

**Off-Shore Banking Act 1987**

(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)

**SAMOA**

**OFFSHORE BANKING ACT 1987**  
**(Incorporating amendments to July 1998)**

*This document is an unofficial compilation of the Off-shore Banking Act 1987 as amended by Off-shore Banking Amendment Act 1988, the Off-shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.*

*Whilst every effort has been made to ensure correctness, no responsibility is assumed or accepted for any error which may appear or be included nor for any alterations which may have been made subsequently to its compilation on 12th September 1991 and on its update on 2nd April 1993 and July 1998*

*Official authorised texts of the Off-shore Banking Act 1987 and of subsequent amendments thereto may be obtained on request from the Inspector of Off-shore Banks, C/- International and Foreign Companies Office, PO Box 3265, Apia, Samoa (Fax No.: (685) 20 880) or from the Clerk to the Legislative Assembly, PO Box 1866, Apia, Samoa; Phone: (685) 21 811.*

**INSPECTOR OF OFFSHORE BANKS**

# **Off-Shore Banking Act 1987**

(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)

## **Off-Shore Banking Act 1987 (as amended by the Off-Shore Banking Amendment Act 1988, the Offshore Legislation Amendment Act 1990, the Offshore Centre Legislation Amendment Act 1993 and the Offshore Banking Amendment Act 1998)**

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## **AN ACT to provide for Off-Shore Banking**

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*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:--

**PART I**

**Preliminary**

**1. Short title and commencement**

- (1) This Act may be cited as the Off-Shore Banking Act 1987.
- (2) This Act shall come into force on such date as may be specified by the Head of State by Order.

**2. Interpretation**

In this Act, unless the context otherwise requires,--

Authorised person means any person authorised by the Inspector pursuant to section 3A(4);

[Inserted by the Off-shore Banking Amendment Act 1998]

"Banking business" means the business of banking in all its customary branches and departments including that of a Savings Bank and without limiting the generality of the foregoing also includes,--

- (a) borrowing, receiving or taking up money at interest or otherwise on current, savings account, deposit account or other account and which according and subject to arrangement is repayable on the cheque, draft, order or authority of the customer;
- (b) lending, giving credit at interest or otherwise with or without security to any person, company or corporation;
- (c) discounting, buying, selling and dealing in bills

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of exchange, promissory notes, coupons, drafts, bills of lading, warrants, debentures, certificates, script, hire purchase agreements, and other instruments and securities whether transferable or negotiable or not;

- (d) granting and issuing letters of credit and circular notes;
- (e) buying, selling and dealing in bullion and specie;
- (f) dealing in foreign or overseas exchange;
- (g) acquiring, holding, issuing on commission, debentures, debenture stock, bonds, obligations, securities and investments of all kinds;
- (h) negotiating of loans and advances;
- (i) becoming surety for the payment of money or performance of contracts or obligations by any person, company or corporation;
- (j) receiving money and valuables on deposit or for safe custody or otherwise;
- (k) collecting and transmitting money and securities;
- (l) managing property and transacting all kinds of agency business commonly transacted by bankers;
- (m) carrying on such other business outside the customary scope of the business of banking as the Minister may from time to time authorise or approve in writing;

"Central Bank" means the Central Bank of Samoa established pursuant to the Central Bank of Samoa Act 1984;

"Company" means a body corporate with legal personality recognised for most purposes as separate from that of its members, constituted, incorporated or formed under the laws of Samoa or in accordance with the laws of any other country or place, including public and private corporations;

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“Court” means the Supreme Court of Samoa;

[Inserted by the Off-shore Banking Amendment Act 1998]

“Director” means any person occupying the position of director by whatever name called and includes any person in accordance with whose directions and instructions the directors of a company are accustomed to act or who has been held out by a company to be a director;

[Inserted by Off-shore Banking Amendment Act 1998]

"Dollars" means a unit of the currency of the United States of America;

"Holder" means, in relation to a licence, the person to whom it was issued;

“Inspector” means the Inspector of Off-shore Banks appointed under Section 3A and includes any officer or employee in his department acting under his authority;

[Inserted by the Off-shore Banking Amendment Act 1998]

“Judge” means a Judge of the Supreme Court of Samoa;

[Inserted by Off-shore Banking Amendment Act 1998]

"Licence" means a licence granted pursuant to Part III of this Act;

“Licensee" means any company holding a current valid licence pursuant to the provisions of this Act;

“Magistrate” means a Magistrate who is appointed under or whose appointment is continued by the Magistrate’s Courts Act 1969;

[Inserted by the Off-shore Banking Amendment Act 1998]

"Minister" means the Minister of Finance;

"Non-resident" means a person not ordinarily resident in and not domiciled in Samoa who does not engage in a trade or business in Samoa, and includes any company incorporated or registered under the International Companies Act 1987 and any trustee company registered under the Trustee Companies Act 1987; and any international trust registered under the International Trusts Act 1987 and any successor legislation and any international partnership or limited partnership registered under the International Partnership and Limited Partnership Act 1998;

[Amended by the Off-shore Banking Amendment Act 1998]

"Off-shore banking business" means any banking business conducted in any currency other than the currency of Samoa transacted exclusively by, for, and in respect of non-residents;

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"Officer" in relation to a licensee includes any director, secretary or employee of the licensee;

[Inserted by the Off-shore Banking Amendment Act 1998]

"Person" includes any body of persons corporate or unincorporate;

"this Act" includes regulations made under this Act;

"residence" means ordinary residence or usual place of abode and the words "to reside" or "resident" shall have the corresponding meanings.

**PART II**

**Licensing of Off-Shore Banks**

**3. Unlicensed off-shore banking prohibited**

- (1) No person shall transact any off-shore banking business from within Samoa unless he is the holder of a valid off-shore banking licence issued under this Part.
- (2) Every person commits an offence against this Act who, not being duly licensed under this Part,--
  - (a) Acts as an off-shore bank, whether on his own account, in partnership or otherwise;
  - (b) Holds himself out as being licensed or otherwise entitled to act as an off-shore bank;
  - (c) Takes or uses any name, title, addition, or description implying or likely to lead any person to believe that he is licensed or otherwise entitled to act as an off-shore bank; or
  - (d) Carries on business as an off-shore bank's agent, or in any way advertises or holds himself out as an off-shore bank's agent;
- (3) In any proceedings in respect of an offence under this section, the following shall, in the absence of proof to the contrary, be sufficient evidence of the matters contained therein:-

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- (a) A certificate signed by the Minister to the effect that at the time of the alleged offence the defendant was not the holder of a valid off-shore banking licence;
  - (b) A certificate signed by the Minister to the effect that the defendant was at the time of the alleged offence acting as an off-shore bank, or holding himself out in such capacity;
- (4) Any person convicted of an offence under this section shall be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding 50,000 dollars or to both.

### **3A Inspector of Off-shore Banks**

- (1) The Inspector of Off-shore Banks shall be appointed by the Minister for the regulation and supervision of licensees.
- (2) It is the duty of the Inspector -
  - (a) to maintain a general review of off-shore banking practice in Samoa;
  - (b) whenever he thinks fit or when so required by the Minister, to examine by way of the receipt of regular returns or in such other manner as he thinks necessary the affairs or business of any licensee for the purpose of satisfying himself that the provisions of this Act are being complied with and that the licensee is in a sound financial position and whenever he thinks fit or when so required by the Minister to report to the Minister the results of every such examination.
  - (c) when required by the Minister, to assist in the investigation of any offence against the laws of Samoa which he has reasonable grounds to believe has or may have been committed by a licensee or by any of its directors or officers in their capacity as such;
  - (d) to examine audited annual accounts, statements and returns forwarded to him under section 19 and 20 and to report on them to the Minister whenever he thinks fit or when so required by the Minister; and

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- (e) to examine and make recommendations to the Minister with respect to applications for licences or licence renewals.
- (3) In the performance of his functions under this Act and, subject to section 25 the Inspector is entitled at all reasonable times --
- (a) to have access to such books, records, vouchers, documents, cash and securities of any licensee;
  - (b) to request any information matter or thing from any person who he has reasonable grounds to believe is carrying on off-shore banking business in contravention of section 3 and
  - (c) to call upon any officer of the licensee for such information and explanation.

as the Inspector may reasonably require for the purpose of enabling him to perform his functions under this Act;

Provided that the Inspector shall only have access to the name or title of an account of a depositor of a licensee under the authority of an order of a Judge of the Court made on the ground that there is no other way of obtaining the information required by him.

