

## SAMOA LEGAL ANNEX

### REVIEWED LAWS:

1. The Constitution of the Independent State of Samoa 1960, amended as of January 25, 2005
2. Electoral Act 1963, with amendments, as of February 1, 2006 (art. 8, 9, 10). See in a separate file.
3. The Legislative Assembly Powers and Privileges Ordinance 1960, amended as of January 10, 2006
4. Standing Orders of the Parliament of Samoa 2005, amended on June 21, 2006

(\*) Law(s) reviewed but not containing relevant articles for this study.

List of laws of Samoa available at the Parliament's web-site

<http://www.parliament.gov.ws/legislations.cfm>

### RELEVANT ARTICLES:

#### **1. The Constitution of the Independent State of Samoa 1960, amended as of January 25, 2005**

**45. Qualifications for membership-**(1) Any person shall be qualified to be elected as a Member of Parliament who -

- (a) Is a citizen of Samoa; and
- (b) Is not disqualified under the provisions of this Constitution or of any Act.

(2) If any person other than a person qualified under the provisions of clause (1) is elected as a Member of Parliament, the election of that person shall be void.

**46. Tenure of office of members-**(1) Every Member of Parliament shall cease to be a Member at the next dissolution of the Legislative Assembly after he has been elected or previously thereto if his seat becomes vacant under the provisions of clause (2).

(2) The seat of a Member of Parliament shall become vacant-

- (a) Upon his death; or
- (b) If he resigns his seat by writing under his hand addressed to the Speaker; or
- (c) If he ceases to be a citizen of Samoa; or
- (d) If he becomes disqualified under the provisions of this Constitution or of any Act.

**52 Meetings of the Legislative Assembly** - The Legislative Assembly shall meet at such times and at such places as the Head of State appoints from time to time in that behalf by notice published in the *Samoa Gazette* and recorded in the *Savali*:

Provided that the assembly shall meet not later than fortyfive days after the holding of a general election and at least once in every year thereafter, so that a period of twelve months shall not intervene between the last sitting of the Assembly in one session and the first sitting thereof in the next session.

**53. Standing Orders** - Subject to the provisions of this Constitution, the Legislative Assembly may make, amend and repeal standing orders regulating its procedure.

**58. Voting-**(1) Except as otherwise provided in this Constitution, every question before the Legislative Assembly shall be decided by a majority of the votes of the Members of Parliament present.

(2) The Speaker, or the Deputy Speaker or any other Member of Parliament while presiding over a sitting of the Legislative Assembly in the absence of the Speaker, shall not have a deliberative vote but, in the case of an equality of votes, shall have a casting vote.

**62. Privileges of Legislative Assembly** - The privileges, immunities and powers of the Legislative Assembly, of the committees thereof and of Members of Parliament may be determined by Act:

Provided that no such privilege or power may extend to the imposition of a fine or to committal to prison for contempt or otherwise, unless provision is made by Act for the trial and punishment of the person concerned by the Supreme Court.

## **2. Electoral Act 1963, with amendments, as of February 1, 2006**

### **3. The Legislative Assembly Powers and Privileges Ordinance 1960, amended as of January 10, 2006**

#### **23. No member to vote if he has direct pecuniary interest**

- (1) A member shall not in or before the Assembly or any committee thereof take part in the discussion of any matter in which he has a direct pecuniary interest without disclosing the extent of that interest.
- (2) Any member who acts in contravention of this section may be adjudged guilty of contempt by the Assembly and shall be liable to the penalties provided in section 21 of this Ordinance for such contempt.

### **4. Standing Orders of the Parliament of Samoa 2005, amended on June 21, 2006**

#### **PART XXVI DIVISIONS**

##### **92. VOTING OF MEMBERS:**

- (1) All questions shall be decided by a majority of votes of all members present.
- (2) The Speaker, or the Deputy Speaker (or any other member of Parliament while presiding over a sitting of the Legislative Assembly in the absence of the Speaker), or in Committee the Chairman, shall not have a deliberative vote but, in the case of an equality of votes shall have a casting vote.
- (3) When the question has been put by Mr Speaker or the Chairman at the conclusion of the debate, the votes shall be taken by voices, Aye and No, and provided that no member then claims a division, the result shall be declared by Mr Speaker or the Chairman.
- (4) A Member may vote in a division although he did not hear the question put.
- (5) A Member must vote according to his voice.
- (6) A Member may not vote on any question in which he has a direct pecuniary interest and if he votes on such a question his vote may on motion be disallowed. Subject to the provisions of this paragraph all members present within the confines of the Chamber when a division is taken must vote in the division.

**PART XXXVI  
PRIVILEGES AND ETHICS**

**184. APPOINTMENT OF PRIVILEGES AND ETHICS COMMITTEE:**

(1) There shall be a Committee of Privileges and Ethics to consist of the Prime Minister or another Member of Parliament nominated from time to time

by the Prime Minister, the Leader of the Opposition or another Member of Parliament nominated from time to time by the Leader of the Opposition and seven (7) other members not being ministers appointed by motion as soon as maybe after the commencement of each Parliament. Five (5) shall be a quorum. The Committee shall have the power to elect its own Chairman and Vice Chairman from amongst the seven members. The Prime Minister and Leader of the Opposition shall not be appointed Chairman.

**193. EXAMPLES OF CONTEMPTS:**

(1) Without limiting the generality of Standing Order 192, Parliament may treat as a contempt any of the following -

- (a) The breach of one of the privileges of Parliament;
- (b) Deliberately attempting to mislead the Assembly or a Committee by way of statement, evidence or petition;
- (c) Serving legal process or causing legal process to be served within the precincts of Parliament without the authority of the Speaker, on any day on which the Assembly sits or a committee meets;
- (d) Removing without authority any papers or records belonging to Parliament;
- (e) Falsifying or altering any papers or records belonging to Parliament;
- (f) As a member, receiving or soliciting a bribe to influence the members conduct in respect of proceedings in the Assembly or at a Committee;

- (g) Offering or attempting to bribe a member to influence the member's conduct in respect of proceedings in the Assembly or at a committee;
- (h) Assaulting, threatening or intimidating a member or an officer of the Assembly acting in the discharge in the members or the officers duty;
- (i) Obstructing or molesting a member or an officer of the Assembly in the discharge of the member or the officers duty;
- (j) Reflecting on the character or conduct of the Assembly or a member in the members capacity as a member of Parliament;
- (k) Misconducting oneself in the presence of the Assembly or a Committee;
- (l) Divulging the proceedings or the report of a Select committee contrary to Standing Orders;
- (m) Publishing a false misleading account of proceedings before the Assembly or a committee;
- (n) Failing to attend before the Assembly or a committee after being summoned to do so by the Assembly or the committee;
- (o) Intimidating, preventing or hindering a witness from giving evidence to the Assembly or a Committee;
- (p) Refusing to answer a question or provide information required by the Assembly or a Committee;
- (q) Assaulting or threatening a member on account of the members conduct in Parliament;
- (r) Assaulting, threatening or disadvantaging a person on account of evidence given by that person to the House or Committee;
- (s) A member participating in consideration of a business, fails to declare any pecuniary interest which the member has in that business.

**195. EMPLOYMENT OF MEMBERS IN PROFESSIONAL CAPACITY:**

(1) No member of the Assembly shall appear before the Assembly or any Committee thereof as Counsel for any party or in any capacity for which he is

to receive a fee or reward in any matter to be deliberated by the Assembly or Committee.