treasury Bills at a discount prior to the redemption date.

PART VI
MISCELLANEOUS

52. Forms and other matters may be prescribed – Subject to the provisions of this Schedule, the Financial Secretary may from time to time in such manner as he sees fit:

(a) Prescribe the forms of application for stock, certificate of title, transfer of stock and other instruments under this Schedule; and

(b) Prescribe all such other matters as may be deemed necessary or expedient for giving full effect to this Schedule.

Section 91 (Application of this Part)

SCHEDULE 4
Public Bodies

Public body	Empowering Act
Accident Compensation Board	Accident Compensation Act 1978
Agriculture Store Corporation	Agriculture Store Corporation Act 1975
Airport Authority	Airport Authority Act 1984
Apia Park Board	Apia Park and Sports Facilities Board Act 1995
Development Bank	Development Bank Act 1974
Electric Power Corporation	Electric Power Corporation Act 1980
Housing Corporation	Housing Corporation Act 1990
National Cultural Centre Trust	National Cultural Centre Trust Act 1978
National Investment Corporation	National Investment Corporation Act 1981
National Lotteries Board	National Lotteries Act 1978
National Provident Fund	National Provident Fund Act 1972
National University of Samoa	National University of Samoa Act 1997
Polynesian Airlines (Holdings) Ltd	Companies Act 1955
Polynesian Airlines Investments Ltd	Companies Act 1955
Polynesian Airlines Ltd	Companies Act 1955
Ports Authority	Ports Authority Act 1998
Public Trust Office	Public Trust Office Act 1975
Samoa Communications Ltd	Companies Act 1955
Samoa Land Corporation	Companies Act 1955
Samoa Life Assurance Corporation	Life Assurance Corporation Act 1976
Samoa Polytechnic	Western Samoa Polytechnic Act 1992/1993
Samoa Shipping Corporation	Companies Act 1955
Samoa Shipping Services	Companies Act 1955
Samoa Trust Estates Corporation	Western Samoa Trust Estates Corporation Act 1977
Samoa Visitors' Bureau	Western Samoa Visitors' Bureau Act 1984

Samoa Water Authority	Water Authority Act 1993/1994
Special Projects Development Corporation	Special Projects Development Corporation Act 1972
Televise Samoa	Televise Samoa Corporation Act 1994
Totalisator Agency Board	Betting (Totalisator Agency) Act 1990

Section 107 (Financial statements)

SCHEDULE 5
Form and content of financial statements

The financial statements must include the following information:

1. (a) An Operating Statement showing receipts, payments and the surplus or deficit for the reporting period; and

(b) Statement of Financial Position showing the assets, liabilities and net financial position as at balance date of the reporting period; and

(c) Statement of Cash Flows showing the cash receipts and cash payments during the reporting period and the cash balance as at balance date of the reporting period; and

(d) Statement of Funds showing, for each Fund, balances at the beginning and end of the reporting period and the nature of the movement in the reporting period; and

(e) Statement of Cash Balances showing a breakdown of the balances held by type of holding; and

(f) Statement of Budget Performance showing appropriated budgets, approved variations to appropriated budgets, actual performance and variation between actual and budget; and

(g) Disaggregated Statements of Budget Performance for each department and agency showing appropriated budgets and variations to those

budgets, actual receipts and payments for appropriated items including third party outputs and transactions on behalf of the State, and the variation between appropriated budget and actual performance; and

(h) Statement of Statutory Expenditure showing details of domestic debt servicing, external debt servicing, statutory remuneration and other material items of expenditure; and

(i) Statement of Investments showing the nature or type of investments and current and non-current investments; and

(j) Statement of Borrowings showing total debt and the breakdown of current and non-current debt, and for each debt showing the opening and closing balances for the reporting period and the nature of the movement during the period, the impact of exchange rate movements, average interest rate, and loan balances available for draw down (if applicable); and

(k) Statement of Contingent Gains and Liabilities showing where possible an indication of the gain or cost; and

(l) Statement of *Ex gratia* Payments approved under section 119 *(Ex gratia payments)*; and

(m) Statement of Write-offs approved under section 120 (Write-off of losses) showing in aggregate losses and deficiencies of public money, irrecoverable amounts of revenue, irrecoverable debts and overpayments, the value of assets including investments written off; and detailing all individual items with a value greater than $100,000 which have been written off; and

(n) A statement of Government transactions prepared under GFS format; and

(o) A statement showing, for each account in the Special Purpose Fund, balances at the beginning and end of the reporting period and the nature of the movement in the reporting period.