- (4) The Inspector with the approval of the Minister may in writing authorise any other person to assist the Inspector in the performance of his functions under this Act.
- (5) If it appears to him that there is reasonable grounds for suspecting that an offence against this Act has been or is being committed by any person the Inspector may with the approval of the Court take such action as he considers necessary in the interests of the depositors or other creditors of the licensee concerned to preserve any assets held by that licensee.
- (6) Whoever fails to comply with any requirement under subsection (3) by the Inspector or any authorised person commits an offence against this Act.

[New section inserted by the Off shore Banking Amendment Act 1998]

**3B. Directions**



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The Inspector may from time to time issue by notice to all licensees directions in relation to the implementation of the provisions of this Act. Failure by any licensee to comply with such directions shall be taken into consideration when any action is proposed to be taken under Section 33."

[New section inserted by the Off shore Banking Amendment Act 1998]

### **4. Licensee to be body corporate**

Except as otherwise specially provided herein, or in any other Act, no person other than a company shall be eligible to hold a licence under this Act.

### **5. Licences --**

- (1) Every person who desires to obtain a licence under this Act shall make application to the Minister in the prescribed form.
- (2) The following kinds of licences may be granted under this Act, namely:-
  - (a) "A" class off-shore banking licences; and
  - (b) "B" class off-shore banking licences.

### **6. "A" class off-shore banking licences --**

- (1) No company shall apply for or obtain or be eligible to hold an "A" class off-shore banking licence under this Act unless it has at all relevant times an aggregate of its capital issued and paid up in cash and unimpaired reserves of not less than 10 million dollars or an equivalent amount in a currency approved by the Minister.
- (2) An "A" class off-shore banking licence shall license the holder to,
  - (a) Establish, maintain and operate a business office in Samoa;
  - (b) Recruit and employ all necessary workers on appropriate terms and conditions;
  - (c) Transact off-shore banking business through its business office in Samoa, or through a trustee company registered under the Trustee Companies Act 1987.

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- (3) The holder of an “A” class off-shore banking licence may apply to the Central Bank of Samoa to establish a domestic company to transact on-shore banking business pursuant to the Financial Institutions Act 1996.”  
[As amended by the Off shore Banking Amendment Act 1998]
- (4) A person who has contracted to enter the service in Samoa of the holder of an "A" class off-shore banking licence or the holder of a “B” class licence issued pursuant to section 7(1)(a) who has obtained the permission of the Minister to establish, maintain and operate a business office of the licence holder in Samoa shall be entitled to the same treatment for immigration purposes as a person who has contracted to enter the service of the Government of Samoa.  
[Amended by the Off shore Banking Amendment Act 1998]
- (5) Notwithstanding the provisions of any other enactment, a worker employed by a business licensed as an "A" class off-shore bank or licensed as a “B” class off-shore bank pursuant to section 7(1)(a) and who has obtained the permission of the Minister to establish, maintain and operate a business office of the licence holder in Samoa may,--  
[Amended by the Off shore Banking Amendment Act 1998]
- (a) At the written request or consent of the worker be paid in whole or in part, in a currency other than the currency of Samoa;
  - (b) Be required to work on Sundays, subject to the payment of at least double the ordinary rate of wages for such Sunday work;
  - (c) Be required to work on any public holiday, subject to the payment of at least triple the ordinary rate of wages for such day's work with entitlement to a substituted day of rest therefor;
  - (d) Where it is expressly provided in the workers terms and conditions of employment, be required to work overtime to the extent therein indicated;
  - (e) Both men and women, be employed between the hours of midnight and 6 o'clock in the following morning.
- (6) An "A" class off-shore banking licence shall, subject to this Act, be valid for a period of two years from the date of granting and may be renewed for further periods of two years each.  
[Amended by the Off shore Banking Amendment Act 1998]

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- (7) Any "A" class off-shore banking licence issued prior to the commencement date of this Act shall be valid until the expiration date specified in the said licence. Such licence may then be renewed for further periods of two years each."

[New subsection inserted by the Off shore Banking Amendment Act 1998]

**7. "B" class off-shore banking licences**

- (1) A "B" class off-shore banking licence shall
- (a) Where the holder has at all relevant times an aggregate of its capital issued and paid up in cash and unimpaired reserves of not less than 2 million dollars or an equivalent amount in a currency approved by the Minister, license the holder to,--

[Amended by the Off shore Banking Amendment Act 1998]

- (i) Transact only such off-shore banking business as may be specified in the licence;
- (ii) Transact such specified business only in the currency or currencies specified in the licence;
- (iii) Transact such specified business only through a trustee company registered under the Trustee Companies Act 1987 unless the holder has established a business office in Samoa pursuant to subsection (2) of this section.

- (b) Where the holder has at all relevant times an aggregate of its capital issued and paid up in cash and unimpaired reserves of not less than 250,000 dollars or an equivalent amount in a convertible currency approved by the Minister,--

[Amended by the Off shore Banking Amendment Act 1998]

- (i) Prohibit the holder from soliciting or accepting any deposits of money or any other valuable things from the general public;
- (ii) License the holder to accept deposits of money or any other valuable thing only from those persons or entities whose names are listed in the undertaking accompanying the licence application;

[Amended by the Of fshore Banking Amendment Act 1998]

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- (iii) Prohibit the holder from issuing to any depositor a cheque book, or providing any cheque account facilities for the transaction of his off-shore banking business;
  - (iv) Licence the holder to transact only such off-shore banking business as may be specified in the licence;
  - (v) Licence the holder to transact such specified business only in the currency or currencies specified in the licence;
  - (vi) Licence the holder to transact such specified business only through a trustee company registered under the Trustee Companies Act 1987.
- (2) The holder of a "B" class off-shore banking licence under paragraph (a) of subsection (1) of this section may, at any time during the term of the licence, apply to the Minister for permission to establish, maintain and operate a business office of the licence holder in Samoa.
- (3) In determining whether to grant permission in respect of an application made under subsection (2), the Minister shall have regard to the public interest and such other considerations as the Minister thinks fit to take into account.
- (4) The Minister, on being satisfied that permission should be granted in accordance with subsection (3), may grant permission upon such terms and conditions as he thinks fit.
- (5) A "B" class off-shore banking licence shall, subject to this Act, be valid for a period of 1 year from the date of granting and may be renewed for further periods of 1 year each.

## **8. Application for licence**

- (1) Every application for a licence under this Act shall be submitted to the Inspector and shall be accompanied by,--
- [As amended by the Off shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]
- (a) A certified copy of the Act, charter, memorandum of association and articles of association of the company, or other document or documents by which the company is constituted;

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- (b) The prescribed fee payable to the Off-shore Administration Account;  
[As amended by the Off shore Legislation Amendment Act 1990]
  - (c) Such evidence as the Minister or the Inspector may require--  
[As Amended by the Off -shore Banking Amendment Act 1998]
    - (i) That the laws of the jurisdiction under which the company is incorporated have been complied with;
    - (ii) Of the nature and character of the company's business;
    - (iii) Of the financial standing of the company;
    - (iv) Of the ultimate beneficial ownership of the company;  
[As amended by the Off-shore Legislation Amendment Act 1990]
    - (v) Of the shareholding and management of the company;  
and
    - (vi) By referees, guarantors or other third parties.
  - (d) Notice of an address for service within Samoa; and
  - (e) Such other information as may be required by regulation.
- (2) In addition, to the documents, information, and evidence which shall accompany an application under subsection (1) of this section, an applicant shall, if required to do so by the Minister or the Inspector, furnish to the Inspector such additional documents, information, or evidence as the Minister or the Inspector may require.  
[As amended by the Off-shore Banking Amendment Act 1998]
- (3) Every document, certificate or other written evidence submitted by an applicant under this section may be proved in evidence thereof in any Court by the production thereof by the officer of the Inspector in whose custody the document, certificate or thing in writing is entrusted, in the absence of evidence to the contrary.  
[As amended by the Off-shore Banking Amendment Act 1998]

**9. Minister may grant or refuse licence**

- (1) Where an application for a licence is made, the Minister, may after due consideration of that application and at his discretion either grant

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a licence or reject the application, or defer the application and direct that such inquiries as he considers necessary be made.

[As amended by the Off-shore Legislation Amendment Act 1990]

- (2) In making his decision under subsection (1) and (4) of this section, the Minister shall have regard to the public interest.
- (3) Where the Minister grants a licence he may do so subject to such terms and conditions, if any, as he thinks fit.  
[As amended by the Off-shore Legislation Amendment Act 1990]
- (4) If terms and conditions are imposed under subsection (3) the Minister may, from time to time, vary or revoke any of those terms or conditions or impose any additional terms or conditions.
- (5) The Minister need not to give his reasons for any decision or direction made under this section.
- (6) No decision or direction made by the Minister under this section shall be reviewed or questioned in any Court by way of appeal, prerogative writ or otherwise howsoever.

### **10. Licence fees --**

[Subsection (1) repealed by the Off-shore Legislation Amendment Act 1990 and subsections (2) and (3) renumbered as subsections (1) and (2)]

- (1) Where an application for a licence is refused, any application fee, less the prescribed administration charge, shall be refunded.
- (2) In any case, where a prescribed annual fee has not been paid by the licensee by the due date, and the licensee continues to transact off-shore banking business, the amount shall be recoverable together with the prescribed penalty in any Court of competent jurisdiction as a debt due to the Government.  
[As further amended by the Off-shore Legislation Amendment Act 1990]
- (3) Every licensee who makes default in paying a prescribed annual fee imposed upon him in respect of a licence under this Act by the due date and the licensee continues to transact off-shore banking business, commits an offence for which he is liable upon conviction to a fine not exceeding an amount equal to treble the amount of the unpaid fee.

[As amended by the Off-shore Legislation Amendment Act 1990]

### **11. Licence renewal**

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- (1) An application by a licensee for renewal of a licence granted under this Act must be received by the Inspector not later than two months prior to the expiration of the said licence.  
[Amended by the Off-shore Banking Amendment Act 1998]
- (2) An application for a renewal of the licence shall be in the prescribed form submitted to the Registrar and accompanied by,-- [As amended by the Off-shore Legislation Amendment Act 1990]
  - (a) Particulars of any material changes or alterations in the particulars submitted pursuant to subsections (1) and (2) of section 8 of this Act which have taken place since the grant of the licence; and  
[As amended by the Off-shore Legislation Amendment Act 1990]
  - (b) Such other additional documents, information or evidence as the Minister or the Inspector may require.  
[As amended by the Off-shore Banking Amendment Act 1998]
  - (c) The prescribed annual licence fee and any penalty fees.  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]
- (3) Where an application for renewal of a licence is made pursuant to subsection (1) the Minister may, after due consideration of that application and at his discretion either grant the renewal or refuse the application or defer the application and direct that such enquiries as he considers necessary be made.  
[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]
- (4) The provisions of subsections (4), (5) and (6) of section 9 shall apply in the case of a renewal as if it were an application for a new licence.
- (5) A licensee under this Act shall have no right of renewal of his licence or any expectation recognisable or enforceable under law as to the renewal of his licence.
- (6) Where an application to renew a licence is made after the time specified in subsection (1) and the licence has not been cancelled or revoked, the licence may be renewed pursuant to this section, subject to payment of such penalty as may by Regulation be prescribed.

## **12. Licence not transferable**

- (1) In this section "transfer of control" in relation to a licensee, shall include,--

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- (a) The sale, transfer, or other disposition whatsoever of the shares in the capital of the company, or any issue or allotment of any new shares in the capital of the company or the happening of any other matter or event whatsoever, the effect of which is to transfer directly or indirectly the effective ownership management, and control of the company; and
  - (b) Any of the events referred to in paragraph (a) of this subsection occurring to any holding company of the licensee or any holding company of any holding company of the licensee.
- (2) A licensee shall not transfer the licence or assign, any interest therein and any such purported transfer or assignment shall be void and of no effect.
  - (3) A licensee shall not transfer control of the holder of the licence without prior written approval of the Minister.

**12A. Shares Not to Be Issued or Transferred Without Approval**

- (1) No shares in or other securities whatsoever of a licensee shall be issued and no issued shares or beneficial interest in shares or other securities of any licensee shall be transferred or disposed of in any manner without the prior written approval of the Inspector;

Provided that the Minister may exempt any licensee from the provisions of this section subject to such terms and conditions if any as he may deem necessary.

- (2) In subsection (1) of this section, the reference to shares of any licensee being transferred or disposed of includes any transfer or disposition that would result in any change in beneficial ownership of the licensee.
- (3) Notwithstanding the provisions of subsection (1) of this section, the prior written approval of the Inspector shall not be required where shares or other securities are issued to existing shareholders on a pro-rata basis.
- (4) No bearer shares or share warrants to bearer may be issued by a licensee.

[New subsection inserted by the Off-shore Banking Amendment Act 1998]



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### **12B. Approval of Directors**

- (1) Unless exempted from such a requirement by the Minister a licensee shall before the appointment of a director apply to the Inspector for his written approval of such appointment as a fit and proper director of the licensee.
- (2) Approval granted under subsection (1) -
  - (a) ***ipso facto*** lapses if the director becomes bankrupt, makes an arrangement or composition with his creditors or is convicted of an offence involving dishonesty;
  - (b) may be revoked by the Inspector with the approval of the Minister.

[New section inserted by the Off-shore Banking Amendment Act 1998]

### **12C. Certain Approvals Required**

A licensee incorporated under the International Companies Act 1987 shall not without the prior written approval of the Minister -

- (a) open outside Samoa a subsidiary bank, branch office, agency or representative office, or
- (b) change its name.

[New section inserted by the Off-shore Banking Amendment Act 1998]

### **12D. Insurance Policy**

The Minister may require a licensee to effect a policy of insurance with an approved insurance company against:

- (a) the dishonesty of employees of the licensee
- (b) loss of documents; and
- (c) such other risks as the Minister may stipulate,

in such amount and of such nature as the Minister determines to be fit and proper, having due regard to the nature and type of business carried on by the licensee; and in the event that the insurance is withdrawn, cancelled or

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

not renewed, the licensee shall immediately notify the Minister and shall cease to carry on its business until the insurance has been reinstated or replaced.

[New section inserted by the Off-shore Banking Amendment Act 1998]

**13. Prohibited activities**

(1) A licensee shall not,--

- (a) Transact any banking business with any persons other than non residents of Samoa;  
[As amended by the Off-shore Banking Amendment Act 1998]
- (b) Transact any banking business in the currency of Samoa;
- (c) engage in any advertising or soliciting of banking business within Samoa;
- (d) Hold a licence or use or operate under a name which--
  - (i) So closely resembles or is identical to the name of any company, firm, business house or other financial entity or institution whether within or outside Samoa as is likely to mislead or deceive;
  - (ii) Is calculated to suggest falsely the patronage of or connection with some person or authority whether within Samoa or not; or
  - (iii) Is calculated to suggest falsely that such licensee has a special status in relation to or derived from the Government of Samoa or has the official backing of or acts on behalf of the said Government or of any department or official thereof or is recognised in Samoa as a national or central bank;
- (e) In the conduct of off-shore banking business from within Western Samoa, use a name other than the name under which it is licensed under this Act;
- (f) Transact any business otherwise than in accordance with the terms and conditions of the licence and this Act.

**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (2) A holder of an "A" class off-shore banking licence or a "B" class off-shore banking licence under the category established in paragraph (a) of subsection (1) of section 7 shall not,--  
[As amended by the Off-shore Banking Amendment Act 1998]
- (a) Grant any advance or credit facility against the security of its own shares;
  - (b) Accept any deposit of money or any other valuable thing less than the amount, which shall from time to time be specified in the licence;  
[as amended by the Off-shore Legislation Centre Amendment Act 1993]
  - (c) Grant or permit to be outstanding unsecured advances or unsecured credit facilities of an aggregate amount in excess of 5,000 dollars or of one percent of the sum of the paid up capital and unimpaired reserves of such licensee, whichever is the greater, or give any financial guarantees in excess of such amount without security or incur any other liability in excess of such amount without security --
    - (i) To or on behalf of any one of its directors, shareholders, beneficial shareholders or beneficial owners whether such advances, facilities, guarantees or other liabilities are obtained by or on account of such person jointly or severally;  
[As amended by the Off-shore Banking Amendment Act 1998]
    - (ii) To or on behalf of any firm, partnership or company in which the licensee, or any one or more of its directors, shareholders, beneficial shareholders or beneficial owners, is interested as a director, partner, manager, agent, shareholder, beneficial shareholder or beneficial owner or to or on behalf of any individual firm, partnership or company of whom or of which any one of its directors, shareholders or beneficial shareholders or beneficial owners is a guarantor;  
[As amended by the Off-shore Banking Amendment Act 1998]
    - (iii) For the purposes of this paragraph, a director, shareholder, beneficial shareholder and beneficial owner shall include the wife, husband, father, mother, brother, sister, son or daughter of such a person.  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]