2**. A statement showing for each account in the Trust Fund, balances at the beginning and end of the reporting period and the nature of the movement in the reporting period.**

3.(a) Statement of Accounting Policies setting out the significant accounting policies on which the financial statements are prepared; and

(b) Other Statements or Notes as specified by the Financial Secretary in Treasury Instructions or as are required to provide more detailed information or explanations.

4. Comparative Amounts:

(a) Comparative amounts for the corresponding previous reporting period must be shown in the Statements, except where inappropriate or the item has not previously existed; and

(b) Where items included in the current reporting period have been reclassified, the comparative amount of the previous reporting period should be similarly reclassified; and

(c) Where respective reporting periods are not equal in length, the period covered must be clearly identified; and

(d) An amount in relation to the previous reporting period must be shown notwithstanding that there is no corresponding amount for the current reporting period.

5. Certification:

(a) There must be attached to the front of the financial statements -

(i) a statement, signed by the Financial Secretary, as to whether in his opinion, the financial statements present fairly the matters required by this Schedule; and

(ii) a copy of the report by the Controller and Chief Auditor required by section 107(2) (Financial statements); and

(b) At the same time that the financial statements are laid before the Legislative Assembly, the Controller and Chief Auditor shall lay before the Legislative Assembly a return of public securities held in Samoa or elsewhere at the end of the financial year to which those financial statements

relate. Every such return shall include a full account of all investments made under section 48 (Balances may be invested) of this Act and of all securities redeemed or otherwise disposed of during that financial year.

Section 131 (Amendments and repeals)

SCHEDULE 6
Amendments

(1). The Public Service Act 1977 is amended by repealing the words "and shall be first charge thereon" in section 19(2).

(2) The Central Bank of Samoa Act 1984 is amended by:

(i) repealing section 43 and substituting the following section:

"**43. Advances to Government –** The Bank may make advances to the Government:

(a) By overdraft facility in anticipation of current budget revenue, repayable not later than the end of the financial year within which an advance is made and the total of moneys advanced shall not exceed at any time 25% of the total revenue received into the Treasury Fund in the preceding financial year; and

(b) In respect of any payment relating to the membership of Samoa in any international financial institutions, on terms and conditions proposed by the Board and approved by the Minister"; and

(ii) repealing section 45 and substituting the following section:

"**45. Limitation on credit to Government –** The Bank may not make advances to the Government or acquire any evidence of debt issued or guaranteed by the Government except as expressly provided in this Act."

(3) The Fire Service Act 1994 is amended by repealing section 28 and substituting the following section:

"**28. Annual report by the Commissioner –** The Commissioner shall, within 3 months after 30th June in each year, prepare a report on the operations of the Fire Service for the financial year ending on that day, reviewing all matters relevant to the Fire Service. The Commissioner shall submit the report to the Minister who shall lay it before the Legislative Assembly within 7 days if the Assembly is then in session, and if not, at the commencement of the next ensuing session."

(4) The Public Trust Office Act 1975 is amended by repealing section 20 and substituting the following section:

"20. Payment of deficiency–(1) If the balances in the Public Trustee's Account are at any time insufficient to meet the Public Trustee's liabilities and commitments, the Minister responsible for finance may, subject to appropriation of funds under an Appropriation Act, advance to the Public Trustee such sum or sums as may be provided to meet the deficiency, in whole or in part.

(2) The Public Trustee shall in respect of any advances made under subsection (1), enter into an agreement with the Minister responsible for finance, for the repayment of such advances as soon as possible, together with a plan for the restoration of the Public Trustee's Account to a state of balance."

Section 131 (Amendments and repeals)

SCHEDULE 7
Repeals

The following enactments are hereby repealed:

(a) Public Moneys Act 1964; and
(b) National Revenue Board Act 1990; and
(c) Financial Powers Act 1964; and
(d) Public Corporations (Securities) Act 1976; and
(e) Unclaimed Money Act 1964.

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