**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (3) Every person who acts in contravention of this section commits an offence against this Act and is liable on conviction to a fine not exceeding 1,000 dollars for each day during which the offence continues.
- (4) Notwithstanding subsection (3), any licensee, licensed as at the commencement date of this Act, shall be allowed a period of eighteen months from the said date to comply with the amended provisions of paragraphs (a) and (c) of subsection (2).  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]

**14. Business presence or representation in Samoa**

- (1) A licence shall not be granted to any company incorporated outside Samoa or having its head office outside Samoa unless such company notifies and designates to the Inspector:-- [As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]
  - (a) A principal office in Samoa; or  
[As amended by the Off-shore Legislation Amendment Act 1990]
  - (b) By name, two officials or agents of the company subject in their personal capacity to jurisdiction in Samoa, who are to be the authorised agents of the company in Samoa and authorised to accept legal service on behalf of, and to sue and be sued in the name of, the company.  
[As amended by the Off-shore Legislation Amendment Act 1990]
- (2) Every company which holds a licence and which is incorporated outside Samoa or which has its head office outside Samoa shall within 14 days notify the Inspector of any change of,--  
[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]
  - (a) Its principal office (if any) maintained in Samoa under this Act; or
  - (b) Either or both of the officers designated pursuant to subsection (1)(b).
- (3) Every person who fails to comply with the provisions of subsection (2) commits an offence against this Act and is liable on conviction to a fine not exceeding 1,000 dollars for every day during which the offence continues.

**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**15. Name to contain word "bank"**

Every licensee shall use as part of its description or title the word "bank" or one or more of its derivatives in any language.

**16. Qualified workers and management**

(1) No person shall apply for or obtain or be eligible to be employed as a director, manager, secretary or other worker of any licensee under this Act, without the express prior approval in writing of the Minister if,--

(a) He has been a director of, directly or indirectly concerned in the management of, a licensee which has had its licence cancelled in accordance with section 33 or has been wound up by a Court;

[As amended by the Off-shore Legislation Amendment Act 1990]

(b) He has been sentenced by a Court in any country to a term of imprisonment for an offence involving dishonesty and has not received a full pardon for that offence;

[As amended by the Off-shore Banking Amendment Act 1998]

(c) He is or becomes bankrupt, suspends payment to or compounds with his creditors; or

[As amended by the Off-shore Banking Amendment Act 1998]

(d) He has been a director of a company which has gone into bankruptcy or insolvency proceedings other than voluntary winding up proceedings.

[Inserted by the Off-shore Banking Amendment Act 1998]

(2) Every person who acts in contravention of the provisions of subsection (1) commits an offence against this Act and is liable on conviction to a fine not exceeding 5,000 dollars.

(3) Prima facie evidence of a previous conviction, for the purposes of proceedings under subsection (2) hereof, maybe given,--

(a) By the production of the original judgement of conviction purporting to be signed by the judge or sealed by the Court who made or issued it without evidence of such signature having been made or of such seal having been impressed or any other evidence relating thereto;

## ***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (b) By the production of a written copy or extract of the judgement or conviction purporting to be certified by the Registrar of the Court who made or issued it without evidence of such certificate having been made or any other evidence relating thereto.
- (4) Prima facie evidence of the absence of a full pardon, for the purposes of proceedings under subsection (2) hereof, may be given by certificate by the Registrar of the Court in which the conviction or judgement was issued stipulating that no appeal is outstanding and that no pardon has been entered in the records of the Court Registry in respect of the conviction or judgement.

### **17. Notification of changes**

- (1) Notwithstanding the provisions of any other Act a licensee incorporated outside Samoa or with its head office situated outside Samoa shall, within one month after the making of an alteration in the act, charter, memorandum of association, articles of association or other document by which the licensee was constituted a company, furnish to the Inspector particulars in writing of the alteration verified by a statutory declaration made by a senior officer of the company authorised to do so.  
[As amended by the Off-shore Legislation Centre Amendment Act 1993 and the Off-shore Banking Amendment Act 1998]
- (2) A licensee shall forthwith notify the Inspector in writing, of any material change in the particulars set out in the application for issue or renewal of licence or in the documents, information, or evidence accompanying that application or in any documents, information, or evidence, if any, given under sections 8 or 11 of this Act.  
[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]
- (3) Where a reconstruction of the licensee has occurred or where the licensee makes an arrangement or enters into an agreement for,--
  - (a) The sale or other disposal of its business by amalgamation or otherwise; or
  - (b) The purchase or other acquisition of the business of any other licensee, such licensee, shall forthwith upon the occurrence of the said reconstruction or upon the making or entering into of

## ***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

the said arrangement or agreement, inform the Inspector in writing thereof.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]

- (4) Where any particulars or information is received under this section, the Minister, having regard to the nature of such particulars or information and notwithstanding the fact that the company concerned is a licensee, may direct that company in writing to apply for another licence within such time and in such form as the Minister may determine.

[As amended by the Off-shore Banking Amendment Act 1998]

- (5) The issue of a directive pursuant to subsection (4) shall not affect the validity of any licence subsisting at the date of such directive and which was granted to the company to which the said directive is issued.

[As amended by the Off-shore Banking Amendment Act 1998]

- (6) Every licence to which subsection (5) refers shall be of full force and effect until,--

(a) It is cancelled by the Minister by order under section 33; or

(b) Another licence is granted to the company concerned upon an application made pursuant to a directive under subsection (4), and thereafter the licence referred to in subsection (5) shall cease to have effect.

[As amended by the Off-shore Banking Amendment Act 1998]

- (7) Every person who fails to comply with any of the provisions of subsection (1), (2) or (3) or with any requirement of the Minister under subsection (4) commits an offence against this Act and is liable on conviction to a fine not exceeding 1,000 dollars for every day during which the offence continues.

## **PART III**

### **Accounting Records, Business Inspections, and Audits**

#### **18. Keeping of accounting records --**

- (1) In this section,--

## ***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

"Accounting records", in relation to a company includes such working papers and other documents and records kept in a computer, on magnetic tape or by means of any other storage device used in electronic data processing by or on behalf of the company, as are necessary to explain the methods and calculations by which accounts of the company are made up.

[As amended by the Off-shore Banking Amendment Act 1998]

"Accounts" means profit and loss accounts and balance sheets, and includes notes (other than directors' reports) attached to, or intended to be read with, any of those profits and loss accounts or balance sheets.

(2) A licensee shall,--

(a) Keep such accounting records as correctly record and explain the off-shore banking transactions and financial position of the company in relation to such business and maintain such accounting records at a location in Samoa notified to the Inspector;

[As amended by the Off-shore Banking Amendment Act 1998]

(b) Keep its accounting records in such a manner as will enable true and fair accounts of the off-shore banking business of the company to be prepared from time to time; and

(c) Keep its off-shore banking business records in such a manner as will enable the accounts of the company to be conveniently and properly audited.

(3) All licensees licensed as at the commencement date of this Act, shall be required to maintain in Samoa all accounting records for the two financial years prior to the commencement date and all other subsequent account records.

[New subsection inserted by the Off-shore Banking Amendment Act 1998]

### **19. Annual Report and Audit --**

(1) A licensee shall submit to the Inspector within 6 months of the end of its financial year accounts duly audited pursuant to the provisions of Section 24 of this Act.

[As amended by the Off-shore Legislation Amendment Act 1990]



**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**20. Quarterly statements and other returns --**

- (1) Subject to subsection (3), of this section every licensee shall in relation to its operations in or from within Samoa, submit to the Inspector in such form as the Inspector may from time to time approve, the following statements. --
  - (a) In the case of holders of an "A" class banking licence or of a "B" class banking licence issued under section 7(1)(a) not later than 21 days after the last day of the quarter to which it relates a quarterly statement of assets and liabilities, cash flow statement, profit and loss statement and a return providing an analysis of customers liabilities to the licensee in respect of loans, advances and other assets of the licensee at the close of the last business day of that quarter;
  - (b) In the case of holders of a "B" class banking licence issued under section 7(1)(b) not later than 21 days after the six month period to which it relates a half-yearly statement of assets and liabilities, cash flow statement, profit and loss statement and a return providing an analysis of customers' liabilities to the licensee in respect of loans, advances and other assets of the licensee at the close of the last business day of that half-yearly period; and
  - (c) Such other returns as may be prescribed.  
[As amended by the Off-shore Banking Amendment Act 1998]
- (2) Subject to subsection (3) of this section, the Inspector may require a licensee to submit to him such further information as may be necessary for the proper understanding of any statement or return furnished by that licensee under subsection (1) above and such information shall be submitted within such period and in such manner as the Inspector may require."  
[As amended by the Off-shore Banking Amendment Act 1998]
- (3) No statement, return or information shall be required under subsection (1) or (2) as the case may be, with respect to the affairs of any particular customer of a licensee.
- (4) The period within which any statement or return is required to be submitted under this section may be extended by the Inspector where he considers that there are circumstances justifying an extension.  
[As amended by the Off-shore Banking Amendment Act 1998]

**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (5) Every licensee which fails to comply with any of the provisions of subsection (1) or subsection (2) or with any requirement of the Inspector thereunder commits an offence against this Act and is liable on conviction to a fine not exceeding 1,000 dollars for every day during which the offence continues.

[As amended by the Off-shore Banking Amendment Act 1998]

**21. Inspection --**

The Inspector shall, during the normal office hours of the licensee, at the registered office of the licensee or principal office of the licensee have the right to inspect,--

- (a) The licensee's accounting records; and
- (b) The licensee's register of shares; and
- (c) The licensee's record of transactions; and
- (d) Any other record kept by the licensee in the course of his off-shore banking business; and
- (e) The premises where the licensee carries on his off-shore banking business.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]

**22. Supply of information --**

- (1) A licensee shall furnish to the Inspector such information in respect of its off-shore banking business conducted from within Western Samoa as the Minister or the Inspector may from time to time direct.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]

- (2) A direction under this section shall not require information to be furnished with respect to the affairs of an individual customer.

**22A. Power of Search**

- (1) A Judge or Magistrate who is satisfied by information on oath of the Inspector or authorised person that -

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*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (a) There is reasonable ground for suspecting that an offence against this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises, building or place or in any vehicle, vessel or aircraft so specified; or
- (b) Any books, records, vouchers, documents, cash or securities, that ought to have been produced under section 3A, section 21 or section 22 and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

may grant a search warrant authorising the Inspector or authorised person named in the warrant at any time within one month from the date of the warrant, to enter the premises specified in the warrant or as the case may be any premises upon which the vehicle, vessel or aircraft so specified may be and to search such premises or as the case may be such vehicle, vessel or aircraft.

- (2) The person authorised by any such warrant to search any premises or any vehicle, vessel or aircraft may search every person who is found in or whom he has reasonable grounds to believe to have recently left or to be about to enter those premises or that vehicle, vessel or aircraft, as the case may be and may seize any books, records, vouchers, documents, cash or securities found in the possession of any such person or in such premises or in such vehicle, vessel or aircraft; which he has reasonable grounds for believing ought to have been produced under section 3A, section 21 or section 22.
- (3) Where by virtue of this section a person has any power to enter any premises, or a vehicle, vessel or aircraft, he may use such force as is reasonably necessary for the purpose of exercising that power.
- (4) Every search warrant shall be exercised by day, unless the warrant expressly authorises the execution thereof by night.
- (5) It is the duty of everyone executing any search warrant to have it with him and to produce it if required to do so.
- (6) Whosoever obstructs the Inspector or any other person in the exercise of any powers conferred on him under this section commits an offence against this Act.

[New section 22A inserted by the Off-shore Banking Amendment Act 1998]

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*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**22B. False or Misleading Information**

Any licensee or any director or officer of a licensee who knowingly or willfully supplies false or misleading information to the Minister or the Inspector or any authorised person commits an offence against this Act.

[New section 22B inserted by the Off-shore Banking Amendment Act 1998]

**23. Official examinations --**

- (1) The Minister may at his discretion from time to time appoint one or more qualified persons to make examinations under conditions of secrecy of the books and affairs of any licensee.
- (2) The Minister may at any time appoint one or more qualified persons to make a special examination under conditions of secrecy of the books and affairs of any licensee,--
  - (a) Where he has reason to believe that such licensee may be carrying on its business in a manner detrimental to the interest of its depositors and other creditors or may have insufficient assets to cover his liabilities to the public or may be, either in Samoa or elsewhere, contravening any of the provisions of the Act; or
  - (b) If the licensee suspends payment or informs the Minister of his intention to do so.
- (3) Every licensee of which an examination has been ordered under subsections (1) or (2) hereof shall produce to the person or persons appointed at such times and in such places as such person or persons may specify (being times and places which, in the opinion of such person or persons, would not be detrimental to the conduct of the normal daily business of the licensee) all books, accounts and documents in the possession or custody of such licensee or of which it is entitled to possession or custody relating to its business, and shall give, within such times as such person or persons may specify, such oral information concerning the licensee's business as may be required.
- (4) As soon as may be practicable after the conclusion of an examination under this section the person or persons appointed to carry out the examination shall submit a full report on such examination to the

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*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

Minister who may forward a copy thereof to the head office of the licensee concerned.

[As amended by the Off-shore Banking Amendment Act 1998]

- (5) The Minister may order that all expenses of and incidental to a special examination under subsection (2) shall be paid by the licensee examined. A licensee shall not be required to pay expenses of and incidental to an examination under subsection (1).
- (6) Every person commits an offence and is liable on conviction to a fine not exceeding 1,000 dollars for every day on which the offence against this Act has continued who,--
  - (a) Refuses or fails or neglects to produce any book, account, document or information required under subsection (3) hereof;
  - (b) Knowingly produces any book, account, document or information required under subsection (3) hereof which is false in any material particular.
- (7) The licensee commits an offence and is liable on conviction to a fine not exceeding 5,000 dollars where any book, account, document or information produced under subsection (3) hereof is false in any material particular.

**24. Annual audit --**

- (1) Every licensee shall appoint annually an approved auditor whose duties shall be to make to the shareholders of that licensee a report upon the annual balance sheet and accounts, and in every such report the auditor shall state whether, in his opinion, proper books of account have been kept and where applicable proper returns adequate for his audits have been received from branches not visited by him, whether the balance sheet and accounts are in agreement with the company's books, and whether the balance sheet is full and fair and properly drawn up and whether it exhibits a true and fair statement of the licensee's affairs, and, in any case in which the auditor has called for explanation or information from the officers or agents of the licensee whether this is satisfactory. In addition the auditor shall report upon whether the licensee is carrying on business in accordance with the terms of its licence in so far as those terms relate to financial and/or accounting matters. The auditor shall also report whether in his opinion, the quarterly or half-yearly returns filed

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*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

by the licensee have been completed correctly in accordance with the reporting instructions and accurately reflect the management accounts as prepared by the licensee.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]

- (2) The report of an approved auditor under subsection (1) shall be read together with the report of the directors of the licensee at the annual meeting of shareholders and copies of that report shall be sent to the Inspector, together with copies of the balance sheet and profit and loss account, and if any default is made in complying with the requirements of this subsection, the licensee concerned commits an offence and is liable on conviction to a fine not exceeding 5,000 dollars.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]]

- (3) If a licensee fails to appoint an approved auditor under subsection (1) or, at any time, fails to fill a vacancy for such auditor the Inspector may appoint an approved auditor and shall fix the remuneration to be paid by that licensee to such auditor.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]

- (4) The duties and powers conferred on examiners appointed under section 23 are hereby conferred also in relation to approved auditors.

- (5) For the purposes of this section, an approved auditor is an auditor who has been approved by the Inspector and is a registered company auditor under the provisions of the International Companies Act 1987.

[As amended by the Off-shore Banking Amendment Act 1998]

- (6) No person having an interest in any licensee otherwise than as a depositor, and no director, officer or agent of any licensee shall be eligible for appointment as an approved auditor for that licensee; and any person appointed as such auditor to any licensee who subsequently acquires such interest or becomes a director, officer or agent of that licensee shall cease to be such auditor.

- (7) Where, in the case of a licensee incorporated outside Samoa, the Inspector is satisfied that a report upon the annual balance sheet and accounts of such licensee has been duly made by an auditor in accordance with the law of the country in which such licensee is incorporated, and a copy of such report together with the report of the directors of such licensee is sent to the Inspector, he may by notice in writing exempt any such licensee from the provisions of this section.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]

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*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (8) Notwithstanding subsection (3) of this section, any licensee, licensed as at the commencement date of this Act, shall be allowed a period of six months from the said date to comply with the provisions of this section.

[New subsection inserted by the Off-shore Banking Amendment Act 1998]

### **24A. Duties of Auditor**

- (1) In carrying out an audit of the accounts of a licensee, it shall be the duty of the auditor where necessary to enlarge or extend the scope of his audit of the business and affairs of the licensee and to carry out any other examination or establish any procedure so as to give a true and fair view of the licensee's financial condition and results of its operations. Any special procedure undertaken must be disclosed in the auditor's report.
- (2) It shall further be the duty of the auditor to report immediately to the Inspector any information relating to the affairs of a licensee obtained in the course of an audit, if he is of the opinion that;
- (a) the licensee is insolvent or is likely to become insolvent or is likely to be unable to meet its obligations or is in serious financial difficulties.
  - (b) a criminal offence involving fraud or dishonesty has been committed;
  - (c) serious irregularities have occurred, including irregularities that jeopardise the interest of depositors and creditors;
  - (d) losses have been incurred which substantially reduce the capital funds of the licensee; or
  - (e) he is unable to confirm that the claims of creditors are still covered by the licensee's assets.
- (3) The auditor may be required to discuss the audit directly with the Inspector or be asked to provide additional information regarding the audit.
- (4) The auditor shall before disclosing any information to the Inspector under subsection (2), take reasonable steps to inform the licensee of

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*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

his intention to disclose the information and the nature of such information.

- (5) The Inspector, may by notice in writing to a licensee, require it to supply him with a report, prepared by its auditor on such matters as the Inspector may determine, which may include an opinion on asset quality, adequacy of provisions for losses and the adequacy of the accounting and control systems.
- (6) No civil, criminal or disciplinary proceedings shall lie against any auditor arising from the disclosure in good faith of information to the Inspector pursuant to this section.

[New section 24A inserted by Off-shore Banking Amendment Act 1998]

**25. Preservation of Secrecy --**

- (1) Except for the purpose of the performance or exercise of his duties or functions under this Act or when lawfully required to do so by any court of competent jurisdiction within Samoa neither the Minister, the Inspector nor any officials or officers thereof, including any authorised person and any person appointed under section 23, 32 or 33, shall disclose any information relating to any application by any person under the provisions of this Act or to the affairs of a licensee or of any customer of a licensee which he has acquired in the performance or exercise of such duties or functions under this Act.
- (2) Subsection (1) shall not apply to a disclosure by the Inspector-
  - (a) necessary for the effective regulation of a licensee;
  - (b) in respect of the affairs of the licensee or a customer of a licensee with the authority of the licensee or the customer of the licensee which has been voluntarily given, as the case may be;
  - (c) where the information is already in the public domain.
- (3) The Inspector may disclose to a foreign banking supervisory authority or any other like regulatory authority information about the licensee, provided that:
  - (a) the Inspector has satisfied himself that the intended recipient authority is subject to adequate legal restrictions on further



***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

disclosures which shall include the provision of an undertaking on confidentiality;

- (b) the information provided by the Inspector does not contain any names of individual depositors or customers of the licensee concerned; and
- (c) the information is required for the purposes of banking supervision only and is not related directly or indirectly to the imposition, calculation and collection of taxes or the enforcement of exchange control regulations.

[As amended by the Off-shore Banking Amendment Act 1998]

**26. Breaches of professional secrecy --**

- (1) Except as provided in section 25 every person commits an offence against this Act who,--

[As amended by the Off-shore Banking Amendment Act 1998]

- (a) Divulges any information, in Samoa or elsewhere, in relation to--
  - (i) Any off-shore banking business transacted in or from within Samoa;  
[As amended by the Off-shore Legislation Amendment Act 1990]
  - (ii) the transfer of money and property into or out of Western Samoa in the course of any off-shore banking business; or
  - (iii) The account of any person with a licence or any item of such an account or the fact of any person having, or having had such an account, which he has become aware of in his capacity as an officer, employee, or authorised agent of a licensee, or as an officer or employee of an approved auditor; or
- (b) Attempts to induce others to breach professional secrecy in relation to any such matters.

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (2) An offence under subsection (1) of this section may be committed either during or after the termination of the official or employment relationship or the exercise of the profession.
- (3) Notwithstanding subsection (1) of this section, it shall not be an offence under this section to divulge such information,--
- (a) To the Inspector pursuant to section 21 of this Act or if directed to do so by the Minister pursuant to section 22 of this Act;  
[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]
  - (b) To the person on whose behalf the off-shore banking business is being carried out;
  - (c) In Samoa to an officer or employee of the same licensee in the performance of his duties as an officer or employee;
  - (d) To an officer or employee of a bank or other such financial institution outside Samoa, if all the persons concerned in the banking business or in whose name the account stands, consent in writing to his doing so;
  - (e) To an officer or employee of the licensee outside Samoa, so long as the names of the persons concerned in the banking business and any information which might identify them and the names in which accounts stand and the balance therein, are not divulged; or
  - (f) With the prior written approval of the Minister, to the Government of or to a public officer of any other country, provided such information is used only as part of--
    - (i) An amount representing the total assets of the licensee in Samoa; or
    - (ii) An amount representing the total sum of money transferred to Samoa from that country or from Samoa to that country and the currencies in which such money was transferred--and the amount of individual banking transactions, the names in which accounts stand, and the balances therein are not divulged.

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

(g) to the Inspector by the auditor or former auditor of a licensee with respect to the audited accounts or returns of the licensee.  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]

- (4) For the purposes of sub-section 3(d) of this Section all the persons concerned in off-shore banking business and in whose names accounts stand shall be deemed to have consented to an officer or employee of a licensee divulging to an officer or employee of a bank or other such financial institution outside Samoa such information of the off-shore banking business being carried out as is essential to the carrying out of that banking business, but the consent deemed to be given pursuant to this subsection shall not apply to any other particulars.
- (5) Nothing in this section shall prevent the Supreme Court from requiring any person to give evidence or produce documents in any proceedings in the Court of any facts relevant in those proceedings which the person could otherwise be required to give or produce.
- (6) Every person who commits an offence under this section shall be liable upon conviction to imprisonment for a term not exceeding 5 years, or to a fine of 50,000 dollars or both.

**27. Breach of secrecy by officer or employee deemed to be breach by licensee --**

- (1) For the purposes of section 26 of this Act, an offence by an officer or employee of a licensee or of an auditing company, as the case maybe, or by a person after termination of his employment as an officer or employee of a licensee or of an auditing company, as the case may be, whether such offence occurs in Samoa or elsewhere, shall be deemed also to be an offence by that licensee or by that auditing company.
- (2) Notwithstanding subsection (1) of this section an offence under section 26 of this Act by a person after termination of the official or employment relationship or the exercise of the profession with a licensee or an auditing company shall not be deemed also to be an offence by the licensee or by the auditing company, as the case may be, if the licensee or the auditing company can prove, on the balance of probabilities, that it has taken all reasonable steps to prevent an offence by the person.

**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**PART IV**

**Taxation**

**28. Profits and dividends --**

Notwithstanding anything contained in any other enactment,--

- (a) No income tax, nor any other direct or indirect tax or impost, shall be levied in Samoa upon the profits or gains of a licensee, or upon any interest earned by a licensee, in respect of the off-shore banking business it does from within Samoa.
  
- (b) No income tax, nor any other direct or indirect tax or impost, shall be levied in Samoa in respect of any dividends or earnings, or upon any interest earned by a licensee, attributable to the shares or securities of a licensee that are beneficially owned by another licensee or by an international company or a person who is not a resident of Samoa.  
[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]
  
- (c) No income tax, nor any other direct or indirect tax or impost shall be levied in Samoa upon any interest paid to a non-resident depositor (other than interest paid to a trustee company registered under the Trustee Companies Act 1987 in their own right which is taxable in Samoa) by a licensee.  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]

**29. Exemption from stamp duty --**

- (1) Bills of exchange and promissory notes payable on demand and any other document, instrument or certificate executed by for or in connection with an off-shore banking business licensed under this Act and relating to off-shore banking business shall be exempt from stamp duty.
  
- (2) Every instrument chargeable with duty executed by or for a licensee, and not exempt under the provisions of subsection (1), may be presented for stamping within an extended period of 4 months after and exclusive of the day of execution thereof (or in the case of an

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

instrument executed out of Samoa, within 4 months after it has first been received in Samoa) without penalty.

**30. Exemption from currency and exchange control --**

- (1) Off-shore banking business conducted by and in accordance with a licence under this Act shall be exempt from any currency and exchange control restrictions or regulations.
- (2) No foreign exchange levy shall be imposed or be payable in respect of off-shore banking business conducted by and in accordance with a licence under this Act.

**PART V**

**Suspension, Cancellation and other Enforcement  
of Licence Conditions**

**31. Suspension of licence --**

[Repealed by the Off-shore Banking Amendment Act 1998]

**32. Enforcement of examination findings --**

- (1) If, in the opinion of the Minister an examination under section 23 shows that the licensee concerned is carrying on its business in a manner detrimental to the public interest or of its depositors and other creditors, or has insufficient assets to cover its liabilities to the public, or is, either in Samoa or elsewhere, contravening any of the provisions of this Act, the Minister may take such one or more of the following steps from time to time as may seem to him necessary,--
  - (a) require the licensee forthwith to take such measures as he may consider necessary in relation to its business;  
[As amended by the Off-shore Banking Amendment Act 1998]
  - (b) impose conditions, or further conditions as the case may be upon the licence and may amend or revoke any such condition;  
[As amended by the Off-shore Banking Amendment Act 1998]

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(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)

- (c) require the removal and replacement of any director or officer of the licensee;  
[As amended by the Off-shore Banking Amendment Act 1998]
  - (d) appoint a person who, in his opinion, has had adequate training and experience to advise the licensee in the proper conduct of its business and fix the remuneration to be paid by the licensee to such person;  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]
  - (e) appoint a person to assume control of the licensee's affairs who shall *mutatis mutandis* have all the powers of a person appointed as receiver or manager of a business under the Bankruptcy Act and fix the remuneration to be paid by the licensee to such person; or  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]
  - (f) unless he is satisfied that the licensee is taking adequate measures to put its affairs in order, make an order under section 33 cancelling the licence.  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]
- (2) If a licensee refuses or fails to take any measure required by the Minister under subsection (1) thereof, it commits an offence against this Act and is liable on conviction to a fine not exceeding 500 dollars in respect of every day during which the offence against this Act continues.  
[Amended by the Off-shore Banking Amendment Act 1998]
- (3) Every person who knowingly and wilfully refuses or fails to take any measure required by the Minister under subsection (1) hereof, commits an offence against this Act and is liable on conviction to a fine not exceeding 1,000 dollars.  
[As amended by the Off-shore Banking Amendment Act 1998]

### **33. Powers of the Minister**

- (1) Whenever the Minister is of the opinion that a licensee --
  - (a) is carrying on business in a manner detrimental to the public interest, or to the interest of the depositors or other creditors of the licensee;

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (b) is or appears likely to become unable to meet its obligations as they fall due;
- (c) has failed to comply with the terms and conditions of its licence;
- (d) has failed to comply with any directive issued by the Minister under this Act; or
- (e) is in breach of any duty or obligation imposed upon it by this Act or commits an offence under this Act;

he may forthwith take one or more of the following actions, as may seem necessary to him. --

- (i) require the licensee forthwith to take such measures as he may consider necessary in relation to its business;
  - (ii) impose conditions, or further conditions, as the case may be, upon the licence and may amend or revoke any such condition;
  - (iii) require the removal and replacement of any director or officer of the licensee;
  - (iv) appoint a person who in his opinion, has had adequate training and experience to advise the licensee in the proper conduct of its business and fix the remuneration to be paid by the licensee to such person;
  - (v) appoint a person to assume control of the licensee's affairs who shall mutatis mutandis have all the powers of a person appointed as receiver or manager of a business under the Bankruptcy Act and fix the remuneration to be paid by the licensee to such person;  
or
  - (vi) cancel the licence.
- (2) A person appointed under subparagraph (iv) or (v) of subsection (1) or whose appointment has been extended under paragraph (b) of subsection (3) shall from time to time at his discretion and in any case within three months of the date of his appointment or of the extension

### ***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

of his appointment (as the case may be), prepare and furnish a report to the Minister and the Inspector of the affairs of the licensee and his recommendations thereon.

- (3) On receipt of a report under subsection (2), the Minister may -
  - (a) revoke the appointment of the person appointed under subparagraph (iv) or (v) of subsection (1);
  - (b) extend the period of his appointment;
  - (c) subject to such conditions as he may impose allow the licensee to reorganise its affairs in a manner approved by him; or
  - (d) cancel the licence.
- (4) Notwithstanding any other provisions herein, the Minister may cancel a licence if the licensee -
  - (a) has ceased to carry on off-shore banking business or does not within six months after the issuance of its licence commence off-shore banking business; or
  - (b) goes into liquidation or is wound up or otherwise dissolved.
- (5) When the Minister intends to cancel a licence under subsection (1) of this section, he shall give the licensee notice of his intention and a reasonable opportunity to show cause why the licence should not be cancelled.
- (6) The Inspector shall give notice in writing to the licensee and through such means as he deems fit to creditors, depositors, shareholders and employees of the licensee and relevant banking authorities elsewhere of the cancellation of the licence.

[As amended by the Off-shore Banking Amendment Act 1998]

### **33A. Minister May Apply to the Court**

The Minister may, in any case in which a licensee or a person who has at any time been a licensee, is being wound up voluntarily, apply to the Court if he considers that the winding up is not being conducted in the best interest of its depositors or other creditors, and the Court shall make such order as it shall consider appropriate.



## ***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

[New section inserted by the Off-shore Banking Amendment Act 1998]

### **33B. Surrender of Licence**

- (1) A licensee who has ceased to carry on the business in respect of which the licence was granted may apply to the Minister to surrender its licence if it -
- (a) has ceased to carry on such business, and produces evidence that it has repaid all deposits held by it and has transferred all trust assets held or administered by it; or
  - (b) is being wound up voluntarily and produces evidence that it is solvent and able forthwith to repay all deposits held by it and all its other creditors and has transferred all trust assets held or administered by it;

and the Minister may thereupon approve the surrender.

- (2) In the case of an application under paragraph (b) of subsection (1) of this section, the Minister may apply to the Court for the licensee to be wound up by the Court, and on the making of such an order the provisions of the International Companies Act 1987 relating to the winding up of a company by that Court shall *mutatis mutandis* apply.

[New section inserted by the Off-shore Banking Amendment Act 1998]

### **34. Appeals --**

- (1) Any person affected adversely or any body or person representing some relevant aspect of the public interest may, within 1 month after the date of the decision appealed from, appeal to the Supreme Court, from,--
- (a) Any decision to cancel a licence under section 33(1), (3) or (4);
  - (b) Any decision by the Minister to enforce examinations findings under section 32(1); or
  - (c) Any decision by the Minister to take any of the actions under section 33(1).

[As amended by the Off-shore Banking Amendment Act 1998]

**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (2) In determining an appeal under this section, the Court shall have regard to,--
- (a) Whether or not the decision is expedient for the protection of the public or any identifiable body or group of the public;
  - (b) Any report that may be made by the Inspector;  
[As amended by the Off-shore Legislation Amendment Act 1990]
  - (c) Whether or not the decision is appropriate in relation to the licensee's act or omission, the purpose of the regulation or requirement, and the character and personal history of the management and employees of the licensee;
  - (d) Whether or not any act or omission by the licensee occasioned damage to any other person and the extent to which there has been any restitution;
  - (e) The means of the licensee so far as they appear or are known to the Court; and
  - (f) Any other relevant matter.
- (3) In determining any appeal under this section the Court may, if it thinks fit,--
- (a) Exercise any of the powers conferred on the Minister by this Part;
  - (b) Order any party to pay to any other party such costs and expenses (including expenses of witnesses) as it considers reasonable, and may apportion any such costs between the parties or any of them in such manner as it thinks fit;
  - (c) Cancel or amend any decision to which the appeal relates;
  - (d) Confirm any such decision.
- (4) The decision of the Court on appeal proceeding brought before it under this section shall be final and conclusive.
- (5) An appeal against a decision of the Minister shall not have the effect of suspending the execution of such a decision.  
[New subsection inserted by the Off-shore Banking Amendment Act 1998]

**Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**PART VI**

**Miscellaneous**

**35. Protection of the terms "bank" and "off-shore bank" --**

- (1) Except with the approval of the Minister in writing, no person, other than the holder of a valid off-shore banking licence issued under this Act, shall,--
  - (a) Use the word "bank" or "off-shore bank" or any of its derivatives in any language in the description or title under which such person is carrying on business from within Samoa; or
  - (b) Make or continue to make any representation in any billhead, printed form, letter, paper, notice, advertisement or in any other manner whatsoever that such person is carrying on off-shore banking business from within Samoa.
- (2) Every person who contravenes this section commits an offence against this Act.
- (3) In this section the term "printed form" includes a form of which copies are produced by cyclostyling, or by any duplicating or reproduction process, whether letterpress, photographic, lithographic multigraphic, or stencilling, or any other similar process.

**36. General penalty for offence --**

Every person who commits an offence against this Act and any regulations issued hereunder for which no penalty is provided otherwise than in this section is liable upon conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding 10,000 dollars or to both, and, if the offence is a continuing one, to a further fine not exceeding 500 dollars for every day on which the offence has continued.

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**37. Application of International Companies Act to Winding-Up --**

(1) The provisions of Part IX of the International Companies Act 1987 shall, so far as they are applicable and with the necessary modifications, apply with respect to the winding up of companies licensed under this Act.

(2) The Supreme Court shall have jurisdiction in every such winding up.

**38. Civil remedies not affected --**

Nothing in this Act shall affect any civil remedy that any person may have against a licensee in respect of any matter.

**39. Off-shore banking not an authorised trustee investment --**

A deposit or lodgement of any kind or any other form of security arrangement with an off-shore bank licensed under this Act shall not constitute an authorised investment for co-operative societies, credit unions, industrial and provident societies, and trustees other than a trustee company licensed under the Trustee Companies Act 1987 (except where otherwise expressly authorised under the trust settlement or by other Act).

**40. No other business licence required --**

Except as provided by this Act, no other business licence shall be required to operate as an off-shore bank from within Samoa.

**41. Choice of measures --**

A holder of a valid licence under this Act may conduct his off-shore banking business (including his books and accounts relating thereto) in accordance with his licence without restriction as to the measurement system to be adopted or as to decimalisation.

**42. Risk management --**

Notwithstanding the provisions of any other enactment, the holder of a licence under this Act may carry out off-shore banking business without restriction by gaming laws or other laws applicable to specific risk management or risk taking arrangements.

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

**43. General Central Bank controls --**

- (1) The Central Bank shall not, otherwise than as expressly provided under this Act or under the terms and conditions of any licence under this Act,--
  - (a) Require a licensee to keep certain specified reserve ratios against deposits and other similar liabilities incurred or assumed by the licensee in his off-shore banking operations;
  - (b) Specify or regulate interest and credit arrangements under off-shore banking operations carried out by the holder of a valid licence under this Act;
  - (c) Make any determination fixing--
    - (i) The maximum amount of the working balances which licensees may hold in foreign currencies generally or in any specified currency; and
    - (ii) The maximum amount of indebtedness in foreign currencies generally or in any specified currency which licensees may incur;
  - (d) Require licensees to supply any information regarding the licensee's off-shore banking business or that of any related company in Samoa or elsewhere, otherwise than under and for the purposes of this Act.
- (2) The Central Bank of Samoa Act 1984 is hereby consequently amended and modified in accordance with this section.

**44. Regulations --**

The Head of State acting on the advice of Cabinet, may from time to time make Regulations prescribing all matters and things required or authorised by this Act to be prescribed or provided, or which are necessary or convenient to be prescribed or provided, for the carrying out of, or the giving full effect to, the provisions of the Act and its due administration including all or any of the following particular purposes,--

## ***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

- (a) Prescribing forms to be used for the purposes of this Act and the matters to be specified in such forms;
- (b) Prescribing forms of application and other notices under this Act;
- (c) Fixing the fees and charges to be paid under this Act and the penalties for breaches thereunder, or delegating the power of fixing such fees charges and penalties to prescribed persons or bodies;
- (d) Empowering, the employment of non-citizens and non-residents required to provide efficient services for the due administration of this Act, subject to and on the following conditions,-
  - (i) Any person employed as a barrister or a solicitor must obtain a practicing certificate under the Law Practitioners Act 1976;
  - (ii) Any person employed as a public accountant must obtain a practising certificate under the Public Accountants Act 1984;
- (e) Delegating to the Minister responsible the function of granting such duty and other concessions as shall, be desirable to facilitate the objectives of the Act.

### **44A. Immunity**

No action shall lie against the Government or any statutory body or authority of Samoa, the Minister, the Inspector or any person acting pursuant to any authority conferred by the Minister or the Inspector, as the case may be, in respect of any act or matter done or omitted to be done in good faith in the exercise or purported exercise of their respective functions conferred by or under this Act or any regulations made thereunder.”

[New section inserted by the Off-shore Banking Amendment Act 1998]

### **45. Procedure where none laid down --**

In the event that any act or step is required or permitted to be done under this Act, and no form is prescribed or procedure laid down in this Act or Regulations for doing the same, the Inspector may in response to application made to him, or on his own motion, give directions as to the manner in which the same may be done, and any act or step done or taken in accordance with his directions shall be a valid performance of such act or step.

[As amended by the Off-shore Legislation Amendment Act 1990 and the Off-shore Banking Amendment Act 1998]

## **Off-Shore Banking Act 1987**

*(as amended by the Off-Shore Banking Amendment Act 1988, the Off-Shore Legislation Amendment Act 1990, the Off-shore Centre Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*

### **46. English the authentic text --**

- (1) Every document filed with the Inspector, and all records and accounts required to be kept under this Act shall be in the English language.  
[As amended by the Off-shore Banking Amendment Act 1998]
- (2) Where a document is not in the English language it shall be accompanied by an authentic English translation; and in the event of any conflict in meaning between the foreign language and the English versions, the English version shall prevail.

### **47. Consequential amendments --**

The enactments specified in the Schedule to this Act are hereby amended or modified in the manner indicated in that Schedule.

## **SCHEDULE**

### **Section 47:**

### **ENACTMENTS AMENDED**

Enactment

Extent of Amendment or Repeal

1961, No.31 - Shops Ordinance

By inserting, after section 6, the following section:  
"6A. Exemptions - The provisions of this Ordinance shall not apply to an off-shore banking business licensed under the Off-Shore Banking Act 1987 or to a trustee company registered under the Trustee Companies Act 1987 or to an international company incorporated or registered under the International Companies Act 1987."

1964, No.11 - Unclaimed Money Act 1964

By amending the definition of "Holder" in section 2 by inserting in paragraph (a) after the phrase "Every bank" the words "and off-shore bank".

1972, No.2 - Post Office Act 1972

By amending subsection (2) of section 17 by inserting after paragraph (i), the following paragraph:-  
"(j) Letters by, for or in respect of any Off-Shore Bank licensed under the Off-Shore Banking Act 1987".

1976, No.8 - Bills Exchange Act 1976

By amending subsection (1) of section 73 by inserting after the word "bank" the following words:-  
"(including an off-shore bank licensed under the Off-Shore Banking Act 1987)"

1976, No.20 - Law Practitioners Act 1976

By amending subsection (2) of section 2 by inserting the following proviso:-  
"Provided that the preparation or perusal or delivery of documents for or in connection with off-shore banking or the giving of advice on off-shore banking matters, or services by or for a trustee company registered under the Trustee Companies Act 1987, shall not be deemed to be to practice as a solicitor in this Act."

1984, No.36 - Public Accountants Act 1984

By amending subsection (2) of section 2 by deleting the period at the end of paragraph (c), substituting a semi-colon and inserting the following paragraph:-  
"(d) Is an accountant or auditor in the salaried employment of an off-shore banking business licensed under the Off-Shore Banking Act 1987, and does not offer his service to Samoa residents, or is an accountant or auditor in the salaried employment of a trustee company registered under the Trustee Companies Act 1987, and does not offer his services to Samoa residents".

***Off-Shore Banking Act 1987***

*(as amended by the Off-Shore Banking Amendment Act 1988, the  
Off-Shore Legislation Amendment Act 1990, the Off-shore Centre  
Legislation Amendment Act 1993 and the Off-shore Banking Amendment Act 1998.)*